

## Civil Aviation Safety Regulations 1998

### CASA 16/24 — Determination for Part 139 Manual of Standards Amendment Instrument 2024 (No. 1)

#### 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 on the internet a notice of its intention to do so. This requirement also applies to an amendment of a MOS.

Despite the foregoing, 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 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.

##### The proposed MOS amendment

The *Part 139 Manual of Standards Amendment Instrument 2024 (No. 1)* (the *minor amendment instrument*) will amend the *Part 139 (Aerodromes) Manual of Standards 2019* (the *Part 139 MOS*).

The *Part 139 Manual of Standards (Global Reporting Format and Miscellaneous Amendments) Instrument (No. 1) 2024* (the *Part 139 MOS amendment*), registered on 9 February 2024, amended the Part 139 MOS to establish the new global reporting system for assessing and reporting runway surface conditions (the Global Reporting Format or GRF).

The Part 139 MOS amendment contained a cross-referencing error in the citation of a provision, and a consequentially erroneous Note, and a consequential omission of related words from a provision.

It is the purpose of the minor amendment instrument to correct the errors. The opportunity is also taken to correct an unrelated typographical error in subsection 6.66 (2) of the Part 139 MOS.

The Explanatory Statement, which accompanies the proposed MOS amendment, can be found on the Federal Register of Legislation. The Explanatory Statement provides detailed explanations of each minor or machinery amendment in its context in the Part 139 MOS.

##### Why the proposed amendments are minor or machinery

CASA considers that the proposed amendments of their nature and effect are minor or machinery amendments that do not substantially alter the existing arrangements under the Part 139 MOS as in effect immediately the minor amendment instrument was made.

The Part 139 MOS amendment inserted section 18.03 into the Part 138 MOS to provide that if pooling or ponding of water, “or poor drainage” is observed on a runway in the course of an aerodrome serviceability inspection “under paragraph 12.01 (1) (a)”, of the MOS, the aerodrome operator must ensure that remedial maintenance is undertaken as soon as possible.

A supporting Note 1 for section 18.03 stated that under “paragraph 12.01 (1) (a)”, the operator of a certified aerodrome must carry out an aerodrome serviceability inspection if there has been a severe wind event, a severe storm, or a period of heavy rainfall.

However, under section 12.01 as a whole, serviceability inspections must also be carried out in other circumstances, for example, if a hazard to aircraft may be present on the manoeuvring area, when requested in writing by CASA, when requested by ATC, and, with differing prescribed frequencies, if there are or are not, scheduled air transport operations.

Under subsection 12.03 (3), every serviceability inspection must check for the presence of water pooling or ponding on the movement area, but mention of “poor drainage” had been overlooked.

It was, therefore, the intention of the Part 139 MOS amendment that if pooling or ponding of water, or poor drainage was observed on a runway in the course of any of these aerodrome serviceability inspections – and not merely during one under paragraph 12.01 (1) (a) after a severe wind event, a severe storm, or a period of heavy rainfall – the aerodrome operator must ensure that remedial maintenance would be undertaken as soon as possible.

The minor amendment instrument, therefore, has the effect of modifying section 18.03 so that it references all of the potential aerodrome serviceability inspections.

The related Note 1 now explains that “under section 12.01”, the operator of a certified aerodrome must carry out certain prescribed aerodrome serviceability inspections. Under subsection 12.03 (3), a serviceability inspection must check for the presence of pooling or ponding of water, “or poor drainage” on the movement area.

It remains the case, as originally provided for under section 18.03, that if a serviceability inspection finds pooling or ponding of water, or poor drainage specifically on a runway, then the aerodrome operator must ensure that remedial maintenance is undertaken as soon as possible.

The final amendment is merely the correction of a self-evident typographical error in subsection 6.66 of the Part 139 MOS.

### **Determination**

The Director has, therefore, determined that the corrections mentioned above are minor or machinery amendments that do not substantially alter the existing arrangements. Hence, prior publication of the draft instrument and related consultation is not required.

### ***Legislation 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 either for the minor amendment instrument or this Determination.

### **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 to be published on the CASA website within 28 days after the Determination is made in accordance with subregulation 11.275 (2) of CASR.