Civil Aviation Safety Regulations 1998

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).

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, 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 proposed MOS amendment is considered to be of a minor or machinery nature for the following reasons:

- the amendments generally clarify the policy intent in the original MOS, without affecting the substance of the amended standards (items 1, 3-6, 9, 10, 19-22, 26, 27, 33-40 and 43)
- 2 amendments reduce regulatory burdens on RPA operators who conduct training, but do not affect the level of aviation safety achieved by the original standards (items 4 and 7)
- some amendments reduce regulatory burdens on RPA operators generally, but do not affect the level of aviation safety achieved by the original standards (items 24, 25, 28 and 30-31)
• some amendments reduce regulatory burdens on applicants for a remote pilot licence, but do not affect the level of aviation safety achieved by the original standards (items 12-17)
• 1 amendment will ensure simpler administration of the standards (item 23)
• some amendments are corrections to small typographical and other errors in the original MOS and have no effect on the meaning or operation of the standards (items 2, 8, 11, 18, 29, 41-42 and 44)
• 1 amendment reflects changes to the regulations made by the Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft—Registration and Accreditation) Regulations 2019, for which consultation was conducted previously (item 32).

Determination
The Determination, therefore, provides that the proposed MOS amendment, which amends the Part 101 (Unmanned Aircraft and Rockets) Manual of Standards 2019, (the Part 101 MOS) is of a minor or machinery nature that does not substantially alter existing arrangements under the Part 101 MOS.

Legislative Instruments Act 2003
The Determination is not a legislative instrument.

Consultation
In view of the nature of the amendments, noted above, consultation is not warranted for these amendments to the MOS. There is no change to the level of aviation safety, and the amendments improve the workability of the standards while reducing some regulatory burdens on, and costs to, industry.

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.