

## Civil Aviation Safety Regulations 1998

### CASA 103/21 — Determination for Part 121 (Australian Air Transport—Larger Aeroplanes) Amendment Manual of Standards 2021

#### Statement of reasons for making the Determination

##### Legislation

Subsection 9 (1) of the *Civil Aviation Act 1988* (the **Act**) provides that CASA has the function of conducting the safety regulation, in accordance with the Act and the regulations, of civil air operations in Australian territory and of the operation of Australian aircraft outside Australian territory. Section 98 of the Act empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Under regulation 11.280 in Subpart 11.J of the *Civil Aviation Safety Regulations 1998* (**CASR**), if CASA intends to issue a Manual of Standards (a **MOS**) CASA must publish a notice of its intention to do so on the internet. This requirement also applies to an amendment of a MOS.

The purpose of such publication is to facilitate consultation with, and seek comments from, interested parties. The notice must describe the draft MOS or MOS amendment, how it may be obtained, how comments on it may be made and lodged, and the time frame within which such comments may be lodged (to be not less than 28 days from posting on the internet unless subregulation 11.280 (4) of CASR applies). Under regulation 11.290 of CASR, before issuing the final MOS, CASA must consider any comments received, and may consult with any person on issues arising from those comments. Under subregulation 11.295 (1) of CASR, a failure to comply with the procedures in Subpart 11.J of CASR does not affect the validity of the MOS in question.

However, under paragraph 11.275 (1) (d) of CASR, CASA is not obliged to comply with the publication requirements of regulation 11.280 before issuing a MOS or a MOS amendment if the Director of Aviation Safety (the **Director**) determines that the MOS is of a minor or machinery nature that does not substantially alter existing arrangements.

Under subregulation 11.275 (2) of CASR, if the Director does make such a Determination (the **Determination**), CASA must publish the Determination, and a statement of reasons for it, on the internet within 28 days after making the Determination.

##### Why the proposed MOS amendment is of a minor or machinery nature

The *Part 121 (Australian Air Transport Operations—Larger Aeroplanes) Manual of Standards 2020* (the **Part 121 MOS**), which commences immediately after the commencement of the *Civil Aviation Safety Amendment (Part 121) Regulations 2018* (the **Part 121 Regulations**), being 2 December 2021, sets out the standards for the operational, procedural and safety risk management standards for the conduct of Australian Air Transport operations in larger aeroplanes.

The Part 121 MOS is made under Part 121 of CASR. The Part 121 MOS sets out detailed requirements and safety standards for the conduct of larger aeroplane air transport operations, including medical transport, and are designed to mitigate the risks that might have an impact on the continued safe conduct of flight. The standards are designed to improve aviation safety and bring Australian requirements more in line with the Standards and Recommended Practices of the International Civil Aviation Organization.

The *Part 121 (Australian Air Transport—Larger Aeroplanes) Amendment Manual of Standards 2021* (the **proposed MOS amendment**) amends the Part 121 MOS and commences at

the time that it is registered, intended to be before the commencement of the Part 121 MOS on 2 December 2021. The purpose of the proposed MOS amendment is to make a range of corrections and updates to the Part 121 MOS, including the clarification of provisions. The amendments include some alleviations by deferring the application of new requirements for a limited period of time, and for this purpose extending the operation of existing, in force, rules. Any such existing rules have at least equivalent safety outcomes. This is consistent with CASA's transitional policy for the flight operations regulations, allowing more time for industry to comply with new requirements.

The proposed MOS amendment does not substantially alter the existing arrangements, whether as provided for by the Part 121 MOS with effect on and from 2 December 2021, or as would be provided for on that date by other provisions if they continued to exist transitionally and independently of the Part 121 MOS. It is determined, therefore, that the proposed MOS amendment is of a minor or machinery nature for the purposes of paragraph 11.275 (1) (d) of CASR.

**Determination**

The Determination, therefore, is a determination by the Director that the proposed MOS amendment is of a minor or machinery nature that does not substantially alter existing arrangements.

**Legislative Instruments Act 2003**

The Determination is not a legislative instrument.

**Consultation**

In view of the minor or machinery nature of the proposed MOS amendment, consultation is not required. There has, nevertheless, been informal consultation with the aviation industry in the course of preparation of the amendments. Many of the amendments have arisen due to extensive feedback from the aviation industry to CASA via multiple communication channels, both individual direct feedback, and collective feedback from various working groups.

**Commencement and making**

The Determination commences on the date of signature.

The Determination has been made by the Director of Aviation Safety in accordance with paragraph 11.275 (1) (d) of CASR.

The Determination and this Statement of Reasons for making the Determination are published on the CASA website within 28 days after the Determination is made in accordance with subregulation 11.275 (2) of CASR.