Civil Aviation Safety Regulations 1998


Statement of reasons for making the Determination, for publication on the Internet

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 to 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) (a) 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 it is necessary to issue the MOS as soon as practicable in the interests of aviation safety.

Further, 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 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.

Background
The Civil Aviation and Civil Aviation Safety Amendment Regulations 2010 (No. 1) were registered on 14 December 2010, to come into effect on 27 June 2011. These regulations amended CASR to create, among other things, Part 66 of CASR.

Part 66 of CASR deals with the various categories and types of aircraft engineer licences and ratings issued by CASA for the performance and certification of maintenance carried out on aircraft.
Regulation 66.015 in Part 66 of CASR empowers CASA to issue a Manual of Standards for the Part that specifies matters affecting the maintenance or airworthiness of aircraft. In particular, paragraph 66.015 (2) (e) of CASR specifies that a specified aircraft type is a type rated aircraft type for an aircraft engineer licence.

**Issues**

CASA is making the *Part 66 Manual of Standards Amendment Instrument 2017 (No. 3) (No. 3 Amendment)* without consultation for the reasons set out below.

The No. 3 Amendment inserts 3 new aircraft type ratings to the lists of aircraft specified under Part 66 as type rated aircraft types. Each of the new aircraft types are complex and are required to first be “type accepted” by CASA then, subsequently, registered on the Australian Civil Aircraft Register prior to operation of the aircraft within Australia. To support the appropriate and safe operational and maintenance requirements of these aircraft types, CASA will require an aircraft engineer’s licence to be endorsed with the particular aircraft type rating after completion of CASA approved theory and practical training for the aircraft type. The addition of a new aircraft type to the list of type rated aircraft for the purpose of Part 66 of CASR is a minor change that does not substantially alter existing arrangements. Accordingly, the Director has made instrument CASA 97/17 in relation to these measures as a determination (the *Determination*) under paragraph 11.275 (1) (d) of CASR.

Further, the addition of the 3 new aircraft type ratings is at the request of specific industry operators and maintenance organisations who have advised CASA of their intentions to commence operations and maintenance of these aircraft. Given some of these aircraft will commence operations shortly, industry has requested addition of these new aircraft type ratings into the Part 66 MOS as quickly as possible so as to not impact the operational time frames of these new aircraft by these operators and maintainers. Accordingly, the measures in the No. 3 Amendment that insert the new aircraft types are also covered by the Determination on the basis that amendment of the MOS to include the new types is necessary as soon as practicable in the interests of aviation safety in accordance with paragraph 11.275 (1) (a) of CASR.

The new type ratings are only relevant to those industry operators who intend to operate the new aircraft types and who have requested the amendment and aircraft engineers employed by maintenance organisations that intend to carry out maintenance on the new aircraft types for those operators. For these reasons, broader consultation of these amendments is not considered necessary.

Additionally, the No. 3 Amendment makes some minor editorial amendments to correct existing errors and inaccuracies, or to make the type rating listing consistent with the equivalent European Aviation Safety Agency type rating. Accordingly, the measures in the No. 3 Amendment that make these changes are of a minor or machinery nature that do not affect existing arrangements in accordance with paragraph 11.275 (1) (d) of CASR.

Therefore, the Director, in accordance with paragraphs 11.275 (1) (a) and (d) of CASR, has determined to issue the No. 3 Amendment without complying with the publication requirements in Subpart 11.J of CASR.

As a result of the Determination, there is no requirement to post consultation details of the proposed Part 66 MOS amendment on the Internet and, consequently, no legal requirement to wait 14 days for comments in accordance with subregulation 11.280 (4) of CASR.

The No. 3 Amendment will come into effect on the day after registration.
**Legislation Act 2003 (the LA)**
The Determination does not alter the law and is not a legislative instrument.

**Commencement and making**
The Determination commences on the date of signature and is repealed on the day after the No. 3 Amendment is registered on the Federal Register of Legislation.

The Determination has been made by the Director of Aviation Safety under paragraphs 11.275 (1) (a) and (d) of CASR.

[Instrument number CASA 97/17]