



Australian Government
Civil Aviation Safety Authority

SUMMARY OF PROPOSED CHANGE



Manual of Standards for Part 149 of CASR – Approved Self-administering Aviation Organisations

Part 149 Manual of Standards Amendment Instrument 2018 (No. X)

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MANUAL OF STANDARDS FOR PART 149 OF
CASR – APPROVED SELF-ADMINISTERING
AVIATION ORGANISATIONS

Introduction

This consultation draft sets out the full proposed Manual of Standards for Part 149 that supports the operation of Part 149 of the Civil Aviation Safety Regulations 1998 (CASR) – Approved Self-administering Aviation Organisations (ASAOs), for public consideration and comment. The principle objective of Part 149 is to improve aviation safety through the introduction of a consistent framework that encompasses a wider field of activities beyond those administered by sport and recreational aviation organisations, and which requires organisations to ensure their activities are unlikely to have an adverse effect on the safety of air navigation. Part 149 is scheduled to commence on 13 July 2019.

The Manual of Standards for Part 149 sets out the detailed requirements appropriate to the specific nature and scope of activities that a particular self-administration sector would seek to administer through its approved administration functions.

Previous consultation on Part 149 has supported the development of the Part 149 regulation of CASR. Much of the detail regarding the operation of ASAOs is devolved to the Part 149 Manual of Standards and, in accordance with section 17 of the *Legislation Act 2003*, is subject to consultation.

Purpose and scope of the proposed amendments

The MOS for Part 149 provides specific detail on the requirements to be met by an applicant for an ASAO certificate to perform one or more aviation administration functions under Part 149 of CASR.

As provided for in Part 149 regulations, the scope of the Manual of Standards for Part 149 includes:

- The aviation administration functions that may be approved by CASA;
- The organisational roles responsible for the management of aviation administration functions within an ASAO that constitute key personnel for the purposes of Part 149;
- The requirements for an ASAO's safety management system;
- The requirements for an ASAO's audit and surveillance system;
- The requirements for an ASAO's aviation administration and enforcement rules;
- The requirements for an ASAO's exposition;
- Certain definitions for the purposes of prescribed ASAO aviation administration functions.

The implementation of Part 149 of CASR means that the administration of aircraft operated in accordance with the 95-series CAOs that apply to sport and recreational aircraft would become an aviation administration function. For the purposes of the prescribed aviation administration functions, the kinds of aircraft subject to self-administration (Part 149 aircraft) are described in the MOS in terms consistent with how they are described within the applicable CAO(s).

Aviation administration functions for Part 149 aircraft

The MOS for Part 149 prescribes aviation functions for the administration of Part 149 aircraft. These functions encompass all the aspects of self-administration presently carried out by

existing sport aviation bodies with respect to aircraft subject to the 95-series Civil Aviation Orders that apply to sport and recreational aircraft as well as a further airworthiness function concerning aircraft operated to tow gliders. The functions are:

ASAO registration of certain aircraft

For ASAOs that intend to administer a register of aircraft, this function allows an ASAO to maintain an ASAO register of certain Part 149 aircraft (excluding aircraft registered under Part 47 of CASR). Existing arrangements applying to an organisation that administers aircraft registered under Part 47 of CASR will continue on their terms.

Airworthiness standards and assessments

This function permits an ASAO to set airworthiness standards for Part 149 aircraft. It is only available for kinds of aircraft for which CASA has not set airworthiness standards. Existing organisations that currently set airworthiness standards must apply for the function if they wish to continue to establish airworthiness standards.

Airworthiness activities

This function grants an ASAO the right to administer airworthiness activities, including issuing authorisations to individuals to perform an airworthiness activity. Airworthiness activities comprise aircraft maintenance; maintaining aeronautical products; aircraft weight control procedures; flight under a special flight permit; any other aircraft airworthiness activity.

Individuals authorised to perform an airworthiness activity by an ASAO may do so without remuneration, or on behalf of an airworthiness organisation approved by the same ASAO.

Part 149 airworthiness organisations

This function allows an ASAO to authorise the provision of commercial services in relation to aircraft airworthiness.

Part 149 airworthiness training

This function authorises an ASAO to administer airworthiness training in relation to Part 149 aircraft. An ASAO with this approved function may issue authorisations to conduct airworthiness training to an individual or an organisation. This function includes assessing a person, and the person's procedures, practices, personnel and facilities, to determine whether the person is capable, or continues to be capable, of conducting airworthiness training.

Flight operations—procedures for safe conduct

This function authorises an ASAO to establish procedures necessary for the safe conduct of flight operations in the Part 149 aircraft that it administers. These procedures would take into account the kind of aircraft, its operation for a flight (including ground operations), and the purpose of the flight in relation to the general operating environment of the aircraft, as well as the operating environment that is particular to that kind of aircraft.

Flight operations—duties essential to the operation of aircraft

This function enables an ASAO to administer flight operations, including authorising persons to perform flight duties. Flight operations include flight training. An ASAO that authorises individuals to perform flight duties would do so in accordance with the mechanism it establishes that

describes the privileges and limitations of the authorisations it issues, including the eligibility criteria for the issue of such authorisations.

Part 149 flight training organisations

For the purposes of an ASAO authorising the conduct of flight training, this function permits an ASAO to administer a person that provides flight training or flight tests in Part 149 aircraft.

Before issuing an authorisation, an ASAO must be satisfied that a person's organisation can provide flight training, flight tests or conduct aeronautical examinations in relation to the kind of Part 149 aircraft that the ASAO administers; and, to continue to hold the authorisation, the ASAO must be satisfied that the person's organisation continues to be able to provide flight training, flight tests or aeronautical examinations.

Applications to undertake aviation activity on basis of existing authorisations

This function grants an ASAO the right to authorise an individual to undertake an activity based upon the ASAO's assessment of an existing authorisation held by the individual that is the same in substance as an authorisation issued by the ASAO.

Aircraft operated to tow gliders: tow release airworthiness

This function authorises an ASAO to administer the airworthiness of the tow release used in the towing system of an aircraft operated to tow a glider, including authorising persons to carry out maintenance on the tow release. This function expands the scope of the airworthiness functions of an ASAO that administer glider airworthiness to include the administration of airworthiness of tow releases used in glider towing systems fitted to aircraft. The scope of the function is limited to the tow release and does not extend to the towing system, which forms part of the aircraft.

Aviation administration functions for parachuting activities

Parachute descents undertaken by members of parachuting organisations are presently authorised by instruments issued by CASA under Civil Aviation Regulation 152 that must be renewed periodically. Pending the finalisation of Part 105 of CASR, which will replace CAR 152, Part 149 provides a regulatory framework to issue an authorisation for organisations to administer parachute descents that are undertaken by individuals authorised under CAR 152 instruments. The prescribed aviation functions for the administration of Part 149 parachuting activities are:

Parachute descents

This function allows an ASAO to administer parachute descent activities, including authorising individuals to undertake an activity. A parachute descent activity includes undertaking a parachute descent; conducting parachuting training during a descent; assessing persons for the issue of a parachutist certificate, rating or endorsement; assessing the ongoing competency of the holder of a parachutist certificate.

An ASAO that authorises individuals to perform parachute descent activities duties would do so in accordance with the mechanism it establishes that describes the privileges and limitations of the authorisations it issues, including the eligibility criteria for the issue of such authorisations.

Parachuting operations—procedures for safe conduct

This function permits an ASAO to establish procedures necessary for the safe conduct of parachute descents in accordance with civil aviation legislation. To ensure the safety of air navigation required by the regulations, an ASAO that administers parachute descents of any kind must ensure the safe conduct of parachute descents. These procedures should take into account the purpose of the parachute descent (e.g. training, competition, recreation), as well as the operating environment that is particular to the descent (e.g. parachuting through cloud).

Parachuting operators other than training organisations

This function authorises an ASAO to administer a person (other than a parachute training organisation) that provides services or equipment to a parachutist for a parachute descent. The function would capture entities operating a drop zone that are not parachute training operations, as well as third parties that provide services and equipment directly to parachutists, parachute training organisations and non-parachute training organisations (e.g. rigging lofts).

Operating an aircraft to facilitate a parachute descent

This function allows an ASAO that administers parachute descents to administer the operation of an aircraft to facilitate a parachute descent. The function includes not only the operation of parachute aircraft, but also the training and assessment of jump pilots against competency standards developed by the ASAO, as well as the issue of authorisations to jump pilots and jump pilot trainers.

Operation of a parachute aircraft includes operating an aircraft to facilitate a parachute descent (whether or not part of a parachute training operation); conducting jump pilot training relevant to the purpose of the parachute descent flights to be undertaken by the pilot; and assessing the competency of the pilot in relation to parachute descent operations.

Parachuting training organisations

This function permits an ASAO that administers parachuting training to administer a person (organisation) that provides parachuting training (for a parachutist certificate, rating or endorsement), or flight tests (for a Jump Pilot Authorisation) in parachuting aircraft, including issuing an authorisation to the person to conduct parachuting training. A person may be the responsible individual (Chief Instructor) operating a parachute training organisation as a sole trader, or an incorporated body such as a parachuting club incorporated by association, or a company that provides parachuting training.

Before issuing an authorisation, an ASAO must be satisfied that a person's organisation has the procedures, practices, personnel and facilities required to conduct parachuting training and assessments in relation to parachuting training; and, to continue to hold the authorisation, the ASAO must be satisfied that the person's organisation continues to be able to provide parachuting training and assessment.

Individuals that carry out parachuting training or assessment on behalf of a parachuting training organisation must hold a parachute descent authorisation from the ASAO to either conduct parachuting training during a descent, assess persons for the issue of a parachutist certificate, or assess the competency of the holder of a parachutist certificate.

Parachute airworthiness

This function grants an ASAO the right to administer airworthiness of parachutes used in parachute descents, including issuing an authorisation to pack, assemble or maintain a parachute. The function includes developing competency standards in relation to parachute airworthiness training for the issue of an authorisation to an individual to pack, assemble or maintain a parachute.

Applications to undertake parachuting activity on basis of existing authorisations.

This function enables an ASAO to authorise an individual to undertake an activity based on the ASAO's assessment of an existing authorisation held by the individual that is the same, in substance, as an authorisation issued by the ASAO.

Key personnel

With respect to organisational structure and personnel the MOS for Part 149 prescribes certain ASAO personnel (in addition to key personnel prescribed by the regulations) as key personnel of the ASAO for the purposes of the regulations. These personnel include the manager responsible for the following approved functions:

- administering an airworthiness activity
- administering airworthiness organisation
- administering persons conducting Part 149 airworthiness training
- administering flight operations
- administering a Part 149 flight training organisation
- administering individuals holding existing authorisations in relation to the operation or maintenance of the aircraft
- administering the airworthiness of the tow release of an aircraft operated to tow a glider
- administering parachute descents
- establishing procedures for safe conduct of parachute descents
- administering certain parachuting operators
- administering the operation of an aircraft to facilitate a parachute descent
- administering parachuting training organisations
- administering airworthiness of parachutes for parachute descents
- administering individuals holding existing authorisations in relation to a parachute descent or parachute airworthiness activity.

Systems and procedures

Requirements for Safety Management System

Regulation 149.270 of CASR requires that an ASAO must have a Safety Management System appropriate for its approved functions and which takes into account the nature and complexity of those functions and the size of the ASAO. The MOS for Part 149 prescribes requirements for Safety Management Systems that are systematic and precise and which provide proactive mechanisms to address safety risks. These requirements are consistent with the internationally accepted ICAO SMS framework; yet, they are scalable in that the ASAO can customise them to reflect the size and complexity of the organisation, the risk unique to its operations and the location of those operations.

CASA form 1591 – the Safety Management System (SMS) Evaluation Tool – provides a mechanism for an ASAO to identify the SMS elements that the ASAO must develop in order to satisfy the requirements of regulation 149.270.

Requirements for Audit and Surveillance system

Under regulation 149.275 of CASR, the MOS for Part 149 requires an ASAO to have an audit and surveillance system appropriate for the ASAO's approved functions and that takes into account the nature and complexity of those functions, the inherent risk of those functions and the size of the ASAO. To give effect to this policy, the MOS sets out requirements in relation to:

- the conduct of audit and surveillance
- the evaluation of authorisation holder compliance with ASAO policies and procedures
- the evaluation of authorisation holders that issue authorisations
- processes for the production of audit surveillance records
- the data related to an ASAO's approved functions that the ASAO will capture in its audit and surveillance system.

Reference materials for administered Part 149 aircraft

Regulation 149.285 of CASR establishes that an ASAO must make available up-to-date copies of documents relevant to the performance of the ASAO's approved functions by its personnel. Consistent with the self-administration regulatory framework set out in Part 149 of CASR, the MOS for Part 149 states that ASAOs administering aircraft with the approved functions of section 14 (registration) or section 19 (safe conduct of operations) are required to provide access to flight manuals, handbooks or maintenance manuals (if any) for each kind of aircraft administered. The purpose of this requirement is to ensure that ASAO personnel are fully informed of the technical aspects relating to the operation and airworthiness of aircraft for which they may issue an authorisation under their approved functions.

ASAO aviation administration and enforcement rules

Regulation 149.290 of CASR states that ASAO aviation administration and enforcement rules must include matters prescribed by the Manual of Standards for Part 149. Consistent with the self-administration regulatory framework set out in Part 149 of CASR and to ensure procedural fairness, the MOS for Part 149 prescribes that ASAOs must prepare rules that establish:

- the process for ensuring the submission of reports under regulation 149.425 and 149.430
- how the ASAO will manage the safety risk of a person overriding a safety-related decision of the ASAO's key personnel (regulation 149.215)
- informing a person subject to enforcement of their review rights
- a process for notifying CASA when the ASAO exercises its enforcement powers, or when action is undertaken against an authorisation holder for a contravention of the ASAO's exposition (regulation 149.410).

These requirements allow an ASAO and CASA to have an overarching view of the compliance status of the ASAO's authorisation holders, which will facilitate the early identification of any systemic behavioural issues that could adversely affect aviation safety and present a risk to either the ASAO's operations, or to the safety of air navigation generally.

Exposition requirements

Regulation 149.340 of CASR states that an ASAO must include in its exposition specific information, descriptions, processes, procedures, things and rules that relate to the performance of the ASAO's approved functions, including matters prescribed by the Manual of Standards for Part 149. For that purpose, the MOS for Part 149 prescribes further specific items information that an ASAO must include in its exposition, such as:

- detailed information in relation to the identity and structure of the ASAO (name, ABN, ACN, address, organisational structure)
- what the ASAO will do if a member of the ASAO's personnel fails to carry out their duties or responsibilities
- the period for the ASAO to notify CASA of key personnel vacancies and appointments and the maximum period for a safety manager to simultaneously occupy another key personnel position and the period for reporting the conduct of authorisation holders
- a description of how the ASAO manages human fatigue in the performance of its functions
- the ASAO's alcohol and drugs policy (if required by CASA)
- copies of documents that relate to information sharing and operational cooperation with other ASAOs to mutually ensure the safety of air navigation
- procedures which ensure the ASAO maintains the personnel to perform its approved functions, as well as its record keeping and retention procedures
- the ASAO's process for: identifying exposition changes that do not require CASA approval, providing CASA with applications for exposition changes that do require approval and notifying ASAO personnel of exposition changes
- the ASAO's procedures for registering aircraft and publishing the register.

These requirements ensure that the ASAO has developed the procedures, processes and information flows necessary for an ASAO's personnel to safely perform their aviation administration functions. They also provide information necessary to satisfy CASA that the ASAO meets the regulatory requirements for the issue of an ASAO certificate under regulation 149.075.

Previous consultations

Previous consultation on Part 149 has supported the development of Part 149 of CASR. In accordance with section 17 of the *Legislation Act 2003*, CASA consulted on the proposed changes:

- With the Standards Consultative Committee (SCC), Sport and Recreational Aviation Sub-committee (SCC forum) on two occasions, 30 November 2015 to 29 January 2016 and 9 to 16 August 2016.
- Through public consultation with the release of the Notice of Proposed Rule Making (NPRM) 1502SS from 22 August to 21 October 2016.

Consistent with the 2015 decision of the SCC that Part 149 should have a Manual of Standards in which much of the detail regarding the operation of ASAOs is devolved to the MOS, CASA developed a draft Manual of Standards for Part 149 as part of NPRM1502SS.

The Part 149 Regulations as made on 12 July 2018 addressed all the key issues raised by the consultation process and the subsequent October 2017 SCC meeting that endorsed the making of Part 149. The MOS for Part 149 has now been revised to be consistent with the regulations as made and provide the level of detail required for ASAOs to meet their regulatory obligations and perform their approved functions in a manner that is unlikely to have an adverse effect on the safety of air navigation.

Impact on industry

The Manual of Standards for Part 149 is a mechanism to implement the requirements of Part 149 of CASR. The impacts of the MOS are incorporated within the Part 149 Regulation Impact Statement that forms part of the Part 149 Explanatory Statement published at www.legislation.gov.au/Details/F2018L01030

Safety risk analysis

There are no transitional arrangements within the draft Manual of Standards for Part 149.

Regulation impact statement

A Regulation Impact Statement (RIS) was prepared and assessed as adequate by the Office of Best Practice Regulation (OBPR ID: 21149).

Closing date for comment

CASA will consider all comments received as part of this consultation process and incorporate changes as appropriate. Comments on the draft Manual of Standards for Part 149 should be submitted through the online response form by close of business 21 October 2018.