




SUMMARY OF CONSULTATION



Proposed new rules for sport and recreational aviation operations

Civil Aviation Safety Amendment (Part 103) Regulations 2019



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Overview

Draft Part 103 of the *Civil Aviation Safety Amendment (Part 103) Regulations 2019*, has been designed to be a non-complex set of rules that builds on the general operating rules in Part 91 of the *Civil Aviation Safety Regulations (CASR)* to accommodate the unique characteristics relevant to the operation of Part 103 aircraft. It will apply to aircraft that are defined as Part 103 aircraft and to the operation of any aircraft used for the towing of a Part 103 aircraft. The Part 103 regulations will be accompanied by a Part 103 Manual of Standards (MOS) that will consolidate the requirements of Civil Aviation Orders (CAOs) 95.4, 95.4.1, 95.8, 95.10, 95.12, 95.12.1, 95.32 and 95.55.

On 11 September 2019, CASA published the *Proposed new rules for sport and recreational aviation operations - Part 103 (CD1910OS)* consultation document that set out the proposed regulatory framework, including a limited number of specific operational rules, for sport and recreational aircraft that are presently operated in accordance with certain 95-series Civil Aviation Orders (CAOs). The consultation closed on 30 September 2019 and the proposed regulations have been modified to reflect the feedback received from organisations and individuals.

Part 103 operations will require a Part 149 Approved Self-administering Aviation Organisation (ASAO) to conduct the day-to-day oversight of the relevant pilots and maintainers. Following the commencement of the proposed regulations, transitional arrangements will apply to organisations yet to be issued a Part 149 certificate so they may continue to operate under existing legislative instruments (the CAR/CAO-based rules) until 13 July 2022.

Part 103 will include rules that:

- provide administrative mechanisms for the listing of Part 103 aircraft by an ASAO
- define what constitutes a Part 103 activity
- set requirements for persons to hold an authorisation to undertake a Part 103 activity
- prescribe flight rules for Part 103 aircraft that are additional or different to Part 91 flight rules
- prescribe the instruments, equipment and systems to be fitted to Part 103 aircraft.

Respondents

A total of twenty-four (24) responses to the consultation were received. One respondent was a CASA officer. Six (6) respondents identified as a sport and recreational aircraft owner or operator, five (5) as pilots of sport and recreational aircraft and three (3) from sport aviation bodies (i.e. prospective ASAOs). Three (3) respondents identified as maintainers of sport and recreational aircraft, two as flight schools and one as a gliding club. Three (3) respondents identified as 'other, comprising an RPAS designer/builder, experimental aircraft owner and ab-initio pilot. Eighteen (18) respondents gave permission for their response to be published.

CASA values the contributions made by all respondents. Where permission to publish has been granted by the respondent, individual consultation responses can be found at <https://consultation.casa.gov.au/regulatory-program/cd-1910os/>

Key feedback

A majority of thirteen (13) respondents were supportive of the Part 103 proposals. Five (5) respondents opposed the proposals, citing them as either unnecessary because sport and recreational aircraft operations do not require a separate CASR Part and existing CAR/CAO arrangements were satisfactory, or too complex, submitting that Part 103 should essentially mirror the simple Part 103 of the US Federal Aviation Regulations. One response objected to integration of the Part with Part 91, preferring a stand-alone sport and recreational aviation rule set. Four (4) responses did not provide any indication of overall support or opposition for the proposals, but provided comment on specific policy issues, three (3) of which were peripheral to Part 103 and one specific to a single issue (defect reporting).

Theme 1 - Part 103 MOS

Three (3) respondents responded that the lack of a Part 103 MOS to review meant that there was insufficient information available for them to be able to form an opinion on the aspects (e.g. aircraft maintenance requirements) covered by the MOS.

CASA response

The Part 103 MOS will, as necessary, include requirements as provided for in the Regulations. In relation to the various kinds of Part 103 aircraft, these will mostly reflect the general and flight conditions presently contained within the applicable 95-series CAOs.

CASA will be engaging directly with industry regarding the specific content of the Part 103 MOS.

Theme 2 - Minimum height rules

Two (2) respondents queried the application of the 500ft minimum height rule to Part 103 aircraft.

CASA response

The minimum height rule (operations over other than populous areas or public gatherings, regulation 103.045) provides for an offence if a Part 103 aircraft is operated below 500 ft above the highest feature within a radius of 300 m of the aircraft. Respondents were concerned that the rule appears contrary to existing alleviations for some sport and recreation aircraft (e.g. gyroplanes) that provide for operations at lower altitudes. However, regulation 103.045 also provides for circumstances in which aircraft may operate below 500 ft and includes a head of power for the Part 103 MOS to prescribe such circumstances. The circumstances, that will largely reflect existing requirements of the 95-series Civil Aviation Orders, will be prescribed in the Part 103 MOS and will be publicly consulted during 2020.

Theme 3 - CASA MTOW discussion paper

Two respondents stated that Part 103 should be amended to implement the minimum take-off weight (MTOW) discussion paper proposal (see <https://consultation.casa.gov.au/regulatory-program/dp-1912ss/>).

CASA response

In relation to MTOW, it would be premature to amend Part 103 prior to the finalisation of the MTOW discussion paper consultation process. In due course and as necessary, Part 103 will be amended, to reflect the outcomes of that separate regulatory consultation process.

Theme 4 - In-flight shutdown of a single engine aeroplane

One respondent stated that the Part 103 proposal related to in-flight shutdown of a single engine aeroplane should be reviewed.

CASA response

With regard to the in-flight shut down of the engine of a single engine aeroplane, CASA will review Part 91 (regulation 91.735), which sets parameters for who is authorised to shut down an engine during flight, and include any changes as may be necessary in the Part 103 consequential amendments.

Theme 5 - Simulation of IMC

Three (3) respondents stated that the Part 103 proposal related to simulation of instrument meteorological conditions (IMC) should be reviewed as the proposal did not permit beneficial training events.

CASA response

In relation to the simulation of IMC, CASA agrees that the Part may provide for the simulation of IMC in a Part 103 aircraft, in a manner consistent with the requirements of regulation 91.720. CASA will amend the proposed regulations.

Theme 6 - Airworthiness standards

One respondent raised concerns with the wording of the proposed regulations in relation to ASAOs setting or approving airworthiness standards and the potential for confusion regarding terminology and ASAO obligations with Part 21 of CASR mandated standards.

CASA response

The airworthiness standards provisions of regulation 103.030 do not apply to an aircraft to which Part 21 applies. To clarify ASAO obligations in relation to ASAO setting or approving airworthiness standards regulation 103.030 will be amended to clarify the circumstances and procedures for accepting an aircraft by an ASAO under the regulation.

Theme 7 - Gyroplane aerial mustering

One respondent raised concerns related to CASA's intentions regarding future regulation of the use of gyroplanes during aerial mustering operations.

CASA response

CASA agrees that the Part 103 application provisions should not prevent the possible future use of a Part 103 aircraft in an aerial work operation under Part 138 of CASR. The proposed regulations have been amended to ensure that multiple regulatory options remain open in future.

Theme 8 - Maintenance

Two (2) respondents raised issues relating to the maintenance of aircraft under Part 103. One in relation to the recognition of LAME qualifications by ASAOs and one in relation to the maintenance of aircraft subject to the CASA MTOW discussion paper.

CASA response

Subpart 103.M sets out the requirements for maintaining or ensuring the airworthiness of a Part 103 aircraft. An ASAO whose approved functions include administering the Part 103 activity of maintaining or ensuring the airworthiness of a Part 103 aircraft must include in its exposition requirements for undertaking the activity. These include the qualifications and competency standards necessary to undertake the activity. Part 149 of CASR provides for the issue of authorisations by an ASAO to persons to undertake an activity administered by the ASAO. Where its exposition so provides, an ASAO may recognise other maintenance qualifications for the purpose of satisfying the requirements for the issue of an ASAO maintenance qualification. However, the other qualification does not authorise the holder to maintain a Part 103 aircraft.

In due course, Part 103 will be amended, as necessary, to reflect the outcomes in relation to the maintenance of those aircraft subject to the MTOW increase consultation.

Theme 9 - Defect reporting

Three (3) respondents commented on the defect reporting proposals, two of which raised concerns about the 3-day reporting period and one about the necessity of including such a requirement.

CASA response

Under Part 103, the exemptions provided by Subpart 200.B of CASR and the 95-series CAOs will no longer apply to Part 103 aircraft. The defect reporting requirements of CAR and CASR would apply in the absence of alternative provisions. To ensure a defect reporting framework that is appropriate for the disparate kinds of Part 103 aircraft and their varied complexity, Part 103 disapplies Part 4B of CAR and provides for a flexible reporting framework where major defects must be reported in accordance with the requirements of the Part 103 MOS — it will be appropriate to the various kinds of Part 103 aircraft. However, the time period for reporting major defects remains the same as that required by Part 4B of CAR.

Future direction

CASA has incorporated the changes outlined in this document in the proposed Part 103 regulations. The Part 103 rules have been consolidated into the proposed *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*. Schedule 1 (Part 103), Schedule 2 (Part 105) and Schedule 3 (Part 131). They are proposed to be made in December 2019 and would commence on 25 March 2021. Schedule 4 (Part 91 amendments) would commence the day after the instrument is registered as this amends the earlier Part 91 legislative instrument that commences on 25 March 2021.

In the first quarter of 2020, CASA will engage, both individually and collectively, with existing sport aviation bodies that administer what will become Part 103 aircraft to discuss the policies to

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be articulated in the Part 103 MOS as outlined in the proposed regulations. The scope and type of guidance material for Part 103 will also be discussed.

CASA will also develop the regulatory changes to the existing CASR and any new transitional CASR as may be required to enable the transition of existing sport and recreational aircraft activities from one set of rules to the other.

Public consultation on the Part 103 MOS and the consequential amendments to other CASR Parts arising from the making of the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019* will take place during 2020.