Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 135 Manual of Standards Amendment Instrument 2021 (No. 1)

Purpose
The *Part 135 Manual of Standards Amendment Instrument 2021 (No. 1)* (the ***MOS amendment***) amends the *Part 135 Manual of Standards* (the ***MOS***).

The MOS, which commences on 2 December 2021, sets out the standards for the operation of smaller aeroplanes for an Australian air transport operation. It was made under regulation 135.025 of Part 135 of the *Civil Aviation Safety Regulations 1998* (***CASR***). It consolidates the existing rules and contains new rules to enhance operational flexibility, improve aviation safety, and bring Australian requirements more in line with the Standards and Recommended Practices of the International Civil Aviation Organization (***ICAO***).

The MOS amendment, which commences at the time it is registered, makes a number of minor or machinery amendments to the MOS. The MOS amendment does not substantially alter the existing arrangements, as provided for by the MOS, with effect on and from 2 December 2021.

Legislation
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, in part, 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. The *Civil Aviation Regulations 1988* (***CAR***) and CASR are made under the Act.

The *Civil Aviation Safety Amendment (Part 135) Regulations 2018* (***Part 135 of CASR***) were registered on 18 December 2018 and amended by the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* registered on 21 October 2020. Part 135 of CASR commences on 2 December 2021. Under regulation 135.025 of CASR, the Civil Aviation Safety Authority (***CASA***) may issue a Manual of Standards for Part 135 of CASR that prescribes matters required or permitted by that Part to be prescribed, or necessary or convenient for carrying out or giving effect to Part 135 of CASR. This power is complemented by other provisions, throughout Part 135 of CASR, which empower CASA to prescribe specific matters in the MOS.

Section 4 of the *Acts Interpretation Act 1901* (the ***AIA***), as applied by section 13 of the *Legislation Act 2003* (the ***LA***), provides that if an Act (the ***relevant Act***), including a regulation, is enacted and at a time after its enactment (the ***start time***), the relevant Act will confer power to make an instrument, that power may be exercised before the start time as if the relevant commencement had occurred. However, in general terms, the exercise of this power does not confer a power, or right, to impose an obligation on a person before the relevant commencement. Using section 4 of the AIA, the MOS is made under regulation 135.025 of CASR, being a regulation that will commence on 2 December 2021.

The MOS amendment is made under the same head of power as the MOS.

Instrument
The details of the amendments of the MOS in the MOS amendment are set out in Appendix 2 of this Explanatory Statement.

Legislation Act 2003
Under subsection 8(4) of the LA, an instrument is a legislative instrument if it is made under a power delegated by the Parliament, and any provision determines the law or alters the content of the law, and it has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right. The MOS amendment satisfies these requirements.

Under paragraphs 98(5A)(a) and 98(5AA)(a) of the Act, an instrument made under regulations is a legislative instrument if it is issued in relation to matters affecting the safe navigation and operation of aircraft and is expressed to apply in relation to a class of persons.

Based on these criteria, the MOS is a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 15G, 38 and 42 of the LA. The same provisions and conclusions apply to the MOS amendment.

Under paragraph 54(2)(b) of the LA, Part 4 of Chapter 3 of the LA (sunsetting of legislative provisions) does not apply in relation to a legislative instrument if the legislative instrument is prescribed by regulation for the purposes of the paragraph. The table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* sets out particular legislative instruments that are not subject to sunsetting for paragraph 54(2)(b). As far as is relevant, item 15 of the table specifies that an instrument relating to aviation safety made under CASR is not subject to sunsetting. Accordingly, the MOS is not subject to sunsetting. This also applies to the amendments of the MOS in the MOS amendment.

The MOS deals with aviation safety matters, which require a risk response or treatment plan. Accordingly, the MOS is intended to have enduring operation, and it would not be appropriate for the MOS to be subject to sunsetting. This also applies to the amendments of the MOS in the MOS amendment.

The exclusion from sunsetting affects parliamentary oversight by not requiring a Manual of Standards to be made in substitution for the MOS before the end of the sunsetting period stated in Part 4 of Chapter 3 and, therefore, not be subject to tabling and disallowance in the Parliament. In any event, any amendments of the MOS that are made, including the amendments in the MOS amendment, are subject to tabling and disallowance in the Parliament.

Incorporation by reference
Under subsection 98(5D) of the Act, the MOS may apply, adopt or incorporate any matter contained in any instrument or other writing. The document may be incorporated in a legislative instrument made under the Act, as the document exists or is in force at a particular time or from time to time (including a document that does not exist when the legislative instrument is made).

Under paragraph 15J(2)(c) of the LA, an Explanatory Statement must contain a description of the incorporated documents and indicate how they may be obtained. A table was included in the Explanatory Statement for the MOS, listing and explaining the various incorporated documents.

The MOS amendment incorporates the documents set out in the following table.

Name of instrument or document	Description	Manner of incorporation	Source
Civil Aviation Order 20.18	The instrument provided for operational requirements relating to equipment for Australian registered aircraft. The instrument is incorporated by section 11.25A, inserted by item [36] of the MOS amendment, and is transitional in nature. The incorporation will self-repeal at the end of 1 December 2023. Existing section 11.25 of the MOS had incorporated the instrument, as in force immediately before the commencement of the MOS.	As in force immediately before the commencement of the MOS, being 2 December 2021.	The instrument is available for free on the Federal Register of Legislation.
EASA AMC 20-24 *Certification Considerations for the Enhanced ATS in Non-Radar Areas using ADS-B Surveillance (ADS-B-NRA) Application via 1090 MHz Extended Squitter*	This document sets out the EASA acceptable means of compliance for the certification considerations for the enhanced ATS in non-radar areas using ADS-B Surveillance (ADS-B-NRA) application via 1090 MHZ extended squitter. The document was initially incorporated by section 11.59 of the MOS as in force or existing from time to time. Item [47] amends the method of incorporation as fixed at 2 May 2008.	As existing on 2 May 2008.	This document is available for free at https://www.easa.europa.eu/sites/default/files/dfu/Annex%20II%20-%20AMC%2020-24.pdf

Name of instrument or document	Description	Manner of incorporation	Source
EASA CS ACNS *Certification Specifications and Acceptable Means of Compliance for Airborne Communications, Navigation and Surveillance CS-ACNS*	This document provides the Certification Specifications and acceptable means of compliance for Airborne Communications, Navigation and Surveillance. The document was initially incorporated by section 11.59 of the MOS as in force or existing from time to time. Item [48] amends the incorporation such that the version dated 17 December 2013, and any later version, is incorporated.	The version dated 17 December 2013, or any later version, is incorporated. Incorporated by reference under subsection 98(5D) of the Act.	This document is available for free at https://www.easa.europa.eu/sites/default/files/dfu/Annex%20I%20to%20ED%20Decision%202019-011-R%20-%20CS%20ACNS%20Issue%202.pdf

Consultation
Under regulation 11.280 of CASR, if CASA intends to issue a Manual of Standards, it must in effect engage in public consultation on the draft Manual of Standards. This requirement also applies to an instrument that amends a Manual of Standards.

However, under paragraph 11.275(1)(d) of CASR, CASA is not obliged to consult on the Manual of Standards if the Director of Aviation Safety (the ***Director***) determines that the Manual of Standards is of a minor or machinery nature that does not substantially alter existing arrangements. In such circumstances, under subregulation 11.275(2), CASA must publish the determination, and a statement of reasons for it, on the internet within 28 days after making the determination. The Director has made such a determination in relation to the MOS amendment under *CASA 105/21 – Determination – Non-compliance with CASR Subpart 11.J Requirements – Proposed Amendments of Part 135 Manual of Standards*.

There has, nevertheless, been considerable informal consultation with the aviation industry in the course of drafting the amendments. Many of the amendments have arisen due to extensive feedback from the aviation industry to CASA via multiple communication channels, involving individual direct feedback and collective feedback from various working groups.

Office of Best Practice Regulation (*OBPR*)
A Regulation Impact Statement (the ***RIS***) was prepared by CASA for Part 135 of CASR. The RIS also covered the MOS, which Part 135 of CASR empowered. CASA is satisfied that the RIS also covers the MOS amendment. The RIS was assessed by OBPR as compliant with the Best Practice Regulation requirements and contained a level of analysis commensurate with the likely impacts (OBPR id: 24505). A copy of the RIS was included in the Explanatory Statement for Part 135 of CASR *Civil Aviation Safety Amendment (Part 135) Regulations 2018* (legislation.gov.au).

Sector risk, economic and cost impact
Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.
Subsection 9A(3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c) of the Act, CASA must:

(a) consider the economic and cost impact on individuals, businesses and the community of the standards; and

(b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The requirements in the MOS amendment are minor or machinery in nature and are designed to avoid imposing additional costs on operators. It is considered by CASA that these matters are adequately covered by the RIS.

Statement of Compatibility with Human Rights
A Statement of Compatibility with Human Rights is at Appendix 1 of this Explanatory Statement. This concludes that the MOS amendment, as a set of minor or machinery amendments, is compatible with human rights.

Making and commencement
The MOS amendment has been made by the Director, on behalf of CASA, in accordance with subsection 73(2) of the Act.

The MOS amendment commences at the time it is registered. The empowerment for the MOS amendment in Part 135 of CASR, particularly regulation 135.025, had not commenced when the MOS amendment was made. However, this is permitted under section 4 of the AIA, which authorises the anticipatory making of an instrument in these circumstances, provided the instrument does not commence until, or after, the empowering instrument has commenced.

The MOS amendment will be repealed in accordance with section 48A of the LA.

APPENDIX 1

Statement of Compatibility with Human Rights

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

Part 135 Manual of Standards Amendment Instrument 2021 (No. 1)

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*.

Overview of the Legislative Instrument

The *Part 135 Manual of Standards Amendment Instrument 2021 (No. 1)* (the ***MOS amendment***) amends the *Part 135 Manual of Standards* (the ***MOS***).

The MOS, which commences on 2 December 2021, sets out the standards for the operation of smaller aeroplanes for an Australian air transport operation. It was made under regulation 135.025 of Part 135 of the *Civil Aviation Safety Regulations 1998*. It consolidates the existing rules and contains new rules to enhance operational flexibility, improve aviation safety, and bring Australian requirements more in line with the Standards and Recommended Practices of the International Civil Aviation Organization.

The MOS amendment, which commences at the time it is registered, makes a number of minor or machinery amendments to the MOS. The amendments do not substantially alter the existing arrangements as provided for by the MOS, with effect on and from 2 December 2021.

Human rights implications

The Explanatory Statement for the MOS explains that, of its very nature in addressing aviation safety issues, its provisions may engage the following human rights:

- the right to life under Article 6, and the right to privacy and reputation under Article 17, of the International Covenant on Civil and Political Rights
- the right to work under Article 6 (1), and the right to safe and healthy working conditions under Article 7, of the International Covenant on Economic, Social and Cultural Rights.

That Explanatory Statement concludes that the MOS is a legislative instrument that is compatible with human rights and, to the extent that it may also limit human rights, the limitations are reasonable, necessary and proportionate to ensure the safety and integrity of the aviation safety system, upon which aviation operations rely.

The MOS amendment is also a legislative instrument, but it contains only minor or machinery amendments as explained above, and these do not, of themselves, directly engage human rights, nor do they increase any engagement with human rights already recorded in the Explanatory Statement for the MOS. The MOS amendment is, therefore, compatible with human rights.

Conclusion

The MOS amendment is a legislative instrument that is compatible with human rights.

Civil Aviation Safety Authority

APPENDIX 2

Details of the Part 135 Manual of Standards Amendment Instrument 2021 (No. 1)

1 Name of instrument

This section provides for the naming of the MOS amendment.

2 Commencement

This section provides that the MOS amendment commences at the time it is registered.

3 Amendment of Part 135 Manual of Standards

This section provides that Schedule 1 of the MOS amendment amends the MOS.

Schedule 1 Amendments

[1] Section 1.04

Item 1 adds the abbreviation of the term ***NAA*** to the definitions and abbreviations, listed in section 1.04, for the MOS.

[2] Chapter 1, after section 1.07

Item 2 inserts new sections 1.08 and 1.09. Section 1.08 is reserved for future use to preserve the MOS structure for any future provisions relating to the maximum distance of an area of water from land to be a suitable forced landing area that would be appropriate following consultation.

Section 1.09 adds additional permitted categories of aeroplanes to include utility and acrobatic. The utility and acrobatic category descriptors may appear on many older aircraft type acceptance certificates on the basis of historical definitions and past regulatory policies. There is no intent to exclude these categories of aeroplane from being used in aircraft operations under Part 135 of CASR.

[3] Subsection 3.01(1), Note 2

Item 3 corrects an editorial error. Note 2 incorrectly refers to an example of a document relating to "disinfection" (using an agent to destroy pathogens on surfaces). The correct term should be "disinsection" (using an airborne agent to destroy insects as required by the *Biosecurity Act 2015*).

[4] Section 3.04, Table 3.04, Item 2

Item 4 removes the requirement for signalling devices to be only pyrotechnic in nature. There are now non-pyrotechnic devices available on the market that an operator could use. If this term is retained in item 2 of Table 3.04, the operator would not be required to have the information for these devices available for a rescue centre. Non-pyrotechnic signalling devices are not yet in widespread use, but a better future safety outcome would be achieved if operators must have the information on these devices available.

[5] Section 7.02, definition of *contingency fuel*, paragraph (a)

Item 5 corrects an incorrect definition of contingency fuel in section 7.02. The current definition would apply to require all aeroplanes to carry at least 10% of the trip fuel amount for the flight. The policy intent was to carry forward the provisions detailed in the existing fuel instrument CASA 29/18 where 10% would only apply to piston-engine aeroplanes and 5% would apply to turbine-engine aeroplanes.

[6] Section 7.02, definition of *MSL*

Item 6 removes the definition of the term ***MSL***. This definition was incorrectly included in the definitions for Chapter 7; however, the term is not used in that chapter or elsewhere in the MOS.

[7] Paragraph 8.03(b)

Item 7 adds the terms "type certificate" and "supplemental type certificate" in relation to the kinds of single-engine aeroplanes that are an approved single-engine turbine powered aeroplane or a prescribed single-engine aeroplane for the purposes of regulation 135.240 of CASR, and are thereby prescribed single-engine aeroplanes. The previous use of only the term "type acceptance certificate" was too narrow and may have eliminated some aircraft from being eligible and this is not the policy intent. The addition of these terms will now capture all possible kinds of type certificate that an aircraft of this nature could be certified under.

[8] Paragraph 8.03(b), Note

Item 8 adds the terms "type certificate" and "supplemental type certificate" in the Note to clarify the intent of paragraph 8.03(b). The Note explains that these terms are defined in the CASR Dictionary. This item is consequential on item 7.

[9] Subsection 8.04(1)

Item 9 provides clarity that the matters prescribed in subsection 8.04(1) relate to a flight of a relevant aeroplane and the requirements that are placed on the pilot in command when there is an engine malfunction or failure.

[10] Section 8.05

Item 10 substitutes the prescribed matters for decision speed. Instead, a prescribed matter for subregulation 135.250(2) of CASR is the decision point for a runway. In the context of a prescribed single-engine aeroplane (***PSEA***), the replacement of the word "speed" with the word "point" more accurately defines the original intent for the operator to have procedures for dealing with a malfunction occurring at any stage during take-off. The concept is that a pilot may choose to abort the take-off for a non-safety critical matter but should only do so up to the point during the take-off after which stopping is not feasible.

[11] Sections 8.08 and 8.09

Item 11 substitutes the existing sections 8.08 and 8.09 with new section 8.08. This section prescribes matters relating to the assessment of a suitable route for the flight of an aeroplane, identification of aerodromes and suitable forced landing areas which are available for a forced landing, which the operator of a PSEA must include procedures for in their exposition.

This ensures that the original policy intent is met in relation to the planning and maintenance in flight of a suitable route and identification of suitable forced landing areas for a PSEA flight and to remove any ambiguity. The policy intent of the transitional provision in subsection 8.08(2) is to defer the application of the 15-minute provision in subsection 8.08(1) for a medical transport operation in order to allow operators of these services time to develop procedures or technical solutions in order to comply without the undue disruption of essential emergency flights.

Additionally, as previously worded, the maximum time for an aeroplane to be outside the glide range of a suitable forced landing area could have been interpreted to mean that an arbitrary calculated time to glide to 1000 ft AGL could be added to the 15 minutes at the normal cruising speed, which was not the intent of the provision. The policy intent is that exceeding the 15-minute time outside glide range limit would also be allowable whilst the pilot was complying with an ATS instruction that came from ATS at ATS initiative, as opposed to one that came from ATS after a pilot request for convenience, not safety.

Additionally, the policy intent was to allow exceedance of the 15-minute limitation if the aircraft was carrying out published instrument departure and approach procedures or deviating from the planned flightpath due to traffic.

[12] Chapter 9, heading

Item 12 adds an additional reference in the heading of Chapter 9 to include certain flights over water. This is an editorial amendment to facilitate future inclusion of provisions relating to certain flights over water whilst preserving the existing MOS structure. Additionally, this item inserts a new Division 1—Safety briefings, instructions and demonstrations to more clearly differentiate the different topics addressed in Chapter 9.

[13] Chapter 9, after section 9.03

Item 13 inserts a new Division 2—Flight of more than 25 nautical miles over water from a suitable forced landing area. The division is reserved for future use to preserve the MOS structure for any future provisions that would be appropriate following consultation.

[14] Section 10.02, definition of *clearway*, paragraph (b)

Item 14 is an editorial change, consequential to the amendment of the MOS in item 1.

[15] Section 10.04

[16] Section 10.04, Table, heading

[17] Section 10.11

[18] Section 10.11, Table, heading

Items 15 to 18 add identifying table numbers to make the tables similar in structure and referencing to other tables in the MOS.

[19] Paragraph 11.02(4)(d)

Item 19 facilitates the addition of paragraph 11.02(4)(e) in item 20.

[20] At the end of section 11.02(4)

Item 20 inserts a new paragraph 11.02(4)(e) to set out the additional requirements relating to the fitment and non- fitment of equipment to an aeroplane. Increasingly, optional surveillance equipment is available for aviation users. The requirement in the new paragraph is intended to ensure that any optional surveillance equipment used by the aircraft is subject to an overarching requirement to not affect the safety of other aircraft or the proper functioning of ATS surveillance systems. This requirement is in line with existing policy that arose after the MOS was consulted associated with the VFR ADS-B project.

[21] Section 11.04

Item 21 substitutes a new section 11.04 to provide further clarity relating to the fitment and non- fitment of equipment to an aeroplane. Section 11.04 as previously written incorrectly constrained the effect of the definition of ***permissible unserviceability*** in subregulation 2(1) of CAR to the power contained in regulation 21.007 of CASR, when the definition also refers to regulation 37 of CAR. This change ensures that existing industry and CASA practices in relation to the power to issue a permissible unserviceability are unchanged.

[22] Subsection 11.08(1)

[23] Subsection 11.08(1)

[24] Subsection 11.08(2)

Items 22 to 24 correct editorial errors and clarify provisions.

[25] Paragraph 11.08(3)(b)

Item 25 substitutes a new paragraph 11.08(3)(b) to provide clarity on the additional radiocommunication systems required for communicating with ATS when VHF communications with ATS are not available. The item reflects existing provisions granted to allow operators to fit certain radiocommunications equipment, as an alternative to an HF radio, which can send a message from the pilot directly to company operations or a third party approved by the operator in the event of an emergency occurring. Operators or these third parties would then be required to contact certain agencies to respond to the emergency situation. This carries over existing provisions in a more outcome-based manner and allows for future technological advancements.

[26] Subsection 11.08(4)

Item 26 provides the additional requirement that the radiocommunication system fitted under paragraph 11.08(3)(b) must only be used for communications with the aeroplane's operator, or the nominated person of the operator, during the flight if VHF communications with ATS is not available. This amendment reinforces the existing provision where the alternative means of communication is reserved for emergency use only.

[27] Section 11.09, after heading

Item 27 adds an explanatory note, outlining the fact that some oceanic airspace requires aircraft to meet a navigation standard of RNP 2, RNP 4 or RNP 10 before entry can be allowed. When this is required, the standards contained in the Part 91 MOS relating to long range navigation systems must be met. If the aircraft cannot meet these requirements, the crew must advise ATC.

[28] Subsection 11.18(1)

Item 28 removes the requirement for navigation lights to be fitted to an aircraft operating in poor visibility. The phrase "poor visibility" is a carryover from regulation 195 of CAR. If an aircraft is not intended to fly at night, then the only practical way this requirement could be met is if the navigation lights are permanently fitted. This amendment ensures the rule can be reasonably complied with.

[29] Section 11.19

Item 29 adds further abbreviations of terms to the definitions, listed in section 11.19, for Division 6 of Chapter 11.

[30] Section 11.21, at the end

Item 30 adds an explanatory note, highlighting that due to a section 11.07 of the Part 91 Manual of Standards, if the altitude alerting equipment is inoperative then the use of RVSM airspace may not be permitted.

[31] Subsection 11.23(3), Note

Item 31 corrects an editorial error.

[32] Section 11.24

Item 32 substitutes a new section 11.24 to permit an aeroplane with an inoperative ACAS to conduct a flight or series of flights from locations where approved ACAS cannot be repaired or

replaced, for a period of not more than 72 hours from when the ACAS was found to be inoperative. It also properly encompasses the transitional ACAS provisions allowed for under section 11.22.

[33] Subsections 11.25(1) to (3)

Item 33 substitutes new subsections 11.25(1) to (3) to provide clarity for the circumstances in which an aeroplane must be fitted with a terrain awareness and warning system (***TAWS***). Previously, section 11.25 contained the TAWS requirements in effect for the transition period to 2 December 2023, and the permanent requirements following that date. Item 33 provides that section 11.25 applies to an aeroplane, for an IFR flight or VFR flight at night, which is conducting a passenger transport operation or medical transport operation and has an MTOW of more than 5 700 kg or is carrying 10 or more passengers.

[34] Subsection 11.25(6)

Item 34 is a consequential editorial change resulting from items 33 and 36.

[35] Subsections 11.25(4) to (6)

Item 35 is a consequential editorial change resulting from item 33.

[36] After section 11.25

Item 40 adds a new transitional provision based on *Civil Aviation Order 20.18* (***CAO 20.18***). CASA intends to repeal that Civil Aviation Order. New section 11.25A contains the transitional alleviations and requires an aeroplane to which the old CAO 20.18 GPWS requirements applied to either comply with those old requirements or the new requirements in section 11.25.

[37] Section 11.26

Item 37 is a consequential editorial change resulting from item 36.

[38] Paragraph 11.26(b)

Item 38 corrects an editorial error.

[39] Section 11.27, heading

Item 39 corrects an editorial error.

[40] Section 11.30

Item 40 provides clarity as to the kinds of certificates of airworthiness (***C of A***) that apply for the requirement for an aeroplane to be fitted with a flight data recorder. The provision carries over the wording from subsection 6 of CAO 20.18, which CASA intends to repeal, and includes provision for an aeroplane certified in its country of manufacture, not only Australia, thereby ensuring the application of this requirement to foreign-registered aeroplanes.

[41] Paragraph 11.31(a)

Item 41 provides clarity as to the kinds of C of A that apply for the requirement for an aeroplane to be fitted with a cockpit voice recorder. The provision carries over the wording from subsection 6 of CAO 20.18, which CASA intends to repeal, and includes provision for aeroplanes certified in its country of manufacture, not only Australia, thereby ensuring the application of this requirement to foreign-registered aeroplanes.

[42] Subsection 11.41(4), Table 11.41(2), Item 3

Item 42 corrects an editorial error. The supplemental oxygen provisions for unpressurised aeroplanes were updated as part of the development of Part 135 of CASR to better align with the latest ICAO requirements. The provisions were correctly depicted in the Part 121 and Part 133

Manuals of Standards; however, the words “for at least 10% of the passengers” were inadvertently omitted from the MOS.

[43] Paragraph 11.43(2)(a)

Item 43 provides clarity on the issue of a certificate of airworthiness for an aeroplane in relation to subsection 11.43(3). The current wording of the chapeau to subsection (2) could infer that the requirements relating to C of A being first issued on or after a certain date applies to the C of A for the individual aeroplane, and not to the type of aeroplane generally. Replacement of “aeroplane” with “is of a type of aeroplane” is intended to ensure the correct interpretation. Additionally, to allow for the use of foreign aircraft for Part 135 operations, allowance has been made for the aeroplane being of a type of aeroplane that had a certificate of airworthiness issued by a foreign NAA, with the proviso that the foreign country must be a Contracting State for ICAO.

[44] Subsection 11.44(4)

Item 44 removes an incorrect requirement for protective breathing equipment to be compatible with the use of a megaphone. This is an incorrect requirement, not in accordance with current Civil Aviation Order 20.4 policy or equivalent international regulatory positions. CASA intends to repeal that Civil Aviation Order.

[45] Paragraph 11.58(2)(a)

Item 45 corrects an editorial error.

[46] Paragraph 11.58(2)(b)

Item 46 provides clarity in relation to the type of aeroplane mentioned in paragraph 11.58(2)(b). The current wording of this paragraph means the requirements stated in subsection 11.58(1) apply to propeller-driven, turbine-engine, single-engine aeroplanes and propeller-driven, turbine-engine, multi-engine aeroplanes, which is not the policy intent. Rather, the requirements, in relation to this paragraph, are to apply only to propeller-driven, turbine-engine, multi-engine aeroplanes. This amendment has been made to ensure the policy intent, carried over from subparagraph 5.2.1.1(a) of *Civil Aviation Order 20.11* (***CAO 20.11***), continues in relation to propeller-driven, turbine-engine, multi-engine aeroplanes with an MTOW of more than 5 700 kg. CASA intends to repeal that Civil Aviation Order.

[47] Section 11.59, definition of *EASA AMC 20-24*

Item 47 amends the incorporation of the document EASA AMC 20-24 so that it is incorporated as it exists on 2 May 2008. Previously it was incorporated as existing from time to time, which is not the policy intention.

[48] Section 11.59, definition of *EASA CS-ACNS*

Item 48 amends the incorporation of the document EASA CS-ACNS so that the version dated 17 December 2013, plus any later versions of the document, are incorporated. Previously the document was incorporated as in force or existing from time to time, which would have the result that a later version would supersede an earlier one. This was the wrong policy result.

[49] Section 11.59, definition of *NIC*

Item 49 corrects a referencing error.

[50] Section 11.59, definitions of *SIL*, *surveillance radar* and *transponder*

Item 50 corrects an editorial error of italicised wording.

[51] Subparagraphs 11.62(1)(b)(i) and (ii)

Item 51 corrects an editorial error and refers correctly to ATS to encompass all air traffic services, not just ATC.

[52] Section 11.65, Note

Item 52 corrects an editorial error.

[53] Section 12.01, definition of *flight crew member general emergency check of competency*

Item 53 corrects an editorial error.

[54] Subsections 12.04(2), 13.04(2) and 14.04(2)

Item 54 corrects an inadvertent error. When the Part 133 and 135 MOSs were being finalised, requirements relating to crew members needing to undergo underwater escape training were inadvertently copied from the Part 133 MOS (where they should apply) to the MOS (where they should not apply).

[55] Section 12.08

Item 55 clarifies the policy intent carried over from Appendix IV of CAO 20.11, which CASA intends to repeal, in relation to in-water practical training in the use of life jackets and life rafts. The intent is that the initial flight crew member general emergency check of competency assesses the in-water elements of life jacket use, and life raft use, if life rafts are required to be carried. The subsequent recurrent training and checking requirement for life jackets and life rafts was not intended to require an in-water component. The previous wording of the provision inferred that the in-water component was required for recurrent training.

[56] Paragraph 13.05(2)(d)

Item 56 removes the requirement for conversion training and air crew member proficiency check for NVIS operations. This provision relates to NVIS equipment not currently in use in Part 135 aeroplanes and was inadvertently copied from the Part 133 MOS where it is applicable.

[57] Section 13.08

Item 57 replicates the amendments made by item 55 in the case of air crew members for the same reasons as stated, in this appendix, for item 55.

[58] Section 14.08

Item 58 replicates the amendments made by item 55 in the case of medical transport specialists for the same reasons as stated, in this appendix, for item 55.