



Australian Government
Civil Aviation Safety Authority

POLICY PROPOSAL

PP 1916AS



Proposed Part 139 (aerodromes) transitional strategy



| | |
|-----------------------|---------------|
| Date | February 2020 |
| Project number | AS 14/24 |
| File ref | D19/380118 |

Policy overview

This policy proposal (PP) outlines the transition process for current aerodrome operators to the amended Part 139 of the *Civil Aviation Safety Regulations 1988* (CASR) and the associated Manual of Standards (MOS) which commence on 22 August 2020.

All current certified and registered aerodromes are proposed to be deemed as certified aerodromes from the commencement of the new rules.

22 August 2020 was the original date chosen¹ to enable industry and CASA enough time to implement the new rules. However, the Aeronautical Information Publication (AIP) will be published on the AIRAC date of 13 August 2020. Therefore, CASA is proposing to bring forward the commencement date to 13 August 2020. This will ensure that approximately 130 existing registered aerodromes can be published in the AIP-ERSA as certified aerodromes on 13 August 2020.

The main impact of the new rules is the requirement for registered aerodromes to have an aerodrome manual and for certified aerodromes to update their existing aerodrome manuals.

Certified aerodromes will have 6 months from the date of commencement of the new regulations to submit their revised aerodrome manual. Registered aerodromes will have 18 months from date of commencement to prepare and submit an aerodrome manual. Some provisions that generate new requirements have been delayed, allowing current aerodrome operators additional time to comply with these requirements.

Aerodrome works in progress or developments that, prior to the date of commencement, were subject to building or funding approval such as local government approval, may also be able to comply with the Part 139 MOS version 1.14 rather than the new rules.

Why are we consulting

Part 139 prescribes the requirements for aerodromes typically used in air transport operations as well as:

- radiocommunication services at aerodromes
- obstacles and hazards to aircraft operations.

After CASA conducted a post-implementation review of Part 139 and its MOS in 2017, a revised Part 139 was made in February 2019 and a revised Part 139 MOS was made in September 2019. The new rules commence on 22 August 2020.

To enable a smooth transition for current aerodrome operators, a series of Consequential, Application, Transitional and Savings (CATS) provisions have also been developed as part of a broader CASR Part 139 transitional strategy. The policy for these CATS provisions is contained in this document and we are seeking your feedback. An Exposure Draft of the amendment regulations will be made available later, prior to them being made.

¹ Eighteen(18) months after the making of the new regulation.

Contents

| | | |
|-------------------|---|-----------|
| 1 | Reference material | 4 |
| 1.1 | Acronyms | 4 |
| 1.2 | References | 4 |
| 2 | Introduction | 5 |
| 2.1 | Background | 5 |
| 2.2 | Previous consultation | 5 |
| 3 | Policy assessment | 6 |
| 3.1 | Intended policy position | 6 |
| 3.2 | Post Transition (13 August 2022 - onward) | 11 |
| 3.3 | Impacts on industry | 11 |
| 3.4 | Implementation and transition | 12 |
| 4 | Closing date for comment | 13 |
| Appendix A | Part 139 Manuals/Certificates transition timelines | 14 |
| Appendix B | Complete transition timeframe | 16 |

1 Reference material

1.1 Acronyms

The acronyms and abbreviations used in this AC are listed in the table below.

| Acronym | Description |
|---------|---|
| AC | Advisory Circular |
| CAR | Civil Aviation Regulations 1998 |
| CASA | Civil Aviation Safety Authority |
| CASR | <i>Civil Aviation Safety Regulations 1998</i> |
| CATS | <i>Consequential and Transitional, Savings Provisions</i> |

1.2 References

Regulations

Regulations are available on the Federal Register of Legislation website <https://www.legislation.gov.au/>

| Document | Title |
|-------------|--|
| F2019L00176 | Civil Aviation Safety Amendment (Part 139) Regulations |
| F2019L01146 | Part 139 (Aerodromes) Manual of Standards |
| F2016C00882 | Civil Aviation (Fees) Regulations 1995 |

Other technical references

| Document | Title |
|----------|---|
| AIP-ERSA | Aeronautical Information Publication – En Route Supplement Australia (AIP-ERSA) |

2 Introduction

2.1 Background

To enable a smooth transition to the new rules for current aerodrome operators, CASA has developed a strategy to enable existing certified and registered aerodromes to continue operating before and after the commencement of the new rules. The proposed transitional strategy would provide reasonable timeframes for aerodromes to comply with the new rules. The duration of the transition period would be 24 months from the commencement of the new rules i.e. until 13 August 2022.

After commencement of the new rules, CASA is proposing additional time for both certified and registered aerodrome operators to submit revised or new aerodrome manuals to CASA. CASA also proposes to provide more time for a very small number of registered aerodrome operators to transition to the new rules because they have significant passenger or aircraft numbers and they are required to have more advanced safety systems e.g. a Safety Management System (SMS), risk management plan or aerodrome emergency plan.

The transition policy has been formalised and is being consulted through this policy proposal. The Exposure Draft of the Part 139 Aerodromes – Consequential, Application, Transitional and Savings (CATS) Regulations will reflect this transition policy.

2.2 Previous consultation

This Part 139 transition policy supports the new rules and do not change the aerodrome design and operations policy endorsed by the Part 139 Technical Working Group established under the Aviation Safety Advisory Panel.

3 Policy assessment

3.1 Intended policy position

This document sets out CASA's transition policy.

Transition would be divided into three implementation phases:

- before commencement
- during transition
- post transition.

3.1.1 Commencement date revised to 13 August 2020

To enable a smooth transition for all current aerodrome operators, all existing certified and registered aerodromes would be deemed to be 'certified' from the commencement date of the new rules.

Details of aerodromes are published in the Aeronautical Information Publication – En Route Supplement Australia (AIP-ERSA) which is published 4 times a year. The relevant publication date for the AIP-ERSA in August 2020 is 13 August 2020.

It is practical for the new rules to commence on 13 August 2020 instead of 22 August 2020 to allow all certified and registered aerodromes at that date, including approximately 130 registered aerodromes, to be published in AIP-ERSA as "CERT" aerodromes. The commencement date is proposed to be amended in the CATS Regulations.

3.1.2 Before commencement date of 13 August 2020

3.1.2.1 Aerodrome operators who do not wish to transition

Aerodrome operators who inform CASA they do not wish to transition to the new rules, would be encouraged to request CASA cancel their aerodrome certificate or registration:

- under regulation 11.130 for certified aerodromes
- under 139.285 of CASR for registered aerodrome operators.

In practice, CASA expects most if not all, aerodrome operators will inform CASA in advance of their intention not to transition. This is due to the operational implications of not being able to have terminal instrument flight procedures published for their aerodrome.

3.1.2.2 Aerodrome markings, markers, signals, etc and inset runway edge lights

Aerodrome markings and other visual aids are maintained frequently by aerodrome operators. It would not be practical or economical for an aerodrome operator to re-mark or install signs in accordance with the old rules if they were to be non-compliant with the new rules in a few months' time. Remarking lines or replacing signs would be at a significant cost to the aerodrome operator.

The ability to use inset runway edge lights more often is another change being introduced under the new rules. The old rules prefer the use of elevated lights in general and elevated runway edge lights unless it is impracticable. The references to elevated lights in general and elevated

runway edge lights being impractical are removed under the new rules so the use of inset runway edge lighting is permitted. Many aerodromes would like to install inset lighting using LED technology prior to the commencement of the new rules.

CASA intends to bring forward the commencement of the visual aids standards of Chapter 8 and, for inset runway edge lights, in Chapter 9 of the new MOS, including removing subsection 9.1.12.2 of the current MOS which refers to elevated lights. Aerodrome operators would need to notify CASA, in writing, that they intend to conduct this type of work. The commencement date would be as soon as the CATS regulations are made. It is expected they will be made in April 2020.

3.1.2.3 Aerodrome operators who propose to build a new aerodrome or an aerodrome facility – 'development process' began before 6 September 2019

The new Part 139 MOS was registered on the [Federal Register of Legislation](#) on 6 September 2019. From that time, CASA expects existing aerodrome operators to begin planning any aerodrome construction or changes to an aerodrome facility in accordance with the requirements under the new framework. Extensive communications were conducted before 6 September 2019 with the aviation industry on CASA's expectations.

For aerodrome operators who began the development process² for constructing an aerodrome or facility before 6 September 2019, CASA intends to allow them to construct, or continue constructing an aerodrome or facility, in accordance with the current framework. This position is taken in consideration of the long lead time required to complete construction projects and to ensure that operators who engaged in a development process based on current requirements are not disadvantaged.

The policy intention is if the operator has either a funding application or building development application that was approved before 6 September 2019, or had made an application before 6 September 2019 and was granted then the approval after that date, and in relation to approvals granted after the commencement date of the new rules, the old rules would apply to the construction work.

However, to ensure that any construction is completed in a timely manner, we intend to require the construction to be completed within a set timeframe. The timeframe provided would depend on when they began the construction work. The scenarios that would be covered by this policy are:

- aerodrome operators who started construction work in relation to an aerodrome facility before 6 September 2019 and work has continued after 6 September 2019
- aerodrome operators who, before 6 September 2019, had a funding or building approval to carry out construction work and the construction work had not started before 6 September 2019

² By 'development process', we mean either having made an application for funding for the construction of a new aerodrome or aerodrome facility to an Australian government authority (at any level – i.e. local, State and Territory, or the Commonwealth), or an application for building approval for the construction of a new aerodrome or aerodrome facility under any applicable Australian law (of any level – local, State and Territory, or the Commonwealth).

- aerodrome operators who, before 6 September 2019, had applied for a funding or building approval to carry out construction work and the application was not finally determined on 6 September 2019
- aerodrome operators who had started construction work before 6 September 2019 would have to demonstrate to CASA, before 13 August 2020, that the construction work is intended to be completed no later than 13 August 2021
- aerodrome operators who had not started construction before 6 September 2019 would have to demonstrate to CASA, before 13 August 2020, that the construction work is intended to begin no later than 13 August 2021 and intended to be completed no later than 13 August 2022.

In practice, we expect the approval of the building development process would be met by operators providing CASA with a building approval and associated construction and design documentation for the construction work at an aerodrome.

CASA acknowledges that there may be circumstances where it might be unreasonable to require the operator to complete construction work within the required timeframes. Consistent with existing practice, CASA would manage these circumstances through either granting a Part 11 exemption, or an operator could apply to CASA for an approval under the new rules.

3.1.2.4 Aerodrome operators who propose to build an aerodrome or an aerodrome facility – 'development process' began on or after 6 September 2019

For proposed new aerodrome operators who have applied for and have been granted a building or funding approval on or after 6 September 2019, if they apply to CASA for an aerodrome certificate, then their aerodrome would be assessed against the new rules.

Similarly, for existing aerodrome operators who proposed to build an aerodrome facility and who have applied for and have been granted a building or funding approval on or after 6 September 2019, the facility would be assessed against the new rules.

In practice, CASA does not expect there to be many, if any, aerodromes in this position. This is because aerodrome operators would typically engage with CASA if they intend to construct an aerodrome or conduct construction work at the aerodrome, particularly as they would be aware that the new framework would come into effect on 13 August 2020. As such, construction is expected to be carried out in accordance with the new framework, unless it is planned to be completed before the commencement date of the new rules.

3.1.3 During transition (13 August 2020 – 13 August 2022)

3.1.3.1 Applications not finally determined on the commencement date

For any aerodrome operator who applied for an aerodrome certificate, aerodrome registration or requested certification of an air/ground radio service under the old rules, and that application or request is not finally determined on the commencement date, the policy intention is for that application or request to continue to be assessed in accordance with the requirements under the old rules.

If the outcome is negative to the applicant, CASA intends for that refusal to occur under the old rules and it follows that we intend for the applicant to seek merits review in accordance with the current framework.

If the applicant is unsuccessful on merits review, they would be required to apply for a certificate under the new rules if they want an aerodrome certificate. This would allow them to have a published terminal instrument flight procedure for the aerodrome.

3.1.3.2 Deeming of existing aerodrome operators

Currently, Part 139 provides for three types of aerodromes – certified, registered and ‘certain others’. The new rules remove these distinctions and only provides for certified aerodromes.

To facilitate a smooth transition into the new framework and allow operators time to meet the requirements under the new rules, CASA proposes that all aerodrome operators who hold an aerodrome certificate or aerodrome registration under the current framework be taken to hold an aerodrome certificate under new reg 139.030 on the commencement date. The deeming would continue for a specified time period or until a specified event occurs. The certificate that is deemed to be granted would be subject to the suspension and cancellation provisions in regulation 139.035 under the new rules and under Part 11.

3.1.3.3 Provision of aerodrome manual

Under the new rules, regulation 139.030 provides that CASA must grant an aerodrome certificate to an applicant if CASA is satisfied that, amongst other things, the proposed aerodrome manual complies with the requirements mentioned in regulation 139.045. Subregulation 139.045(1) provides that the operator of a certified aerodrome must have an aerodrome manual that complies with the requirements of the new Part 139 MOS.

Under the current framework, certified aerodrome operators are already required to have an aerodrome manual. As the aerodrome manual requirements are very similar between the current framework and the new framework, CASA expects that existing certified aerodrome operators would update their manual to meet the new aerodrome manual requirements.

However, registered aerodrome operators are not currently required to have an aerodrome manual. As such, the requirement to have an aerodrome manual would be a significant change for existing registered aerodrome operators.

In order to provide all aerodrome operators with enough time to update or develop their manuals, we intend to deem these operators to hold an aerodrome certificate for the following time periods (‘the deeming period’):

- for certified aerodromes, the first 6 months after commencement
- for registered aerodromes, the first 18 months after commencement.

As part of the transition process, CASA is developing a sample aerodrome manual and using the online Manual Assessment and Authoring Tool (MAAT) to assist aerodrome operators with developing their manuals.

If the operator fails to provide the manual to CASA within the required timeframe, then the deeming period would cease, and they would not be taken to hold an aerodrome certificate. In practice, CASA expects that any aerodrome operator who seeks to continue its aerodrome operations would submit the manual.

If an aerodrome operator provides an aerodrome manual, which is intended to meet the requirements of regulation 139.045, before the deeming period ends, then the deeming period

would continue until CASA decides whether the manual satisfies the requirements in regulation 139.045 and the MOS. CASA intends to complete its assessment of the aerodrome manuals:

- for certified aerodromes, within 12 months of the commencement date
- for registered aerodromes, within 24 months of the commencement date.

3.1.3.4 Issue of an aerodrome certificate

If CASA is satisfied that the manual meets the relevant requirements, then it would grant an aerodrome certificate to the aerodrome operator under regulation 139.030. CASA does not intend to assess the operator as a new entrant; it only wants to assess whether their aerodrome manual meets the relevant manual requirements in determining whether to grant them a certificate.

If CASA is not satisfied that the manual meets the requirements of the new Part 139 MOS, then it would refuse to grant the certificate. The decision to refuse to grant the certificate would be a reviewable decision.

In this situation CASA intend for the deeming period to continue until:

- the aerodrome operator validly applies for review of the refusal decision within the prescribed timeframe for review – when the AAT makes a decision.
- or
- the aerodrome operator does not validly apply for review within the prescribed timeframe for review, at the end of that timeframe.

3.1.3.5 Aviation safety systems-related requirements – deferred in the MOS

A transition period would be provided for a very small number of existing registered aerodrome operators with either passenger or aircraft movement rates above the trigger criteria (e.g. 50,000 air transport passengers or 100,000 aircraft movements annually):

- Requirements for an SMS, risk management plan, aerodrome emergency plan aerodrome emergency exercises or wildlife hazard management plans will commence 2 years after the commencement date i.e. from 13 August 2022.
- Requirements for aerodrome technical inspections will also commence from 13 August 2022, unless an Aerodrome Safety Inspection is conducted prior to 13 August 2020, in which case the annual requirement applies from 13 August 2021.

3.1.3.6 Management of non-compliances during routine surveillance

During the transition phase, where a non-compliance is identified against regulations that are either new or subject to transition timeframes, CASA would publish detailed guidance to the CASA aerodrome inspectorate on the management of non-compliance.

3.1.3.7 Fees

Fee waivers will apply to all existing certified and registered aerodrome operators transitioning to the new rules. New aerodrome applicants will be subject to standard cost recovery arrangements in accordance with the *Civil Aviation (Fees) Regulations 1995*.

3.1.3.8 *MOS transitional provisions*

The new Part 139 MOS has the following application provision:

2.04 Application — existing aerodromes etc.

- (1) Subject to subsection (3), this MOS applies to the operator of an existing aerodrome.
- (2) Subject to subsection (3), this MOS applies for an existing aerodrome facility.
- (3) The standards in this MOS for an aerodrome facility and the obstacle limitation surfaces associated with a runway (the *OLS*) do not apply to a grandfathered facility of the same kind if the grandfathered facility:
 - (a) complies, and continues to comply, with the standards which applied to the aerodrome facility and the OLS immediately before the commencement of this MOS; and
 - (b) is not:
 - (i) replaced; or
 - (ii) upgraded; and
 - (c) is maintained in accordance with the requirements of this MOS for the same kind of facility.

This clause may be amended to reflect the additional policy positions outlined in this PP. Further, where it is expressed above that an existing aerodrome operator's manual will need to comply with the new rules, that compliance will be subject to the operation of this 'grandfathering' MOS provision.

3.2 Post Transition (13 August 2022 - onward)

CASA requires all existing aerodrome operators, whether registered or certified, to have transitioned into the new framework and meet the relevant requirements within 2 years of the commencement date.

Routine surveillance will continue as per the National Surveillance Selection Process (NSSP) procedures. Aerodrome operators will be assessed against the new rules and where non-compliance is identified and depending on the nature of the contravention, safety finding notices will be issued and a coordinated enforcement process may be considered.

3.3 Impacts on industry

This transitional policy provides industry with the ability to continue operating during the transition period. Additionally, this PP delays some elements of the new rules to allow additional time for operators to comply.

3.4 Implementation and transition

3.4.1 Implementation considerations

Timeframes have been considered by CASA to allow suitable time for transition for operators of different types of aerodromes, noting that certified aerodromes already have aerodrome manuals and registered aerodromes will not in many cases.

Certified aerodromes would have 6 months from the date of commencement i.e. by 13 February 2021 to submit their aerodrome manual.

Registered aerodromes would have 18 months from commencement i.e. by 13 February 2022 to prepare and submit their aerodrome manual.

The timeline has been created to allow CASA and industry more time to comply with new requirements introduced by the new rules. An additional period, after commencement of the rules, is proposed to provide for aerodrome operators to submit their revised or new aerodrome manuals to CASA and for CASA to assess them. Appendix A shows the aerodrome manual and certificate issue implementation timeline. For the very small number of registered aerodromes that meet the passenger or aircraft number triggers, additional time has been provided to comply with the new requirements for implementation of SMS, risk management plans, aerodrome emergency plans and exercises, wildlife hazard management plans and aerodrome technical inspections.

Appendix B shows the complete transition timeframe for all aspects of Part 139 MOS including aerodrome manuals and aviation safety systems-related requirements.

3.4.2 Transitional considerations

The 'certified aerodrome' deeming provisions and transitional rules would be drafted in a way that will allow current certified and registered aerodromes to continue operating without needing to immediately comply with some of the new regulations at commencement for specific provisions which are a new regulatory requirement such as aerodrome manuals.

Many existing approvals and exemptions may become unnecessary under the new rules. If required and applicable, enduring approvals may be provided in accordance with the new rules.

In line with existing policy, surveillance would be used as the primary mechanism to oversight compliance with Part 139 before and after commencement of the new rules.

The compliance gap between the standard for old rules and the standard for the new rules may be significant for some aerodromes and will directly impact an operator's cost and effort during transition. The extended transition period for specific provisions is intended to minimise this burden and enable operators to progressively achieve the requirements of the new standards.

New aerodrome operators will be subject to full entry control procedures from commencement of the new rules.

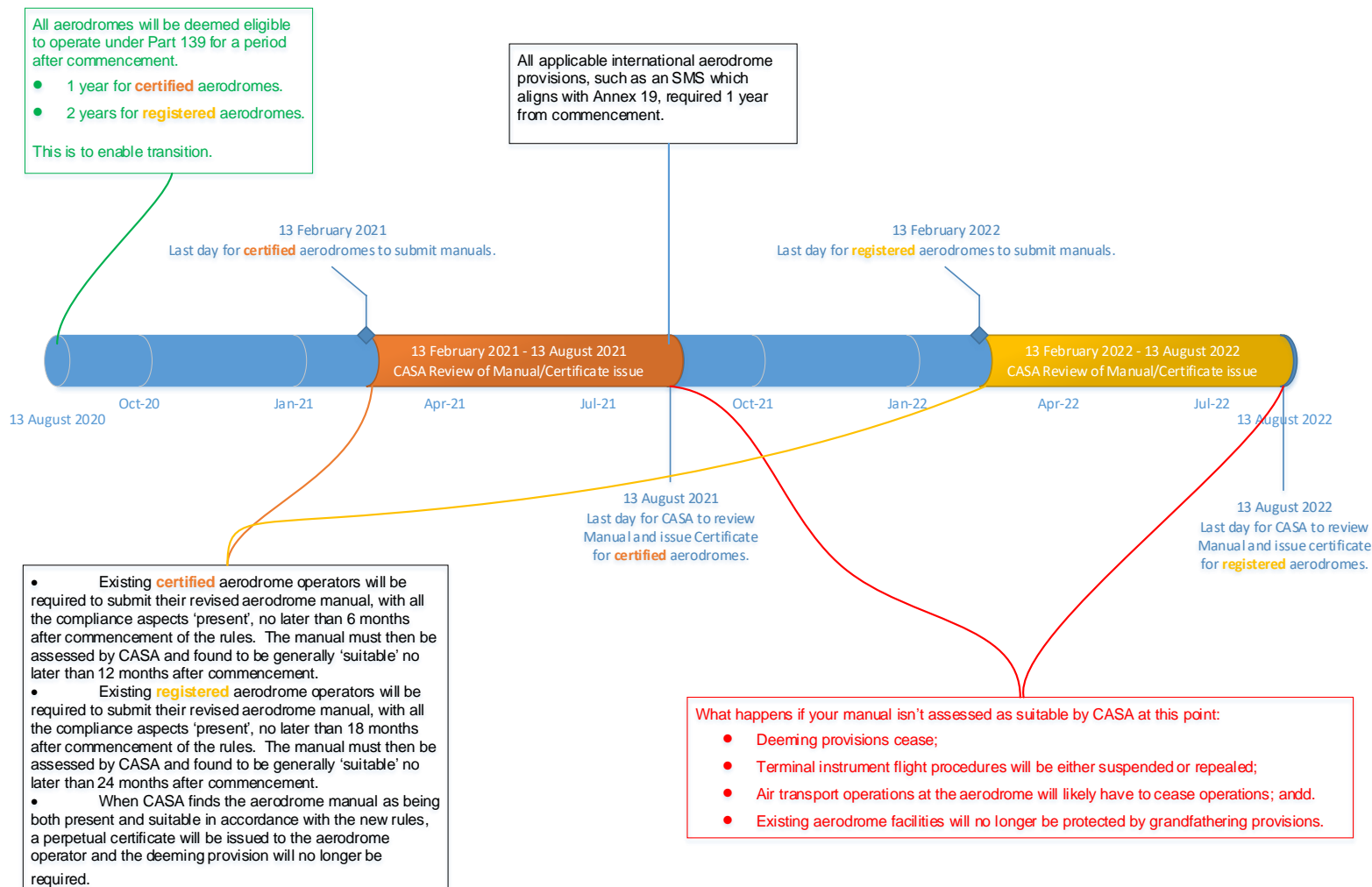
4 Closing date for comment

CASA will consider all comments received as part of this consultation process and will incorporate changes to the regulation as appropriate. Comments on the draft new policy should be submitted through the online response form by close of business **3 March 2020**.

Appendix A

Part 139 Manuals/Certificates transition timelines

Part 139 Manuals/Certificates Transition timeline



Appendix B

Complete transition timeframe

POLICY PROPOSAL FOR PROPOSED PART 139 (AERODROMES) TRANSITIONAL STRATEGY

| Class | Deeming | Initial Regulatory Requirements | Transition items (and time periods) | Certificate issue |
|--------------------------------|---------|---|---|--|
| Existing Certified Aerodromes | Yes | <ul style="list-style-type: none"> • Subject to transition items, must meet all other requirements at the commencement of the new rules • Aerodrome Manuals must be provided to CASA in accordance with regulatory requirements. CASA may also request a copy of the Aerodrome Manual in line with scheduled surveillance. • CASA to conduct a compliance review of the Aerodrome Manual upon receipt. | <ul style="list-style-type: none"> • Updated Aerodrome Manuals required within 6 months of commencement. <p>All applicable international aerodrome provisions, such as an SMS which aligns with Annex 19, required 1 year from commencement</p> | <ul style="list-style-type: none"> • Current certificate deemed to be valid until reissue. • Timing of certificate reissue to be determined at a later date dependent upon the workload demands on CSC, ideally this will be shortly after submission of an Aerodrome Manual. |
| Existing Registered Aerodromes | Yes | <ul style="list-style-type: none"> • Subject to transition items, must meet all other requirements at the commencement of the new rules • CASA to conduct a compliance review of the Aerodrome Manual upon receipt. | <ul style="list-style-type: none"> • New Aerodrome Manuals required 18 months from commencement. • RMP* required 2 years from commencement (as applicable) • SMS* required 2 years from commencement (as applicable) • Aerodrome Technical Inspections* <ul style="list-style-type: none"> ○ For applicable aerodromes where an ASI has been completed in the previous 1 year, 1 year from commencement ○ Otherwise, 2 years from commencement • Aerodrome validation – 1 year from acceptance of a manual, excluding annual check of info provided to AIS. (existing Part 175 requirements) • Wildlife hazard management* 2 years from commencement • Aerodrome emergency planning* 2 years from commencement | <ul style="list-style-type: none"> • Deeming provisions will certify all existing registered operators unless they have opted out. • Certificates will be issued following review and acceptance of the Aerodrome Manual. |