

EXPLANATORY STATEMENT

Issued by the authority of the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Subject – *Civil Aviation Act 1988*

Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020

This instrument implements transition provisions to ensure aerodromes can continue to operate while transitioning to a new regulatory framework due to commence on 22 August 2020. The instrument also brings forward the commencement date of the new regulatory framework to 13 August 2020 to align with the Aeronautical Information Publication (AIP) publication date.

The *Civil Aviation Act 1988* (the Act) establishes the regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Subsection 98(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 98(1) also provides that the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the *Convention on International Civil Aviation* (the Chicago Convention) relating to aviation safety, and in relation to the safety of air navigation, being regulations with respect to any other matters to which the Parliament has power to make laws.

The Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020 (the proposed Regulations) amend the *Civil Aviation Safety Amendment (Part 139) Regulations 2019* (the new Regulations) to move the commencement date forward, and provide transitional provisions to enable existing certified and registered aerodromes to continue operating before and after commencement of the new Regulations.

Schedule 1 changes the commencement date of the new Regulations from 22 August 2020 to 13 August 2020. The original commencement date was set at 18 months after the registration of the new Regulations. However, after further consideration, advantages were identified by having the commencement date aligned to the closest AIP publication date. The AIP, which contains aeronautical information essential to air navigation including details of aerodromes, will be published on 13 August 2020. It is practical for the new Regulations to allow all certified and registered aerodromes at that date to be published as ‘certified’ aerodromes.

Schedule 2 provides transitional provisions that:

- deem current certified and registered aerodromes to hold a transitional aerodrome certificate on commencement of the new Regulations;
- allow applications in progress for aerodrome certification or registration, for which CASA has not determined, to be considered under the Part 139 regulations in force immediately prior to the commencement time (the old Regulations);
- provide aerodromes certified and registered under the old Regulations an additional nine months and twenty-one months, respectively, from commencement of the new Regulations to submit a revised or new aerodrome manual to CASA;

- allow CASA to issue a new aerodrome certificate if the aerodrome manual submitted to CASA is compliant with the new MOS
- deem existing air/ground radio service providers and operators to continue to be certified and provide transitional arrangements dealing with applications in progress to become air/ground radio service providers and operators;
- allow certification of air/ground radio operators to take advantage of the more flexible qualification requirements under the new MOS;
- allow existing exemptions and approvals to remain in effect until their expiry date.

Schedule 3 amends the *Civil Aviation (Fees) Regulations 1995* to provide a simpler charging structure for the certification of aerodromes; changes references in other legislation from ‘licensed’ or ‘registered’ aerodromes to ‘certified’ aerodromes; and amends the new Regulation to be consistent with the new MOS in relation to when an aerodrome operator does not need to comply with its aerodrome manual.

Consultation

Public and industry consultation on the transition policy for implementation of the new Regulations (including transitional provisions of the proposed Regulations) and the new MOS occurred during the period 3 February to 2 March 2020. There were 16 responses from 322 certified and registered aerodrome operators to this consultation which indicated general support for the transitional provisions. Some respondents did object to CASA bringing forward the commencement date. The main reason cited was the amount of planning being undertaken by aerodrome operators in preparation for the commencement of the new Regulations, however, as the new date would only be 9 days prior to the original commencement date, it is not anticipated to impact the preparations of regulated aerodromes.

There were additional concerns expressed by industry regarding sufficient time being available to implement the new MOS and requesting a 12 month deferment of the commencement. This was due mainly to the availability of aerodrome resources, principally in relation to the preparation of new aerodrome manuals. These concerns were considered, however some aerodrome operators are likely to be adopting the new standards in the design and construction of new aerodrome facilities and a deferral of the commencement would likely unduly prejudice them. CASA considered that providing an additional three months (from the initial six months for certified operators and 18 months for registered operators), only for the transition timeframes, would be appropriate to allow more time for aerodrome operators to meet the new requirements.

Regulation Impact Statement

CASA expects there will be no negative impacts on industry as a result of these proposed legislative changes, and the proposed changes are beneficial for industry. The amendments are consequential to the Part 139 amendments (the new Regulations) for which a Regulation Impact Statement was prepared and assessed by the Office of Best Practice Regulation as compliant (OBPR id: 24678).

Criminal law issues

The transitional Regulations do not create any offences of strict liability.

Incorporation by reference

In accordance with paragraph 15J (2) (c) of the *Legislation Act 2003* and subsection 98 (5D) of the Act, the legislative instrument applies, adopts or incorporates matters contained in the following instruments:

- the new Part 139 Manual of Standards
- the new Part 139 Regulations
- the old Part 139 Manual of Standards
- the old Part 139 Regulations.

Under subsection 98 (5D) of the Act, the instruments and other writing may be incorporated as in force or existing at a particular time or from time to time, including instruments that do not exist when the Regulations are made.

The following table contains a description of the documents incorporated by reference into the transitional Regulations, the manner of incorporation and how they may be accessed.

Document	Description	Manner of incorporation	Accessibility of document
New Part 139 Manual of Standards.	“new Part 139 Manual of Standards” is defined in the transitional Regulations as the Manual of Standards for Part 139 which commences at the same time as the new Part 139 Regulations.	<p>Allows applications for certification as an air/ground radio operator, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered as standards for consideration in relation to the application e.g. in relation to Bureau of Meteorology weather observer qualifications and air traffic controller license recency.</p> <p>Allows exemptions and approvals issued under the old Part 139 Regulations and Manual of Standards to continue under the new Part 139 Manual of Standards.</p>	The <i>Part 139 (Aerodromes) Manual of Standards 2019</i> (new Part 139 Manual of Standards) is freely available on the Federal Register of Legislation.

Document	Description	Manner of incorporation	Accessibility of document
New Part 139 Regulations.	“new Part 139 Regulations” is defined in the transitional Regulations as the new Part 139 Regulations which commenced on 22 August 2020 and whose commencement date was amended to 13 August 2020 through the transitional Regulations.	<p>Allows existing certified and registered aerodromes to hold a transitional aerodrome certificate under the new Part 139 Regulations, including the conditions on the certificate being maintained and allowing it to be cancelled or suspended if required.</p> <p>Allows for the new Part 139 Regulations to apply to the certificate holder and to provide submission dates for the revised and new aerodrome manuals to be provided to CASA.</p> <p>Allows for existing certifications of air/ground radio services and operators to continue and new applications, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered as standards for consideration in relation to the application.</p> <p>Allows exemptions and approvals issued under the old Part 139 Regulations and Manual of Standards to continue under the new Part 139 Regulations.</p>	The <i>Civil Aviation Safety Amendment (Part 139) Regulations 2019</i> (new Part 139 Regulations) is freely available on the Federal Register of Legislation.

Document	Description	Manner of incorporation	Accessibility of document
Old Part 139 Manual of Standards.	“old Part 139 Manual of Standards” is defined in the transitional Regulations as the Manual of Standards for Part 139 which was in force prior to the commencement of the new Part 139 Regulations.	<p>Allows applications for certification or registration of an aerodrome, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered against the standards in the old Part 139 Manual of Standards.</p> <p>Allows applications for certification of air/ground radio services, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered against the standards in the old Part 139 Manual of Standards.</p> <p>Allows exemptions and approvals issued under the old Part 139 Regulations and Manual of Standards to continue under the new Part 139 Regulations.</p>	The <i>Manual of Standards Part 139</i> — <i>Aerodromes</i> (old Part 139 Manual of Standards) is freely available on the Federal Register of Legislation.

Document	Description	Manner of incorporation	Accessibility of document
Old Part 139 Regulations.	“old Part 139 Regulations” is defined in the transitional Regulations as the Regulations for Part 139 which were in force prior to the commencement of the new Part 139 Regulations.	<p>Allows existing certified and registered aerodromes to hold a transitional aerodrome certificate under the new Part 139 Regulations.</p> <p>Allows applications for certification or registration of an aerodrome, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered against the standards in the old Part 139 Regulations.</p> <p>Allows certified air/ground radio services and operators to hold a certificate under the new Part 139 Regulations.</p> <p>Allows applications for certification of air/ground radio services or operators, in progress and not decided, before commencement of the new Part 139 Regulations, to be considered against the standards in the old Part 139 Regulations.</p> <p>Allows exemptions and approvals issued under the old Part 139 Regulations and Manual of Standards to continue under the new Part 139 Regulations.</p>	The <i>Civil Aviation Safety Regulations 1998</i> - Volume 4 (old Part 139 Regulations) is freely available on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at [Attachment A](#) is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The transition Regulations are compatible with human rights and, to the extent that it may engage certain rights only by virtue of amending some provisions that were the subject of the earlier Statement of Compatibility for the new Regulations, it does so in such a way that rights are not further affected and the earlier Statement may be considered to apply.

However, as noted above, the transitional dates for submission of revised or new aerodrome manuals have been extended by a further 3 months directly as a result of the effects of the social distancing and other rules arising from the COVID-19 pandemic. In the light of this, the further Statement of Compatibility in Appendix A is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The transitional Regulations are compatible with human rights and, to the extent that it engages certain rights there described, it does so in a way that, in the context of the COVID-19 pandemic, as far as practicable, promotes rather than limits those rights.

Commencement and making

The transitional Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the transitional Regulations are set out in Attachment B.

The transitional Regulations commence on 13 August 2020.

Transition period

A period of nine months and 21 months respectively is provided for the current operators of certified and registered aerodromes from the commencement of the new Regulations to submit their updated or new aerodrome manuals to CASA. CASA will provide an online tool and supporting sample aerodrome manual to assist aerodrome operators with the development of an aerodrome manual. A number of advisory circulars will also be released in 2020 to support aerodrome operators transition to the new regulatory framework.

Additional transition periods have been provided where there are new regulatory requirements for a very small number of registered aerodromes that reach significant passenger or aircraft movement numbers and for international airports with scheduled international air transport operations. The transition period will extend to 13 November 2022 for registered aerodrome operators for the most significant new regulatory requirements for development of safety management systems, risk management plans, aerodrome emergency preparedness, wildlife hazard management plans and to carry out aerodrome technical inspections.

A transitional period has also been provided where new aerodrome facilities are under construction, or where the planning of new aerodrome facilities is very advanced, to allow the development of these aerodrome facilities to be carried out in line with the standards in the old MOS.

Authority: Subsection 98(1) of the
Civil Aviation Act 1988

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020

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 Disallowable Legislative Instrument

The *Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020* (the transitional Regulations) amend the *Civil Aviation Safety Amendment (Part 139) Regulations 2019* (the new Regulations) to provide three Schedules.

The first Schedule amends the commencement date of the new Regulations from 22 August 2020 to 13 August 2020. All certified and registered aerodromes are published in the Aeronautical Information Publication (AIP) as ‘CERT’ or ‘REG’ respectively and the relevant AIP publication date is 13 August 2020, in order to allow all current registered aerodromes to be published as ‘CERT’ aerodromes. This new commencement date is only nine days earlier than the commencement date in the new Regulations and is not seen as imposing an increased regulatory burden on current certified and registered aerodrome operators. Current certified and registered aerodrome operators have been aware of the new Regulations and new MOS since they were registered on the Federal Register of Legislation in February and September 2019 respectively.

The second Schedule provides a number of arrangements to ensure a smooth transition for existing certified and registered aerodrome operators across to the new regulatory framework.

- Existing certified and registered aerodrome operators are deemed to hold a transitional aerodrome certificate on the commencement date of the new Regulations. This eases the regulatory burden on existing certified and registered aerodrome operators from having to apply for a new aerodrome certificate. These aerodrome operators are still expected to comply with the new Regulations and the new MOS.
- In order not to prejudice applications for aerodrome certification or registration that have been submitted prior to commencement of the new Regulations, and not yet decided, the transitional Regulations allow these applications to be considered against the standards in the old Regulations and the old MOS. This preserves the right of existing aerodrome operators to have their aerodrome facilities constructed in accordance with the standards at the time they were commenced.
- The most significant impact of the new Regulations on existing certified and registered aerodrome operators is the requirement to have an aerodrome manual which is compliant with the new MOS. Current certified aerodromes are already required to have an

aerodrome manual which needs to be reviewed against the new MOS and updated accordingly. Registered aerodromes do not have a similar requirement and must create a new aerodrome manual. The transitional Regulations provide certified aerodromes with an additional 9 months from commencement of the new Regulations to submit an updated aerodrome manual to CASA and registered aerodromes have twenty-one months after the commencement of the new Regulations to submit their new aerodrome manuals to CASA. If the aerodrome manual is assessed by CASA as meeting the requirements of the new MOS, they are issued with a new aerodrome certificate. If the aerodrome manual is assessed as not meeting the requirements of the new MOS, the transitional Regulations articulate the right of aerodrome operators to appeal the CASA decision to the Administrative Appeals tribunal (AAT). The transitional aerodrome certificate remains in place until the appeals process is complete.

- Additionally, there are currently certified air/ground radio service providers and air/ground radio operators. These operators provide aircraft traffic and weather information at aerodromes where the service is provided. The transitional Regulations recognise and continue their certification until their expiry date. The new MOS provides alleviation for certified air/ground radio operators from the requirement to have an approval, issued under Civil Aviation Regulation 120(1)(b), to provide meteorological observations, if they have a qualification issued by the Bureau of Meteorology to provide meteorological observations. The new MOS also expands the pool of available people who are competent to provide air/ground radio services beyond the 10-year air traffic controller or flight service officer recency period to remove the 10-year recency requirement and additionally to recognise International Civil Aviation Organization (ICAO) and Australian Defence Force air traffic control qualifications. The transitional Regulations allow existing certified air/ground radio services and operators and applications for certification submitted prior to commencement of the new Regulations, and not yet decided, to be considered against these more flexible standards in the new Regulations and subsequently the new MOS.
- Current certified and registered aerodrome operators have a number of existing exemptions, approvals, authorisations and directions issued against Civil Aviation Safety Regulation Part 11, the old Regulation and the old MOS which are either time-limited or enduring. The transitional Regulations preserve these instruments, to the extent that they do not comply with the new Regulations and the new MOS, until they expire or, if they are enduring, provide a sunset date of 31 December 2021 which provides CASA with enough time to review them for compliance with the new Regulations and the new MOS. The transitional Regulations also allow CASA to repeal any of these instruments if they are no longer required. Sunsetting of enduring approvals is not prejudicial to aerodrome operators as the new MOS allows enduring approvals to be issued if certain provisions of the new MOS cannot be complied with and an acceptable level of safety is provided.

The third Schedule contains a number of consequential amendments to other regulations, principally in relation to the use of the term ‘registered aerodrome’ which no longer exists after the commencement of the new Regulations.

Human rights implications

The transitional Regulations seek to delay the commencement of certain regulatory requirements which provide an element of relief to aerodrome operators subject to the new Regulations. The new Regulations were the subject of an extensive Statement of Compatibility at pages 30 to 34 of the Explanatory Statement for the new Regulations in February 2019.

<https://www.legislation.gov.au/Details/F2019L00176/Download>

The commencement date of the new Regulations which was covered by that earlier Statement is being amended but not in a way that affects rights in the context of the application of the previous Statement to the new Regulations.

However, directly as a result of the ongoing and longitudinal impact of the COVID-19 pandemic on the availability of trained personnel and their ability to go about specific planning and preparation of documentation tasks, the transitional dates for submission of revised or new aerodrome manuals have been extended by a further 3 months beyond dates originally nominated.

As a result, the transitional Regulations may engage the following human rights:

- the right to life under Article 6 of the International Covenant on Civil and Political Rights (the *ICCPR*)
- the right to safe and healthy working conditions under Article 7 of the International Covenant on Economic, Social and Cultural Rights (the *ICESCR*)
- the right to work under Article 6 (1) of the *ICESCR*.

Right to life under the ICCPR

Right to safe and healthy working conditions under the ICESCR

Right to work under the ICESCR

The right to life entails the right not to be deprived of life arbitrarily or unlawfully by the country or its agents.

The right to work includes the right of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts. Rights in work include the enjoyment of just and favourable conditions of work and to form and join trade unions.

The COVID-19 pandemic has given rise to the need to observe Australian Government social distancing rules to prevent people contracting or spreading the virus. These rules apply to all, including to protect the life, health and safety of personnel engaged by aerodrome operators in activities like planning and administration. At the same time, aviation safety at aerodromes requires aerodrome operators to adhere to certain regulatory requirements in relation to aerodrome operations and maintenance.

It follows that if essential aviation services at aerodromes are to be safely continued, a careful and calculated balance has had to be struck between these competing objectives. CASA's decision to extend by 3 months the transitional dates for the matters described above is considered to achieve an appropriate balance. Easing time limits in this modest way will contribute to protecting the right to life of some personnel who might otherwise have been obliged to expose themselves to COVID-19 because of the time pressures to complete relevant work.

A consequential effect of the careful balance described above is to protect the right to work of various categories of aerodrome personnel who might otherwise have lost that right, for example, by choosing not to risk exposure to the virus sooner than would otherwise be reasonable.

The transitional Regulations promotes human rights as it ensures the safety of relevant aerodrome personnel during the COVID-19 pandemic in a calculated and balanced way that does not undermine aerodrome safety. The transitional Regulations instrument is, therefore, 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*.

Conclusion

This legislative instrument is compatible with human rights and, to the extent that it engages certain rights it does so in a way that, in the context of the COVID-19 pandemic, as far as practicable, promotes rather than limits those rights.

Details of the *Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020*

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020*.

Section 2 – Commencement

This section provides that the *Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020* commence on 13 August 2020.

Section 3 – Authority

This section provides that the *Civil Aviation Legislation Amendment (Part 139 Aerodromes—Transitional Provisions and Consequential Amendments) Regulations 2020* are made under the *Civil Aviation Act 1988*, the *Environment Protection and Biodiversity Conservation Act 1999* and the *Transport Safety Investigation Act 2003*.

Section 4 – Schedules

This section provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the Schedule according to the terms specified in the Schedule.

Schedule 1 - Amendments

Civil Aviation Safety Amendment (Part 139) Regulations 2019

Item 1 - Subsection 2(1) (table)

Item 1 amends the commencement dates to 13 August 2020 in Columns 2 and 3. The reason is to align the commencement date with the publication date of the AIP-ERSA, when all current registered aerodromes would be published as ‘certified’ aerodromes. This is only nine days prior to the original commencement date so would not be a significant impact on current certified and registered aerodromes.

Schedule 2 – Transitional provisions

Civil Aviation Safety Regulations 1998

Item 1 - Subpart 202.FY

Item 1 replaces Subpart 202.FY with a new Subpart for Transitional provisions for Part 139 (Aerodromes).

Division 202.FY.1—Amendments made by the Civil Aviation Safety Amendment (Part 139) Regulations 2019

Item 1 provides a number of new regulations to support the transition of existing certified and registered aerodromes to the new regulatory framework where new regulatory requirements have been introduced.

202.700 Definitions for this Division

This regulation creates new definitions to allow existing certified and registered aerodromes to be deemed to hold a transitional aerodrome certificate at the commencement of the regulations on 13 August 2020 and to provide aerodrome operators more time to submit their revised or new aerodrome manuals to CASA.

202.701 Transitional aerodrome certificates

What is a transitional aerodrome certificate?

This regulation explains what a ‘transitional aerodrome certificate’ is. The transitional certificate arrangements are specified for both existing certified and registered aerodromes.

Certified aerodromes

For certified aerodromes that held a certificate prior to the commencement of the new regulations, their certificate continues to remain in force after the commencement of the new regulations. If an application is made for certification and a decision has not been made prior to commencement of the new regulations then this regulation provides for the application to be considered against the old Regulations and the old MOS, which may be beneficial to some applicants. Applications for certification may be granted under the old Regulations but are not mandatory.

Registered aerodromes

For registered aerodromes that held a registration prior to the commencement of the new regulations, they are deemed to be granted an aerodrome certificate after the commencement of the new regulations. If an application is made for registration and a decision has not been made prior to commencement of the new regulations, then this regulation provides for the application to be made against the old Regulations and the old MOS, which may be beneficial to some applicants. Applications for registration must be granted under the old Regulations.

202.702 Transitional aerodrome certificates—effect

Scope

This regulation provides for what the effects are on an aerodrome while a ‘transitional aerodrome certificate’ is in force, that is, until a new certificate is issued to an aerodrome operator.

Application of the Regulations

This regulation provides that the new Regulations apply to an aerodrome operator whilst holding a ‘transitional aerodrome certificate’, however, the certificate can still be suspended or cancelled if the aerodrome operator is not compliant with the new Regulations and MOS, or the aerodrome manual does not comply with the new MOS.

For existing registered aerodromes, they are not required to comply with the requirement in the new Regulations to have an aerodrome manual as this is not a requirement under the old Regulations. The requirement for an aerodrome manual is subject to transitional provisions in these transitional Regulations.

New aerodrome certificate—requirement for new manual

This regulation provides for existing certified and registered aerodromes to have a transitional period for the submission of their new aerodrome manual, which is to be compliant with the new MOS.

The ‘new manual day’ for existing certified aerodromes is 13 May 2021 which is nine months after the commencement date of 13 August 2020 of the new Regulations, as amended by these transitional Regulations. An additional nine months is provided as certified aerodromes have a requirement under the old Regulations to have an aerodrome manual and the manual only needs to be updated to reflect any new MOS provisions.

The ‘new manual day’ for existing registered aerodromes is 13 May 2022 which is 21 months after the commencement date of 13 August 2020 of the new Regulations, as amended by these transitional Regulations. An additional 12 months is provided as registered aerodromes do not have a current requirement to have an aerodrome manual and a new manual is required to be developed which is compliant with the new MOS provisions.

This regulation requires CASA to issue a new certificate to the aerodrome operator if the submitted manual is compliant with the new MOS.

This regulation also allows CASA to refuse to issue a new certificate if the submitted manual is not compliant with the new MOS. The relevant provisions of CASR Part 11 to grant, or to refuse to grant, a new aerodrome certificate would be made applicable or excluded as required. This regulation also takes into consideration the situation if an aerodrome operator was to make an application for review by the Administrative Appeals Tribunal and subject to any order of the Tribunal or of a court staying the effect of CASA’s decision not to grant an aerodrome certificate.

Certificate transition period

This regulation provides that the transitional certificate period ends at a specified time. This is the later of:

- if the aerodrome operator fails to give CASA an aerodrome manual before the transition period ends; or
- if CASA issues a new aerodrome certificate to the aerodrome operator; or
- if CASA makes a decision to refuse to issue a new aerodrome certificate, or subject to the appeal provisions under the proposed Regulations, when the decision comes into effect; or
- if CASA cancels the certificate.

202.703 Certified air/ground radio services and operators

Air/ground radio services

This regulation provides that existing Certified Air/Ground Radio Service (CA/GRS) providers continue to hold a certificate at the commencement date of the new Regulations, as amended by these transitional Regulations, subject to any conditions on the certificate and for the duration of the certificate, unless the certificate is suspended or cancelled. Otherwise, the new Regulations apply to the certificate holder.

This regulation provides that if there was an application made for certification and a decision is not made prior to commencement of the new Regulations then the application is considered against the old Regulations. Although the certification of the service is made under the old Regulations the new Regulations otherwise apply to the CA/GRS provider.

Operators of air/ground radio services

This regulation provides that existing Certified Air/Ground Radio Operators (CA/GROs) continue to hold a certificate at the commencement date of the new Regulations, as amended by these transitional Regulations, subject to any conditions on the certificate and for the duration of the certificate, unless the certificate is suspended or cancelled. Otherwise, the new Regulations apply to the certificate holder.

This regulation provides that if there was an application made for certification and a decision is not made prior to commencement of the new Regulations then the application is considered against the new Regulations. The qualification provisions of the new Regulations broaden the eligibility criteria to become a CA/GRO: to require a flight radio operator licence or Subpart 65.B approval; a Bureau of Meteorology (BoM) weather observer qualification; and remove the current 10 year Air Traffic Control licence recency restriction to allow an ICAO-recognised air traffic controller licence, an Australian Defence Force qualification equivalent to an air traffic control licence, an Australian flight service officer licence or a CA/GRO certificate previously issued by CASA.

Current CA/GROs have a CAR 120 approval based on a BoM weather observer qualification. This regulation also provides that a CA/GRO approval is an approval under CAR 120 in order that CA/GROs no longer require a separate CAR 120 approval to be issued in addition to the CA/GRO approval.

202.704 Transitional authorisations

Scope

This regulation provides that existing instruments for exemptions, approvals, authorisations and directions under Part 11 and Part 139 of the CASR are covered under these regulations.

Authorisation

This regulation provides that existing exemptions, approvals, authorisations and directions remain in effect until their expiry, or provides an expiry date if they are permanent. This allows them to stay in force for a period until reviewed by CASA. Additionally, a provision has been included so that CASA can repeal the exemptions, approvals etc if required.

Schedule 3 – Consequential and other amendments

Civil Aviation (Fees) Regulations 1995

Item 1 - Part 18 of Schedule 1

Item 1 replaces Part 18-Aerodromes with a new Part containing a consolidated number of Fees Items for charges related to certification of an aerodrome, other approvals under of Part 139 of CASR e.g. CA/GRS provider and CA/GROs and certification of organisations as an Aerodrome Rescue and Fire Fighting Service (ARFFS) provider.

Civil Aviation Regulations 1988

Item 2 - Regulations 90 and 91

Item 2 repeals these regulations which refer to licensed aerodromes and aerodromes established under the Air Navigation Regulations. r. 90 refers to access of aircraft employed in the service of the Crown to licensed aerodromes and r. 91 refers to public use by any aircraft which possesses the nationality of a Contracting State to licensed aerodromes and aerodromes established under the Air Navigation Regulations. Neither of these regulations are in use and may never have been used, and no aerodromes have been established under the Air Navigation Regulations.

Item 3 - Paragraph 92(1)(a)

Item 3 repeals this paragraph as no aerodromes have been established under the Air Navigation Regulations.

Item 4 - Paragraph 92(1)(b)

Item 4 amends this paragraph to remove the reference to registered aerodromes.

Item 5 - Paragraph 92(1)(d)

Item 5 amends this paragraph to remove the reference to paragraph 92(1)(a) which is being repealed.

Item 6 - Subregulations 92A(1) and (2)

Item 6 amends these subregulations to replace ‘licensed aerodrome’ with ‘certified aerodrome’.

Item 7 - Subregulations 92A(4) and (4A)

Item 7 amends these subregulations to replace ‘licensed aerodrome’ with ‘certified aerodrome’ and remove the reference to subregulation 92A(5) which is being repealed.

Item 8 - Subregulations 92A(5) and (5A)

Item 8 repeals these transitional subregulations as they have been in place since the Part 139 Regulations were first made in 2003 and are no longer relevant.

Item 9 - Paragraphs 96(1)(a) and (b)

Item 9 amends these paragraphs to remove references to aerodromes established under the Air Navigation Regulations and to remove the reference to registered aerodromes.

Item 10 - Subregulation 96(2)

Item 10 amends this subregulation to replace ‘notice in the *Gazette*’ with ‘notifiable instrument’ which is a more modern reference to a legislative instrument.

Item 11 - Regulation 166E (heading)

Item 11 amends this regulation heading to remove the reference to registered aerodromes.

Item 12 - Subparagraph 166E(1)(a)(iii)

Item 12 repeals this subparagraph to remove the reference to registered aerodromes.

Item 13 - Subregulation 166E(1) (note 1)

Item 13 amends this subregulation note to remove the reference to registered aerodromes.

Item 14 - Paragraph 297(3)(e)

Item 14 amends this paragraph to replace the reference to licensed aerodromes and places authorised for use as an aerodrome to include certified and previously registered aerodromes.

This paragraph is used by CASA to gather evidence from various entities and needs to reflect the regulatory names used for aerodromes over time.

Civil Aviation Safety Regulations 1998

Item 15 - Regulation 1.005

Item 15 repeals this regulation as there are no Appendixes used in the *Civil Aviation Safety Regulations 1998*.

Item 16 - Regulation 13.375 (table 13.375, cell at item 11, column 2)

Item 16 amends this regulation to remove the reference to registered aerodromes.

Item 17 - Paragraph 64.045(3)(c)

Item 17 amends this paragraph to remove the reference to registered aerodromes.

Item 18 - Subregulation 99.010(1) (paragraph (a) of the definition of *aerodrome testing area*)

Item 18 amends this subregulation to remove the reference to registered aerodromes.

Item 19 - Subregulation 99.010(1) (paragraphs (b) and (c) of the definition of *aerodrome testing area*)

Item 19 amends this subregulation to remove the reference to registered aerodromes.

Item 20 - Subregulation 99.010(1) (paragraph (d) of the definition of *aerodrome testing area*)

Item 20 amends this subregulation to remove the reference to registered aerodromes.

Item 21 - Paragraph 99.030(2)(c)

Item 21 amends this paragraph to remove the regulatory reference, i.e. 139.050, for issuing an aerodrome certificate as this could become out of date.

Item 22 - Paragraph 99.030(2)(h)

Item 22 repeals this paragraph to remove the reference to registered aerodromes.

Item 23 - Paragraph 139.055(2)(b)

Item 23 amends this paragraph to be consistent with the new MOS so that non-compliances with the aerodrome manual are permissible, i.e. not an offence, if the non-compliance is necessary to ensure the safety of aircraft, aircraft operations or individuals using the aerodrome.

Item 24 - Subregulation 171.010(1) (definition of *certified air/ground radio service, or CA/GRS*)

Item 24 repeals this subregulation definition as 'certified air/ground radio service' is defined in the CASR Dictionary.

Item 25 - Subregulation 171.010(1) (definition of *frequency confirmation system*)

Item 25 repeals this subregulation definition as ‘frequency confirmation system’ is defined in the CASR Dictionary.

Item 26 - Regulation 172.010 (definition of *certified air/ground radio service, or CA/GRS*)

Item 26 repeals this regulation definition as ‘certified air/ground radio service’ is defined in the CASR Dictionary.

Item 27 - Paragraph 175.140(1)(a)

Item 27 amends this paragraph to remove the reference to registered aerodromes and aerodromes under Subpart 139.D (‘certain other’ aerodromes) as they will no longer exist.

Item 28 - Paragraph 175.480(b)

Item 28 amends this paragraph to remove any doubt that an aerodrome can have more than one obstacle limitation surface, i.e. one for each runway end including take-off and approach surfaces and for multiple runways.

Item 29 - Subregulation 201.004(2) (table 201.004, item 23)

Item 29 amends this subregulation to remove the ability for CASA to give a direction to an aerodrome operator to amend their aerodrome manual to be a reviewable decision as there will no longer be a requirement for CASA to direct changes to the aerodrome manual.

Item 30 - Subregulation 201.004(2) (table 201.004, item 24)

Item 30 amends this subregulation to allow decisions under r. 139.125 to be reviewable, in relation to refusing to impose, or to vary, a condition on an aerodrome certificate in relation to the operation of an aerodrome ground surveillance system.

Item 31 - Subregulation 201.004(2) (table 201.004, item 25)

Item 31 repeals this subregulation to remove the reference to registered aerodromes.

Item 32 - Part 1 of the Dictionary (definition of *aerodrome marking*)

Item 32 repeals this definition as it is too limiting with today’s aerodrome technology, aerodrome markings are of various types and they are adequately explained in the new MOS.

Item 33 - Part 1 of the Dictionary (definition of *aerodrome operator*)

Item 33 amends this definition to remove the reference to operators of registered aerodromes and aerodromes under Subpart 139.D (‘certain other’ aerodromes) as they will no longer exist and to add to operators of certified aerodromes another more generic definition of a person who is responsible for the operation and maintenance of an aerodrome.

Item 34 - Part 1 of the Dictionary

Item 34 repeals a number of definitions which will no longer be in use for ‘aerodrome serviceability inspection’, ‘aerodrome technical inspection’, ‘AIP ERSA’ and ‘registered aerodrome’.

Environment Protection and Biodiversity Conservation Regulations 2000

Item 35 - Subregulation 12.58(1)

Item 35 amends this subregulation to separately note the exception to the listed offences being specified uses within a landing area or in contravention of a determination made by the Director.

Item 36 - Dictionary (paragraphs (a) and (b) of the definition of *landing area*)

Item 36 amends this definition to replace the reference to ‘licence’ to an ‘aerodrome certificate’ and to authorise a landing area to be used as an aerodrome subject to a determination made by the Director.

Transport Safety Investigation Regulations 2003

Item 37 - Paragraph 2.4(2)(i)

Item 37 amends the reference to ‘licensed aerodrome’ to be to a ‘certified aerodrome’.