Instrument number CASA 54/16

I, MARK ALAN SKIDMORE, Director of Aviation Safety, on behalf of CASA, make this instrument under paragraph 11.275 (1) (a) of the Civil Aviation Safety Regulations 1998.

[Signed M. Skidmore]
Mark Skidmore AM
Director of Aviation Safety
24 May 2016

Determination — for proposed amendment of Part 61 Manual of Standards

1 Application
This instrument applies to the proposed instrument to be known as the Part 61 Manual of Standards Amendment Instrument 2016 (No. 1) (the proposed MOS amendment).

2 Determination
I determine that, in the interests of aviation safety, it is necessary to issue the proposed MOS amendment, including each amendment in it, as soon as practicable so that it commences on 26 May 2016.

Note A copy of this Determination, and a statement of the reasons for it, are published on the CASA web site within 28 days of the date of signature above.
Civil Aviation Safety Regulations 1998

Determination — for proposed Part 61 Manual of Standards Amendment Instrument 2016 (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 1998), if CASA intends to issue a Manual of Standards (a MOS) CASA must publish a notice of its intention to do so on the World Wide Web (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 1998, 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 1998, a failure to comply with the procedures in Subpart 11.J of CASR 1998 does not affect the validity of the MOS in question.

However, under paragraph 11.275 (1) (a) of CASR 1998, 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, in the interests of aviation safety, it is necessary to issue the proposed MOS amendment as soon as practicable. Under subregulation 11.275 (2) of CASR 1998, if the Director does make such a determination, CASA must publish the determination, and a statement of reasons for it, on the Internet.

Under the Navigation Rationalisation Project of Airservices Australia (AA), on, and progressively from, 26 May 2016, many ground-based navigational aids will be switched off as part of the transition towards comprehensive use of the global navigation satellite system for operations under the instrument flight rules operations. As a result, a significant number of ground-based navigation aids, including many non-directional beacons (NDBs), will cease to be available for aircraft navigation.

With the removal of many NDBs, flight tests which require approaches using azimuth guidance would become progressively less and less practicable. Such tests may even become unsafe as a result of congestion around the diminishing number of NDBs. The MOS amendment, therefore, removes references to using azimuth guidance indicators from Appendices K.1, K.2 and M.1 for ATPL aircraft category rating flight tests and instrument rating flight tests.

The decommissioning of ground-based navigational aids commences on 26 May 2016. It is, therefore, necessary, in the interests of aviation safety, for CASA to issue the Part 61 Manual of Standards Amendment Instrument 2016 (No. 1) as soon as practicable.