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 (MOS), it 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.

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 within 28 days after the determination is made.

Background
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 of CASR empowers CASA to issue a MOS for Part 66 of CASR, which specifies matters affecting the maintenance or airworthiness of aircraft. CASA has issued the Part 66 MOS. In particular, paragraph 66.015 (2) (e) of CASR provides for the MOS to specify 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 2018 (No. 1) (the instrument)* without consultation for the reasons set out below.

The instrument inserts a new aircraft type rating to the list of aircraft specified under the Part 66 MOS as type rated aircraft types. The new aircraft type has commenced operations in Australia. To support the appropriate and safe operational and maintenance requirements of the aircraft type, CASA will require an aircraft engineer’s licence to be endorsed with the aircraft type rating after completion of CASA-approved theory and practical training for the aircraft type.

The addition of the new aircraft type rating is at the request of an approved maintenance organisation, which has advised CASA of its intention to commence maintenance for a customer’s operation of the aircraft into and out of Australia. Given that the aircraft has already commenced operations in Australia, the maintenance organisation has requested the addition of the new aircraft type rating into the Part 66 MOS as soon as possible. The amendment in the instrument that inserts the new aircraft type to the list of type rated aircraft, for Part 66 of CASR, is covered by a determination (the *Determination*) made by the Director under paragraph 11.275 (1) (a) of CASR, on the basis that it is necessary to make the insertion as soon as practicable in the interests of aviation safety.

The new type rating is only relevant to the industry operator that is operating the new aircraft type in Australia, and aircraft engineers employed by the maintenance organisation that intend to carry out maintenance on the new aircraft type for the operator. For these reasons, broader consultation on the amendment is not considered necessary.

Also, the instrument contains the following minor or machinery-type amendments, which do not substantially alter existing arrangements:

1. The instrument omits an item for the Type Certificate (TC) holder, FRAKES AVIATION from Appendix IX, Table 1 of the Part 66 MOS, in respect of an aircraft type no longer in use in Australia.

2. The instrument updates the numbering and titles of various units of competency required to be held by an applicant for an aircraft engineer licence, as stated in the table in Appendix IV of the Part 66 MOS. These amendments reflect changes of an administrative nature undertaken by the Australian Industry and Skills Committee (AISC), a committee that sits under the Australian Government Department of Education and Training. For these changes, the instrument also includes a transitional provision dealing with the situation where a person held a relevant unit of competency immediately before the commencement of the instrument and the unit of competency is updated by the instrument.

3. The instrument amends Part 1 of Appendix IX, Table 2 of the Part 66 MOS by adding 2 aircraft types, and corresponding aircraft type ratings for which on-the-job training may be provided by a Part 145 organisation. This amendment dovetails with the existing listing of these aircraft types in Appendix IX, Table 1 of the Part 66 MOS.
Accordingly, the Acting Director has made a determination, under paragraph 11.275 (1) (d) of CASR, in relation to these amendments. This is also covered by the Determination.

Therefore, the Acting Director, in accordance with paragraphs 11.275 (1) (a) and (d) of CASR, has determined to issue the instrument without complying with the publication requirements in Subpart 11.J of CASR.

Because of the Determination, there is no requirement to post consultation details of the proposed amendments of the Part 66 MOS on the Internet and, consequently, there is no requirement to wait the applicable number of days for comments on the proposed amendments, in accordance with regulation 11.280 of CASR.

The instrument 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 under the LA.

**Commencement and making**

The Determination commences on the date of signature and is repealed on the day after the instrument is registered on the Federal Register of Legislation.

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