

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 121 Manual of Standards Amendment Instrument 2023 (No. 1)

Purpose

The *Part 121 Manual of Standards Amendment Instrument 2023 (No. 1)* (the **MOS amendment**) amends the *Part 121 (Australian Air Transport Operations—Larger Aeroplanes) Manual of Standards 2020* (the **MOS**).

The MOS sets out the standards for the operation of larger aeroplanes for an Australian air transport operation. It was made under regulation 121.015 of Part 121 of the *Civil Aviation Safety Regulations 1998 (CASR)*. It consolidates the detailed standards and requirements associated with the conduct of Part 121 operations by Australian air transport operators.

Part 121 of CASR prescribes requirements for the conduct of Australian air transport operations:

- in multi-engine aeroplanes that have a maximum operational passenger seating configuration (**MOPSC**) of more than 9 or a maximum take-off weight of more than 8 618 kg
- in single-engine aeroplanes that have a MOPSC of more than 9 and a maximum take-off weight of 8 618 kg or less. (The MOS does not currently contain any provisions applicable to these single-engine aeroplanes.)

Air transport operations include passenger transport, cargo transport and medical transport that is conducted for hire or reward.

The MOS amendment, which commences on 2 December 2023, makes minor or machinery amendments to the MOS which do not substantially alter the existing arrangements under the MOS as in effect immediately before 2 December 2023.

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* and CASR are made under the Act.

The *Civil Aviation Safety Amendment (Part 121) Regulations 2018 (Part 121 of CASR)* were registered on 18 December 2018 and amended by the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* registered on 6 October 2020. Part 121 of CASR commenced on 2 December 2021. Under regulation 121.015 of CASR, the Civil Aviation Safety Authority (**CASA**) may issue a Manual of Standards for Part 121 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 121 of CASR. This power is complemented by other provisions, throughout Part 121 of CASR, which empower CASA to prescribe specific matters in the MOS.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (in effect) where regulations empower the making of a Manual of Standards, the power includes a parallel power to amend the Manual

of Standards. The MOS amendment is made under the same head of power, and on the same basis, as the MOS itself.

For convenience in this Explanatory Statement, unless a contrary intention appears, mention of a provision with the prefix “121.” is a reference to that provision in Part 121 of CASR.

Instrument

The minor or machinery amendments are described below in general terms:

- multiple provisions have editorial changes to correctly enable the intended outcomes
- multiple provisions mistakenly relate only to Australian registered aeroplanes instead of to both Australian and foreign registered aeroplanes
- EDTO (extended diversion time operations) rules require some changes:
 - a correction is made to some EDTO planning requirements that should relate to landing minima not flight preparation planning minima (which are higher and, therefore, impose a greater burden)
 - EDTO alternate aerodromes within Australia used from 2 December 2023 are required to have RFF CAT 4 capability but a further impact and policy discussion is required to be held with the operators conducting EDTO before implementing this requirement, hence, the requirement is postponed for a further 1 year
- a correction is made to the flight planning rules which incorrectly allow operators to take into account certain weather forecasts when the enhanced weather watch that underpins the alleviation has expired
- the lateral boundaries of the terrain and obstacle after take-off area that needs to be assessed under the performance rules has an alleviation, ending on 2 December 2023, to use either the new rules or the old rules, but a further impact and policy discussion is required to be held with Part 121 operators before eliminating this alleviation, hence, it is extended by a further 1 year
- TAWS provisions are clarified to make the critical definitions easier to interpret without changing the intent and the transitional provisions are removed as they are expiring
- the provisions relating to supplemental oxygen equipment are clarified to enable supplemental oxygen equipment to be permanently fitted to, or temporarily carried on board, an aeroplane
- provisions about the operation of transponders are amended to correct technical terms, and technical matters in relation to transponders
- alleviation is provided for flight crew members who need not be trained in first aid if they are the only persons on board a cargo transport operation or if during a medical transport operation there is another appropriately trained person to provide medical aid to a patient.

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 (the LA)

Under subsection 8(4) of the LA, an instrument is a legislative instrument if it is made under a power delegated by the Parliament, any provision of it 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 the 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.

Under paragraph 10(1)(d) of the LA, an instrument that includes a provision that amends another legislative instrument is itself a legislative. The MOS amendment is, therefore, a legislative instrument.

Sunsetting

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 the MOS to be remade and tabled before the end of the sunsetting period stated in Part 4 of Chapter 3 and, thereby, avoiding exposure to disallowance in the Parliament. In any event, any amendments of the MOS that are made, including the amendments in the current MOS amendment, are subject to tabling and disallowance in the Parliament. The MOS amendment will be repealed almost immediately after registration in accordance with section 48A of the LA.

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. A non-legislative instrument may be incorporated into a legislative instrument made under the Act, as that non-legislative instrument exists or is in force at a particular time or from time to time (including a non-legislative instrument 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 following additional documents set out in the following table.

Name of instrument or document	Description	Manner of incorporation	Source
Civil Aviation Order 20.7.1B	This CAO provided for aeroplane weight and performance limitations for larger jet aircraft	As in force immediately before 2 December 2021	This document is available for free on the Federal Register of Legislation.
TSO-C151b <i>Terrain Awareness and Warning System (TAWS)</i>	This document provides the minimum FAA performance standards (MPS) their Terrain Awareness and Warning System (TAWS) equipment must first meet to obtain and be identified with the TSO-C151b Class A, B, or C marking. The document is incorporated for the purposes of the definitions of TAWS-Class A and TAWS-Class B in section 11.24 of the MOS.	As in force from time to time (by virtue of section 1.05 of the MOS)	Various versions of this document are available for free on the FAA website (https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet).
ETSO-C151b <i>Terrain Awareness and Warning System (TAWS)</i>	This document provides the EASA requirements which Terrain Awareness and Warning System (TAWS) equipment, that is manufactured on or after the date of this ETSO, must meet to be identified with the applicable ETSO marking. The document is incorporated for the purposes of the definitions of TAWS-Class A and TAWS-Class B in section 11.24 of the MOS.	As in force from time to time (by virtue of section 1.05 of the MOS)	This document is available for free on the EASA website (https://www.easa.europa.eu/domains/aircraft-products/etso-authorisations/list-of-all-etso).
TSO-C88a <i>Automatic Pressure Altitude Reporting Code Generating Equipment</i>	This document provides the FAA requirements automatic pressure altitude reporting code generating equipment must meet in order to be identified with the applicable TSO marking.	As in force or existing from time to time (by virtue of section 1.05 of the MOS)	Available for free on the FAA website (https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet).

Name of instrument or document	Description	Manner of incorporation	Source
ETSO-C88a <i>Automatic Pressure Altitude Reporting Code Generating Equipment</i>	This document provides the EASA requirements which automatic pressure altitude reporting code generating equipment must meet in order to be identified with the applicable ETSO marking.	As in force or existing from time to time (by virtue of section 1.05 of the MOS)	This document is available for free on the EASA website (https://www.easa.europa.eu/domains/aircraft-products/etso-authorisations/list-of-all-etso).

Note that references to provisions of legislation or other legislative instruments are taken to be as they are in force from time to time, by virtue of paragraph 13(1)(c) of the LA. CASR and MOSS are freely available online on the Federal Register of Legislation.

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 for at least 28 days. This requirement also applies to an instrument that amends a Manual of Standards.

No consultation — minor or machinery amendments

Under paragraph 11.275(1)(d) of CASR, CASA is not obliged to consult on provisions of a Manual of Standards if the Director of Aviation Safety (the **Director**) determines that they are of a minor or machinery nature that do 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.

For the provisions in the MOS amendment, the Director has made such a determination under *CASA 69/23 — Determination for Part 121 Manual of Standards Amendment Instrument 2023 (No. 1)*.

There has, nevertheless, been informal consultation with the aviation industry in the course of developing these minor and machinery amendments. There has been industry feedback to CASA via multiple communication channels, either directly from individuals, or from various working groups.

Office of Impact Analysis

An Impact Analysis was prepared by CASA for the new Part 121 (in the form of the then utilised Regulatory Impact Statement or RIS) and this RIS also covered the MOS and the minor and machinery items of the MOS amendment which the regulations empowered.

The RIS was assessed by the Office of Best Practice Regulation (**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](https://www.legislation.gov.au) ([legislation.gov.au](https://www.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 that are minor or machinery in nature are designed to avoid imposing additional costs on operators. It is considered by CASA that these matters are adequately covered by the RIS.

Sector risk

The MOS is specifically designed to regulate Australian air transport operations in smaller aeroplanes and has effect only with respect to such operations. The MOS amendment, like the MOS, takes into account the differing risks associated with this industry sector. The minor or machinery amendments of the MOS amendment do not increase any particular safety risks.

Environmental impact

Under subsection 9A(2) of the Act, while regarding the safety of air navigation as the most important consideration, CASA must exercise its powers and perform its functions in a manner that ensures that, as far as practicable, the environment is protected from the effects and associated effects of the operation and use of aircraft.

It is not anticipated there will be any negative environmental impacts as a result of the MOS amendments, as compared to the baseline that existed on 1 December 2021 before the MOS was made, since the amendments do not create any new or material environmental impacts arising from relevant flight operations.

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 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 on 2 December 2023.

Details of the Part 121 Manual of Standards Amendment Instrument 2023 (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 on 2 December 2023.

3 Amendment of the Part 121 Manual of Standards

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

Schedule 1 Amendments

[1] Subsection 1.04(1), definition of *actual landing distance* and *TAWS*

This amendment corrects existing definitions.

[2] Subsection 1.04(1), Definitions

This amendment adds new definitions.

[3] Paragraph 2.18(1)(c)

Subsection 2.18(1) describes when an EDTO aeroplane flight may commence. This amendment more clearly and accurately states the requirement for communications facilities.

[4] Paragraph 2.20(4)(a)

This amendment expresses the aerodrome weather forecast requirement for an aeroplane flight beyond an EDTO entry point. Thus, the aerodrome forecast, or ICAO landing forecast, for each aerodrome selected as an EDTO en-route aerodrome, must indicate that the forecast cloud ceiling and visibility, at the estimated time of use mentioned in section 4.05 for the aerodrome, are above the landing minima for the approach expected to be used.

[5] Paragraph 2.20(6)(a)

This amendment corrects an editorial error by replacing the phrase “the expected time” of use of an EDTO en-route alternate aerodrome with the correct phrase “the estimated time” of use.

[6] Paragraph 3.02(a)

This amendment revises the requirement for certain documents to be carried on a flight, essentially to ensure that, for a foreign registered aeroplane, the aeroplane’s authorisation (however described) that is equivalent to a certificate of airworthiness, must be carried.

[7] Section 3.03

The amendment corrects an omission of mention of medical transport operations as also requiring passenger lists. It aligns with an existing requirement in regulation 121.110 for a passenger list to be prepared for a medical transport operation.

[8] Paragraph 4.06(7)(b)

Under subsection 4.06(5), if an authorised weather forecast includes a probability indicator of 30% or 40% of relevant weather conditions at any time during the estimated time of use (of an aerodrome), the weather conditions are taken to be present in the time period associated with the probability indicator. However, this may be disregarded if the authorised weather forecast being used is a TAF3, and the time period associated with the probability indicator is within the first 3 hours of the period of validity of the forecast.

The amendment modifies this so that the disregard is allowed only if none of the estimated time of use of the aerodrome by an aeroplane is outside the end time (if any) specified for the TAF3 service.

[9] Subsection 4.09(2)

This amendment has the same effect as amendment 8 for planning a destination alternate aerodrome.

[10] Paragraph 4.19(2)(d)

Section 4.19 contains the rules for the selection of an extended diversion time operations (*EDTO*) alternate aerodrome. During the portion of a Part 121 flight subject to the EDTO rules, operators must have sufficient fuel to reach an aerodrome known as an EDTO alternate aerodrome. Previously, on and from 2 December 2023, all EDTO alternate aerodromes, whether located in Australia or overseas, were expected to have a minimum rescue and firefighting capability (*RFF*). A further 12 months is needed to achieve the RFF goal.

[11] Subsection 9.04(2)

Subsection 9.04(2) specifies the lateral boundaries for the area of ground or water within which terrain and obstacles must be assessed and avoided by certain margins in the after-take-off phase of an aeroplane flight. The amendment recasts the requirements in a clearer form and corrects an editorial error which resulted in the omission of the word “or” at the end of the previous paragraph 9.04(2)(a).

[12] Subsection 9.04(5)

This amendment provides that until the end of 1 December 2024, for the purposes of subsection 9.04(2), the relevant distance is that which does not exceed a distance calculated in accordance with subsection 12A of Civil Aviation Order 20.7.1B, as in force immediately before 2 December 2021. This is an alleviation to permit a continuation of the pre-2 December 2021 standard that was intended under subsection 9.04(5A), and is designed to provide industry with a further 12 months to prepare for the transition to the new lateral boundaries standard.

[13] Subsection 9.04(5A)

This subsection was framed erroneously but in any event it expired at the end of 1 December 2022, and is in effect replaced by subsection 9.04(5).

[14] Paragraph 9.04(7)(e)

This amendment corrects a miscitation error.

[15] Subsection 9.04(7), Note 2

This amendment corrects a miscitation error.

[16] Subsections 9.04(8) and (9)

These subsections expired at the end of 1 December 2022. Subsection 9.04(8) is remade to preserve the definition of *Civil Aviation Order 20.7.1B* for continued transitional use in subsection 9.04(5).

[17] After subsection 9.13(1)

This amendment inserts an explanatory Note in relation to the definition of *actual landing distance*.

[17A] Subsection 9.13(6)

This amendment corrects a typographical error to replace “aeroplane” with “aerodrome”

[18] Paragraphs 11.01(2)(b) and (c)

This amendment deletes paragraph 11.01(2)(c) (that equipment must be operative) which duplicates the requirement under section 11.06.

[19] Paragraph 11.19(2)(c)

Under this amendment, altitude alerting equipment fitted to certain aeroplanes may have a visual warning capacity instead of an aural warning capacity.

[20] Section 11.24

This amendment replaces the *TAWS-Class A* and *TAWS-Class B* definitions to make them easier to interpret.

[21] Section 11.24A

This amendment repeals the transitional provisions in section 11.24A which had previously made accommodation for the now redundant GPWS equipment. The relevant TAWS requirements are now prescribed under section 11.24.

[22] Section 11.25

This amendment is consequential on item [21] and removes the references to GPWS.

[23] Subparagraph 11.35(1)(a)(i)

This provision states requirements for data link recorders. However, by referencing aeroplanes first issued with a particular certificate of airworthiness – a document issued by CASA – a foreign registered aircraft being used by a Part 121 operator would not be required to be fitted with a data link recorder. This is at variance with the policy intent that the equipment rules for Australian air transport operations should not differentiate between Australian registered and foreign registered aeroplanes used in such operations. Hence, to mention of certificate of airworthiness is added the words “or an authorisation (however described) equivalent to a certificate of airworthiness issued by the NAA of a Contracting State”.

[24] Subsection 11.40(1)

This amendment makes it clear that to satisfy relevant regulatory requirements, supplemental oxygen may be carried as an alternative to it being fitted within the aeroplane.

[25] Subsections 11.41(1) and (2)

This amendment makes it clear that oxygen equipment only needs to be fitted if an oxygen supply is required to be carried.

[26] Subparagraph 11.43(1)(a)(i)

This amendment corrects a punctuation error.

[27] Subparagraph 11.43(1)(a)(ii)

This amendment corrects a typographical error by inserting “and” between paragraphs.

[28] Paragraph 11.43(2)(a)

This amendment makes it clear that oxygen dispensing units must not only be automatically deployable (as is the current requirement) but the units must also be immediately available to each passenger on the relevant flight, wherever seated.

[29] Section 11.48, Table 11.48, item heading, column 2

This section describes the aeroplane characteristics which trigger the requirement that emergency locator transmitters (ELT) must be fitted or carried. Previously, there was reference to a prescribed date of first issue of a certificate of airworthiness — a document issued by CASA. However, this meant that a foreign registered aircraft being used by a Part 121 operator would not be required to fit any ELT when an Australian registered aircraft would be required to fit such equipment. This is corrected by specifying that the relevant triggering dates refer to the date certificate of airworthiness was first issued or date an authorisation (however described) equivalent to a certificate of airworthiness issued by the NAA of a Contracting State was first issued.

[30] Paragraph 11.52(2)(e)

This amendment has the effect of removing the requirement for the flight crew compartment of an aeroplane with a MOPSC of not more than 9 to be equipped with a separate fire extinguisher if the flight crew and the passengers occupy the same compartment where one fire extinguisher is readily available to the pilot in command.

[31] Paragraph 11.52(2)(f)

This amendment has the effect of removing the requirement for the flight crew compartment of an aeroplane with a MOPSC of more than 9 to be equipped with a separate fire extinguisher if the flight crew and the passengers occupy the same compartment and 1 fire extinguisher is readily available to the pilot in command, and one is readily available to the passengers.

[32] Subsection 11.62(2), the chapeau

This amendment makes it clear that in calculating when, and how many, life rafts are to be carried for flights over water, the critical determining distance is the distance flown over water that is further than a prescribed distance from a suitable forced landing area situated on land.

[33] Paragraph 11.64(1)(a)

This amendment corrects an error in citing the proper standard for the fitment of fuselage mounted underwater locating devices (ULD).

[34] Paragraph 11.64(1)(b)

This amendment corrects an error in citing the proper standard for the fitment of fuselage mounted underwater locating devices (ULD).

[35] Division 13 of Chapter 11, the heading

This amendment deletes mention of transponders from the Division heading to leave the more accurate, general heading of “Surveillance equipment” only. Transponders is a specific term for a specific kind of surveillance equipment, and the term is mentioned only when that is specifically what is meant.

[36] Section 11.66, the heading

This amendment is for the same purpose as that described in amendment 35.

[37] Section 11.66, Table 11.66, item 1, column 2

This amendment corrects a typographical error in the omission of the letter “B” from the description of ADS-B OUT equipment.

[38] Section 11.67, the heading

This amendment is for the same purpose as that described in amendment 35.

[39] Subsections 11.67(1), (2), (3) and (4)

This amendment is for the same purpose as that described in amendment 35. The provision is also recast for greater clarity.

[40] Subsection 11.67(8)

This provision concerning pressure altitude information reports required clarification, additional reference to ADS-B OUT, and an additional compliance option. Hence, under this amendment, pressure altitude information reported by an approved transponder or an approved ADS-B OUT equipment configuration must be determined by either a barometric encoder of a type authorised by CASA or the NAA of a recognised country, in accordance with (E)TSO-C88a or, as a new alternative, by another system approved under Part 21 of CASR as having a level of performance equivalent to the system mentioned above.

[41] Section 11.68, the heading

This amendment adds mention of ADS-B OUT surveillance equipment to the section heading since ADS-B OUT is specifically mentioned in the section.

[42] Subsection 11.68(3)

Under subsection 11.68(3), transmission of an aircraft flight identification by an approved Mode S transponder, otherwise compulsory, is optional for an aeroplane that was first issued with a certificate of airworthiness before 9 February 2012. However, use of this expression differs from that used pre-2 December 2021 and excludes from the exception aircraft that were first certificated overseas before 9 February 2012, but which received their Australian certificate of airworthiness on or after 9 February 2012. To rectify this, the amendment replaces mention of a certificate of airworthiness with reference to certificated in its country of manufacture.

[43] Subsection 11.68(5)

This amendment is designed to rectify, for a relevant aeroplane that is fitted with an approved Mode S transponder, the same aeroplane eligibility issue as that described in amendment 42.

[44] Subsection 11.69(1)

This amendment is designed to rectify the same aeroplane eligibility issue as that described in amendment 42, but in relation to the acceptability of an alternate GNSS position source for an eligible aeroplane.

[45] Subsection 11.69(2)

This amendment is designed to rectify the same aeroplane eligibility issue as that described in amendment 42, but in relation to the acceptability of an alternate GNSS position source for an eligible aeroplane.

[46] Subsection 11.70(3)

This amendment is designed to rectify the same aeroplane eligibility issue as that described in amendment 42, but in relation to the acceptability of an equipment configuration for an eligible aeroplane.

[47] Subsection 11.70(4)

This amendment is designed to rectify the same aeroplane eligibility issue as that described in amendment 42, but in relation to the acceptability of an equipment configuration for an eligible aeroplane.

[48] Section 11.71, the heading

This amendment is for the same purpose as that described in amendment 35.

[49] Section 11.71, the chapeau

This amendment is for the same purpose as that described in amendment 35.

[50] Section 11.71, the chapeau

This amendment is for the same purpose as that described in amendment 35.

[51] Paragraph 11.71(a)

This amendment is for the same purpose as that described in amendment 35.

[52] Paragraph 11.71(b)

This amendment is for the same purpose as that described in amendment 35.

[53] Section 11.71, the Note

This amendment is for the same purpose as that described in amendment 35.

[54] After subsection 12.10(1)

Under subsection 12.10), certain flight crew members must have completed first aid training. This amendment provides an exception to that requirement if the aeroplane is engaged in a medical transport operation transporting medical patients, and a person, other than a flight crew member, is on board who could reasonably provide medical aid to the patients at least equivalent to the medical aid that a first-aid trained flight crew member could provide. A further exception is provided for cargo transport operations provided the only persons on board the aeroplane for the flight are crew members.

[55] Subsection 12.23(2)

This amendment corrects a cross-referencing error.

Statement of Compatibility with Human Rights

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

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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 121 Manual of Standards Amendment Instrument 2023 (No. 1)* (the **MOS amendment**) amends the *Part 121 (Australian Air Transport Operations—Larger Aeroplanes) Manual of Standards 2020* (the **MOS**).

The MOS sets out the standards for the operation of larger aeroplanes for an Australian air transport operation. It was made under regulation 121.015 of Part 121 of the *Civil Aviation Safety Regulations 1998 (CASR)*. It consolidates the detailed standards and requirements associated with the conduct of Part 121 operations by Australian air transport operators.

Part 121 of CASR prescribes requirements for the conduct of Australian air transport operations:

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Air transport operations include passenger transport, cargo transport and medical transport that is conducted for hire or reward.

The MOS amendment, which commences on 2 December 2023, makes minor or machinery amendments to the MOS which do not substantially alter the existing arrangements under the MOS as in effect immediately before 2 December 2023.

Human rights implications

The legislative instrument engages with the following human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*:

- 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 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***

This engagement is in the context of CASA's statutory purpose. The aim of CASA and its regulatory framework is to uphold aviation safety by prescribing the conduct of individuals and organisations involved in civil aviation operations, including flight operations. It is, therefore, a threshold requirement for all CASA legislative instruments that they preserve, promote and enhance aviation safety and, hence, promote the right to life and the right to safe and healthy working conditions.

The MOS amendment comprises minor or machinery amendments. The minor or machinery amendments are essentially small textual corrections of errors or infelicitous drafting. They do not give rise to any human rights issues.

Conclusion

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

Civil Aviation Safety Authority