

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)

Purpose

The purpose of the *Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)* (the **MOS amendment**) is to amend the existing Part 66 Manual of Standards (the **Part 66 MOS**) to make miscellaneous amendments. None of the changes involves any significant change of policy.

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**).

Part 66 of CASR 1998, *Continuing airworthiness — aircraft engineer licences and ratings*, deals with licences and ratings for the performance of maintenance certifications and the issuing of 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, subregulation 66.015 (1) of CASR 1998 relevantly empowered CASA to issue a Manual of Standards that “specifies matters affecting” the maintenance or airworthiness of aircraft and CASA has already issued the Part 66 MOS under this head of power. Effective from 4 July 2016, as a result of amendments made by the *Civil Aviation Legislation Amendment (Part 66) Regulation 2015*, for subsection 98 (5A) of the Act, subregulation 66.015 (1) of CASR 1998 now empowers CASA to issue a Manual of Standards for Part 66 prescribing matters required or permitted by the regulations to be prescribed for the Part 66 MOS, or necessary or convenient to be prescribed for carrying out or giving effect to the Part.

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.

Background

The proposals in the MOS amendment were originally miscellaneous amendments attached to a larger proposal to create a suitable small aircraft maintenance licence. Further development of the larger proposal has been delayed, but the miscellaneous amendments have been finalised in the MOS amendment.

The MOS amendment

The MOS amendment makes a number of minor miscellaneous amendments to improve the application of the Part 66 MOS. None of these amendments involves any significant change of policy. Explanations of the amendments are set out in Appendix 2. Briefly, the miscellaneous amendments include creating a Part structure for ease of reading the Part 66 MOS, clarifying the meaning of some tables, clarifying certain circumstances for on-the-job training, and clarifying references to CAR 30 organisations for delivering training.

The amendments also add extended diversion time operation (EDTO) pre-flight inspection privileges for B1 and B2 licence holders. The amendments also add certain composite structures and NDT-related inspection privileges that had been core airframe licence privileges under regulation 31 of the *Civil Aviation Regulations 1988* but not relevantly provided for in the Part 66 MOS.

The amendments enlarge the class of B1 licence holders who may perform certain maintenance certifications and issue certificates of release to service for certain aircraft, clarify the operation of certain transitional provisions, and add 2 further exclusions (fabric surfaces and wooden structures) to the table of Excluded systems. Some typographical errors were identified and corrected. None of the changes involves any significant change of policy.

Legislation Act 2003 (the LA)

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 LA if it is expressed to apply to classes of persons, aircraft or aeronautical products rather than to particular persons, aircraft or products. The MOS amendment is made under subregulation 66.015 (1) of CASR 1998, “for subsection 98 (5A) of the Act”. It is expressed to have general application and is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 15G, and 38 and 42, of the LA.

Consultation

The proposals in the MOS amendment were originally miscellaneous amendments attached to a larger proposal to create a suitable small aircraft maintenance licence. Further development of the larger proposal has been delayed, but the miscellaneous amendments have been finalised in the MOS amendment. Consultation on these amendments was part and parcel of the consultation on the larger proposal, particularly through NPRM 1310SS issued for industry consideration during September to November 2014, and again in July 2015. Since the miscellaneous amendments are essentially housekeeping changes that involve no significant change of policy, CASA was satisfied that no further consultation was necessary or appropriate.

Office of Best Practice Regulation (OBPR)

OBPR had assessed the miscellaneous amendments as part of the larger proposal and concluded that preparation of a Regulation Impact Statement was not required (OBPR ID: 18846).

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.

Commencement and making

The MOS amendment commences on the day of 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 2016 (No. 5)]

Statement of Compatibility with Human Rights

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

Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)

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 *Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)* (the **MOS amendment**) is to amend the existing Part 66 Manual of Standards (**Part 66 MOS**) to make miscellaneous amendments, including creating a “Part” structure for ease of reading, clarifying the meaning of some tables, clarifying certain circumstances for on-the-job training, and making clarifying references to CAR 30 organisations for delivering training. The amendments also add extended diversion time operation (EDTO) pre-flight inspection privileges for B1 and B2 licence holders. The amendments also add certain composite structures and NDT-related inspection privileges that had been core airframe licence privileges under regulation 31 of the *Civil Aviation Regulations 1988* but not relevantly provided for in the Part 66 MOS. The amendments enlarge the class of B1 licence holders who may perform certain maintenance certifications and issue certificates of release to service for certain aircraft, clarify the operation of certain transitional provisions, and add 2 further exclusions (fabric surfaces and wooden structures) to the table of Excluded systems. Some typographical errors were identified and corrected. None of the changes involves any significant change of policy.

Human rights implications

The MOS amendment is a legislative instrument that 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

The MOS amendment as a legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority

Details of the *Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)*

1 Name of instrument

Section 1 names the instrument as the *Part 66 Manual of Standards Amendment Instrument 2016 (No. 5)*.

2 Commencement

Section 2 provides for the instrument to commence on the day of registration.

3 Transitional

Section 3 provides that, if immediately before the commencement day, a person was entitled to a unit of competency mentioned in Appendix IV or VIII of the Part 66 Manual of Standards (the *Part 66 MOS*); and on the commencement day the MOS amendment replaces the unit with a new version of the unit, then the applicant is entitled to the new unit.

4 Amendment of Part 66 Manual of Standards

Section 4 provides that the Part 66 MOS is amended as set out in Schedule 1.

Schedule 1 Amendments (by item)

[1] Before section 66.1A

This amendment introduces a Part structure to the Part 66 MOS by inserting the heading *Part 1 Preliminary*.

[2] Section 66.5, Definitions

This amendment provides definitions and abbreviations used in drafting the MOS amendment. The definition of *non-rated aircraft* is clarified.

[3, 4 and 5] After subparagraph 66.A.1 (b) 4.

These amendments create Part 2 of the Part 66 MOS by inserting the heading, *Part 2 Aircraft engineer licences for type-rated aircraft etc.*, at the appropriate place. The amendments also create a new section 66.A.4 with re-lettered paragraphs from existing text, and omit duplicated definitions.

[6, 7 and 8] Sub-subparagraphs 66.A.20 (a) 1. (ii), (a) 2, the chapeau, and (a) 2. (iii)

These amendments remove references to “line” maintenance to better harmonise the privileges of a Category A licence holder under the Part 66 MOS, with proposed amendments to the Category A licence tasks mentioned in Appendix II of the Part 145 MOS. Pending those amendments, these amendments do not yet alter the substance of the Category A licence tasks.

[9] Sub-subparagraph 66.A.20 (a) 4. (ii), the chapeau

This amendment corrects a typographical error in the use of the past tense.

[10] Sub-sub-subparagraph 66.A.20 (a) 4. (ii) (F)

This amendment adds extended diversion time operation (*EDTO*) pre-flight inspections to the inspection privileges of a Category B1 licence holder. This will clarify that when

EDTO inspections are part of the daily inspection, a B1 licence holder will have the privilege of carrying out, and certifying for, such EDTO inspections.

The amendment also adds to B1 licence privileges, certain limited inspections of composite structures, and inspections using an NDT method limited to liquid penetrant inspections. These were considered to be core airframe licence privileges under the previous licence system under regulation 31 of the *Civil Aviation Regulations 1988 (CAR 31)* but not relevantly provided for in the Part 66 MOS.

[11] Subparagraph 66.A.20 (a) 4A., the chapeau

This amendment corrects a typographical error.

[12] Sub-subparagraph 66.A.20 (a) 4A. (i)

This amendment corrects a typographical error.

[13] After subparagraph 66.A.20 (a) 5.

This amendment has the effect of enlarging the class of B1 licence holders who may perform maintenance certifications and issue certificates of release to service for aircraft approved for V.F.R. operations only, for electrical maintenance (single generator only), for instrument system maintenance, and for periodic inspections for aircraft radio systems.

Thus, the class would now include B1 licence holders who had, during the transitional period between 27 June 2015 and 3 July 2020 (the period for licence holders under CAR 31 (*CAR 31 licence holders*) to become fully integrated within the scope of the Part 66 MOS) followed the same course of theory and practical training that a CAR 31 licence holder would have followed to qualify for the issue of an AME licence with the former engine category Group 1 or Group 2 rating, or the former airframe category Group 1, 2 or 19 rating.

A Note explains that 27 June 2015 was the operative date for use of CAR 31 to obtain an equivalent AME licence (see paragraphs 66.A.25 (i), 66.A.30 (f), and 66.A.45 (j) of the Part 66 MOS), and 3 July 2020 is the date of repeal of regulation 202.345 of CASR 1998 which enables transitional use of CAR 31 to qualify for Category B1 licences (see subregulation 202.345 (3) inserted by item 30 of the 2015 CASR Part 66 amendment.

The amendment refers to B1 licence holders who, since 27 June 2015, followed the same course of theory and practical training that a CAR 31 licence holder would have followed. This apparent retrospectivity is, nevertheless, operational under subsection 12 (2) of the *Legislation Act 2003* because the MOS amendment is not expressed to commence retrospectively and, in any event, any retrospective effect of the amendment is entirely beneficial for those (other than the Commonwealth) to whom it applies.

[14] Sub-sub-subparagraph 66.A.20 (a) 6. (ii) (E)

This amendment adds ETOPS pre-flight inspections to the inspection privileges of a Category B2 licence holder.

[15] Subparagraph 66.A.20 (a) 6.A., the chapeau

This amendment corrects a typographical error.

[16] Sub-subparagraph 66.A.20 (a) 6A. (i)

This amendment corrects a typographical error.

[17 and 18] Section 66.A.21, Table 2, column 1, cell A, and Table 2, column 1, cell B

Cells A and B refer to transitional provisions which have been repealed by item 48 of the 2015 CASR Part 66 amendment on 15 December 2015. To ensure the continued application of transitional privileges mentioned in Table 2 for a Category B1 licence, the transitional provisions are now referred to as those “in force immediately before 15 December 2015”.

[19] Paragraph 66.A.25 (b)

This amendment (essentially through the inclusion of new subparagraph 2) is intended to clarify how to identify in Part 3 of Appendix I, the knowledge required by a person who applies for an AME licence in a category or subcategory, or for the addition of a category or subcategory to the person’s licence.

[20] After paragraph 66.A.25 (b)

This amendment provides the meaning of the symbol “dash” in Part 3 of Appendix I. A dash means that knowledge of the relevant subject or item is not required for the corresponding category or subcategory licence.

[21] Paragraph 66.A.25 (f)

This amendment is consequential on amendments to Appendix IV to remove mention of wooden structures competency from the optional units of competency required for a subcategory B1.1 licence privilege that includes fabric surfaces or propellers.

[22] Paragraph 66.A.25. (i)

This amendment corrects a typographical error.

[23] Paragraph 66.A.45. (b)

This amendment removes references to “non-type rated aircraft” and substitutes references to “non-rated aircraft” as defined in regulation 66.010 of CASR 1998.

[24] Paragraph 66.A.45. (h), the chapeau

This amendment extends certain training privileges of a Part 145 Approved Maintenance Organisation (an *AMO*) to a certificate of approval holder (*COA holder*) acting in accordance with Civil Aviation Order 104.0 (Certificates of approval — application, grant and conditions) (see also item 30).

[25] Paragraph 66.A.55 (c)

Under this amendment, on-the-job aircraft type training (*OJT*) conducted and managed by an AMO, or a maintenance training organisation, through the use of a syllabus, worksheets and logbooks, must be assessed and approved by CASA as satisfactorily meeting CASA’s requirements because of the issues of complexity and safety that arise in such OJT.

A Note explains that *CASA’s* assessment and approval are guided by *Appendix II of the Part 66 Acceptable Means of Compliance (AMC) and Guidance Material (GM)* document, and *Advisory Circular AC 66-07 – Practical training options for aircraft type training and recording of recent work experience* (both of which are amended from time to time).

[26] Appendix IV — Units of competency required for a category or subcategory of licence

This amendment replaces Appendix IV with a new Appendix IV so that the numbering of the units of competency has been updated (by removing alphabetical letters from the unit codes). The new table reflects changes made to the most recent version of the MEA Aeroskills training package which is nationally endorsed by State Departments of Education.

[27] Appendix VII, the heading

This amendment is consequential on item 23. It modifies the heading of Appendix VII to indicate that it also applies for a COA holder approved for excluded systems training.

[28] Appendix VII, item E6

Appendix VII is amended to add 2 further exclusions (fabric surfaces and wooden structures) to the table of *Excluded systems – exclusions on type ratings – suitable for provision of training, assessment and authorisation within an AMO - if approved for the AMO exposition, or by a COA holder approved for excluded systems training*. This table lists the excluded systems for which an AMO, in accordance with section 145.A.37 of the Part 45 MOS, or a COA holder in accordance with CAO 104.0, may deliver training and assessment for instances where sourcing of this training is not readily available through approved CASR Part 147 maintenance training organisations. Such is the case for excluded system training for fabric surfaces and wooden structures.

[29] Appendix VIII — Units of competency required for removal of an exclusion from a category or subcategory of licence

This amendment replaces Appendix VIII with a new Appendix VIII, which has been modified to update the numbering of the relevant units of competency for removal of an exclusion from a category or subcategory of licence (by removing alphabetical letters from the unit codes). The new table reflects changes made to the most recent version of the MEA Aeroskills training package which is nationally endorsed by State Departments of Education.

[30] Appendix IX, Table 1, Type Certificate (TC) holder, BOEING COMPANY (THE)

This amendment adds the Boeing 747-400 (PW 4000) to the list in Appendix IX of *Type rated aircraft types and type rating endorsements for Category B1, B2 or C licences* for which type training and an individual type rating for the airframe/engine combination is required, thereby permitting PW 4000 engine type training for certain B1.1 licence holders.

[31 to 40] Appendix IX, Tables 1 and 5

These amendments correct minor errors in the transcriptions of certain aircraft type ratings, which cause inconsistencies with EASA lists of the same type ratings, thus causing ambiguities in computer-generated licences endorsed with the type rating.

[41 and 42] Appendix IX, Table 1

These amendments order the relevant entries alphabetically.

[43] Appendix IX, Table 2, Part 2, TC holder, AGUSTAWESTLAND

The AGUSTAWESTLAND AW189 aircraft type rating was inserted into Appendix IX in error and is now deleted from the list of *“Type rated aircraft types and type rating endorsements for Category B1, B2 or C licences”* for which an AMO may select or

control type training. This particular helicopter is a new model and such training must be sourced through the aircraft manufacturer.

[44] Appendix IX, Table 2, Part 2, after the last row

This amendment adds the Honeywell HTS900 engine rating to the list in Appendix IX of type-rated engines found on small/non-rated aircraft for which an AMO may select or control engine type training, thereby permitting appropriate engine training for certain B1.3 licence holders.

[45 and 46] Appendix IX, Table 5

These amendments order the relevant entries alphabetically.