

## Civil Aviation Safety Regulations 1998

### CASA 17/23 — Determination for Part 60 Manual of Standards Amendment Instrument 2023

#### 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*, which commenced on 2 December 2021, introduced flight training requirements. Some of the new requirements affect flight simulators that are used for such flight training, located in Australia and operated under the *Part 60 Manual of Standards* (the **Part 60 MOS**). These flight simulators will need to be upgraded to meet the new flight training requirements.

The Part 60 MOS was amended in 2021 to put in place transitional arrangements that, in effect, gave operators until 24 March 2023 to upgrade any flight simulators affected by the new flight training requirements. Operators have been unable to meet this deadline due to reduced training demand, restrictions and delays brought about by COVID-19 since 2020. It is, therefore, necessary to extend the transitional arrangements, to give operators more time to upgrade the flight simulators.

The proposed MOS amendment extends the duration of the transitional arrangements until 24 March 2025. The effect of the extension will be to preserve existing arrangements for operators until this date.

The Explanatory Statement, which accompanies the proposed MOS amendment, can be found on the Federal Register of Legislation. The Explanatory Statement sets out a detailed explanation of the amendment.

**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, and requests by several affected flight simulator operators for the instrument, publication of a notice of intention to make the proposed MOS amendment is not appropriate or necessary.

**Commencement and making**

The Determination commences on the date of signature.

The Determination has been made by the Director 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.