



SUMMARY OF CONSULTATION



Proposed transitional policies for flight operations regulations



Date	December 2020
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Overview

This consultation requested public comment on CASA's proposed policies related to the transition of aircraft operators and crew to the new Flight Operations regulations, which will commence on 2 December 2021. The consultation was open between 2 June to 30 June 2020.

This document:

- summarises the main themes identified during response analysis
- specifies the resulting changes to the proposed policies
- clarifies certain issues that arose from the responses
- outlines how the transition policies will be implemented.

Appendix A (included in this document) provides timelines for critical dates and deadlines for the transition.

Annex A (a separate document) sets out CASA's updated transition policies for the Flight Operations regulations, as informed by the consultation.

This report should be read together with the June 2020 consultation documents.

Respondents

CASA received a total of 17 submissions, of which 8 respondents consented to having their comments published on the CASA website. Of the 17 respondents, 12 are AOC holders and 2 are CASA officers. Whilst this is a low number of responses, CASA did actively notify all AOC holders and Part 141 certificate holders by email when the consultation opened and again just over a week before it closed. All subscribers to CASA's specific flight operations and regulatory change email lists were also notified at this time. Flight operations regulations technical working groups were also asked to encourage their colleagues to participate.

Key feedback

The consultation requested comment in relation to eight key aspects of the transition and to provide any general comments.

Common and otherwise key themes that emerged from the limited feedback were as follows:

- Operators are financially stressed and don't expect to recover soon. Operators of small aircraft consider the requirements of the new Flight Operations regulations burdensome and CASA's transition plans burdensome.
- Operators believe the timelines for the transition are unrealistic and should be pushed out, due to the current Covid-19 public health emergency and the capacity of operators to re-write/update their manuals in the current environment. Some operators want deferrals of new requirements that are in addition to the deferrals proposed by CASA in its policy proposals.
- Operators require early access to sample expositions/operations manuals, templates for compliance matrices and other guidance materials, in addition to CASA assistance for their understanding of and compliance with the new requirements.
- CASA needs to plan for and adequately resource not only the transition, but also for day to day operator business requirements that will arise before and after the commencement date of the new Flight Operations regulations.
- Operators require more information on certain aspects of the transition, including requirements of the new Flight Operations rules and how the transition will affect them in particular.

Operators commented, sought clarification and asked questions on specific aspects of the transition proposals, both generally and as they relate to their specific operations.

In addition to the feedback provided on CASA's proposed transition policies, some respondents provided comment on specific substantive requirements of the new Flight Operations regulations, the perceived benefits of outcome based rules compared to prescriptive rules, and CASA's organisational structure, amongst other matters. These comments were generally considered outside the purview of the consultation on the transitional arrangements and are not addressed in detail in this document.

Comments on substantive requirements of the Flight Operations regulations will be considered on an on-going basis and when the rules are subject to post-implementation review.

CASA's responses to comments on the transition policies are set out below.

CASA responses and actions

Common and key themes

CASA acknowledges the impacts of the current public health emergency on aircraft operations and will continue to monitor these impacts during the course of the COVID-19 pandemic. When CASA published the consultation documents at the beginning of June 2020, the COVID-19 curve had been 'flattened' and the number of new cases very significantly reduced. While a second wave of cases appears to have now subsided, CASA acknowledges that managing the effect of the pandemic will continue to impact on aircraft operations for some time. If it becomes clear that certain general or specific dispensations from a transitional requirement are required, CASA will take appropriate action. This may include revisions to our policy and regulations for delayed provisions and deferral periods, as well as changes to CASA's administrative policies and practices and fee arrangements. In taking any such action, CASA will consider the safety of air navigation as the most important consideration. Adjustments to CASA's regulatory requirements and transition plans would be made consistent with CASA's consultation mechanisms, as appropriate.

CASA accepts that certain requirements of the new Flight Operations regulations and transition policies will result in additional costs for operators. These were identified in the Regulation Impact Statement that was published when the new CASR Parts were made. CASA is striving, through its transition policies, to minimise or, where possible, eliminate cost burdens and disruption to industry. This will be done by:

- transition policies which 'deem' operators to have certain authorisations without having to apply for them, or for instruments to be reissued
- recognising actions taken under the existing rules for the purpose of the new rules
- delaying the implementation of certain higher cost requirements
- assisting operators to produce expositions and operations manuals that reflect the requirements of the new rules
- allowing operators to make use under the new rules of approvals, other authorisations and exemptions issued to them under the existing rules.

CASA has started to publish guidance materials for the transition. Guidance materials will continue to be rolled out, taking account of when and in what order the material is needed by operators to comply with the transition requirements. To the maximum extent possible, guidance material will be standardised with guidance material already published and being used by operators for current and comparable purposes. For example, a change management process is required currently under Parts 141 and 142 of CASR and will be required from 2 December 2021 for Part 119, 131 and 138 operators. Similarly, there are current SMS requirements under Part 142 of CASR and for RPT operations under CAO 82.3 and 82.5. Parts 119 and 138 of CASR also mandate SMS. Standardising guidance material for requirements that cut across multiple CASR Parts will provide efficiencies, for both operators and CASA. However, these efforts will be in concert with identifying how systems (such as SMS) can be implemented in a scalable way by operators of differing size and complexity.

SUMMARY OF CONSULTATION ON PROPOSED TRANSITIONAL POLICIES FOR FLIGHT
OPERATIONS REGULATIONS

CASA acknowledges that appropriate resources need to be allocated to the transition and to 'business as usual' work pre and post commencement.

Guidance and educational materials are proposed to explain what new CASR Parts apply to different sectors of the aviation community and their related impacts.

Specific issues and questions raised

Response 1 - Transition of existing authorisations for AOC holders (Section 3.2)

A majority of respondents agreed with or agreed with changes, to CASA's proposals for transitioning current AOC holders from the existing rules to the new rules. Operators will be deemed to be authorised to conduct the same kinds of operations they performed prior to the transition without having to apply for a new AOC or other certificate. Operators will be required to have an exposition or operations manual (as stated in the relevant CASR part) that reflects the new rules. While CASA will require the early submission of, and intends to assess, extracts of an operator's change management process and procedures for the carriage of aerial work passengers, expositions and operations manuals will not otherwise have to be approved by CASA prior to the commencement date. The exposition or operations manual will be 'deemed' to be compliant and will not be comprehensively assessed by CASA until a later date. In most cases this will be when the AOC or certificate expires and needs to be re-issued. However, the implementation of requirements for training and checking, human factors and non-technical skills training, safety management systems and rotorcraft performance, which are deferred until after the commencement date, are proposed to be subject to CASA assessment. This is because these are new requirements with important safety objectives.

Comment 1-1

One respondent noted the reference to *non-scheduled* operations in the transition arrangements, that this term is not defined, and that this is inconsistent with the wording of Part 135 of CASR which refers more generally to air transport operations.

CASA response

The term *non-scheduled* is not a term that is used in the new Flight Operations regulations. However, the term is required for the transition to recognise that current Charter AOC holders will only transition to the new CASR Parts for the purpose of conducting the same kinds of flights (i.e. charter) that they are currently conducting, until such time as those operators comply with all of the applicable Part 119 and 135 requirements including deferred requirements. Accordingly, the term '*non-scheduled air transport operation*' will be defined in the consequential and transitional (CATS) regulations effectively to cover charter, including closed charter, as these terms are currently defined in CAR 206. In order to conduct *scheduled* (i.e. RPT type) operations, current aeroplane and rotorcraft charter operators will need to meet all the requirement of the new CASR Parts for air transport operations, under one or more of Parts 133, 135 and 121 of CASR, in conjunction with the requirements of Part 119 of CASR. Once existing charter operators have transitioned to all new requirements including the deferred requirements, the concept of 'non-scheduled air transport' will disappear in the flight operations context.

Comment 1-2

One respondent requested urgent clarification of the maintenance standards under Part 135 of CASR for those aeroplanes used for non-scheduled operations.

CASA response

CASA is progressing the development of new continuing airworthiness regulations with standards that are proportionately aligned with the new Flight Operations regulations. Details of the continuing airworthiness [project](#) and [consultation](#) on the proposed policies are available on CASA's website. The work has been delayed by COVID-19 disruptions and CASA is working with industry to settle continuing airworthiness policies by the end of 2020, with the new continuing airworthiness regulations expected to be drafted in 2021 subject to the allocation to CASA of Australian Government legislative drafting resources. CASA's general intention is that the 'status quo' will be maintained for continuing airworthiness requirements until the new continuing airworthiness regulations commence. We will work with industry to develop appropriate continuing airworthiness transitional arrangements in the coming months.

Comment 1-3

Another respondent sought confirmation that its current authorities for 'winching and dropping' would be recognised for Part 133 medical transport operation (MTO) purposes as well as for its Part 138 aerial work operations.

CASA response

Winching operations may be conducted as part on an MTO under Part 133 of CASR but dropping operations may not. If, immediately before the commencement date, an operator has an AOC that authorises aerial work air ambulance operations and a winching authorisation under CAO 29.6, the operator will be deemed to be authorised to conduct, from the commencement date, winching operations as part of an MTO under Part 133, i.e. the operator's current authorities will be transitioned for both its Part 138 aerial work operations and its Part 133 MTO operations.

Response 2 - Automatic extensions of AOCs expiring around the commencement date (Section 3.2)

A majority of respondents agreed with or agreed with changes to CASA's proposal to extend the expiry dates of AOCs for 6 months, if the AOC falls due for re-issue in the 89 day period before or 90 day period after the commencement date.

Comment 2-1

While most respondents agreed with this proposal, some respondents stated that this extension would not be necessary if:

- CASA was adequately resourced,
- the transition was less resource intensive and easier,
- the regulations were less prescriptive and more outcome based, and/or
- 'early starters' were permitted—on the basis that this would spread out CASA's resourcing requirements.

CASA response

See CASA's response to Common and key themes. CASA acknowledges the need to allocate appropriate resources to the transition, within its budget. CASA intends to create space immediately before and after the commencement date for CASA and industry to focus on the transition to operating under the new rules, and the extension of AOCs expiring in this period is intended to facilitate this.

Response 3 - Restrictions on AOC changes for three months before the commencement date (Section 3.2)

A majority of respondents agreed, or agreed with changes, to CASA's proposals related to processing applications for changes to an operator's AOC under the existing legislation in the 89 days prior to the commencement date. CASA proposed that these would be limited to changes to meet urgent community needs or to ensure continued operations of the AOC holders, i.e. that applications made otherwise in the period would be processed under the new rules, for implementation from or after the commencement date.

Comment 3-1

Strong objections were raised by 30% of respondents who advocated that there should be no restrictions on an operator to change their AOC at any time to respond to business requirements, and that CASA should be adequately resourced to process these changes.

CASA response

As set out in CASA's response to Common and key themes, CASA will allocate appropriate and available resources to both the transition and to day-to-day 'BAU' activities pre and post the commencement date.

In response to comments received, CASA has refined its policies regarding applications for changes to an AOC under the existing rules, in the period leading up to the commencement date. CASA will process changes under the existing rules for applications made up to the commencement date. In this context, CASA would apply its current approach to prioritising work. This will extend the period during which CASA and industry will engage in regulatory tasks under both the old and new rules but gives flexibility to industry as necessary.

Comment 3-2

The consultation invited operators to suggest what kinds of changes, in addition to those proposed, should be processed by CASA in the 89 period before the commencement date. Suggestions from respondents included changes related to key personnel, MTO, search and rescue and law enforcement.

CASA response

In view of the policy change reflected in the CASA response to Comment 3-1 above, the consideration and listing of what applications for changes would or would not be assessed by CASA under the existing rules in the period leading up to the commencement of the new rules becomes unnecessary.

Comment 3-3

Another respondent stated that CASA should not implement other significant regulatory changes in the 89 day period before the commencement of the new Flight Operations regulations.

CASA response

CASA agrees with this comment and will take steps to prevent this situation arising, to the extent possible. The clear exception to this policy would be if changes are necessary to address immediate safety issues; relate to the new Flight Operations regulations or the classes or aircraft operations addressed in the new rules; or would otherwise be of benefit to aircraft operators.

Response 4 - Obligations for updating and providing expositions and operations manuals (Section 3.2)

A majority (58%) of respondents agreed or agreed with changes to CASA's proposals for these obligations, with 30% indicating their disagreement.

Comment 4-1

Respondents disagreeing did so on the basis of the financial stress they are under and the additional workload involved with updating/rewriting their manuals, which some consider to be more burdensome than CASA believes and/or without any added safety benefit.

CASA response

In order to reduce the burden on operators from having to update their current manuals, CASA will provide a range of guidance documents. These are proposed to include:

- Documents that identify new requirements in the Flight Operations regulations that will likely require operators to develop new text for inclusion in their exposition/operations manual, and sample text (for some but not necessarily all new requirements).
- Sample expositions and operations manuals (including separate sample text extracts for specific new requirements where this is appropriate).
- Other acceptable means of compliance and guidance material.
- Documents that map the current rules to the new rules.

In response to feedback, CASA will, for a period after commencement, enable operators to use their existing operations manual with minimal amendment and supplement it with annexures that bring the manual into compliance with the new requirements. For example, an operator may annex a CASA-provided template manual extract that enables the operator to meet the requirements for a change control procedure. Similarly, operators may annex the mapping document mentioned above to translate the legislative references in the existing manual into the new legislative references, without actually updating the manual. This is proposed to be permitted until the AOC/certificate is re-issued or for 6 months after the commencement date, whichever is the shorter. After that time expositions and manuals will need to be updated to comply with the new rules.

Even then, in many cases, operators will be able to apply, adopt or adapt procedures in their current operations manual for use in their new exposition or updated operations manual. New

text in relation to new requirements may be fully integrated in the exposition/operations manual from the commencement date.

Modified arrangements for the expositions of balloon transport operators have been agreed with operators.

Comment 4-2

One respondent strongly objected to the proposed requirement for operators to submit a compliance matrix to CASA by the commencement date, when they submit their exposition or updated operations manual. This respondent stated that if the operator uses a CASA produced sample manual, the manual should be compliant with the law and a compliance matrix should not be necessary.

Another respondent asked if the compliance matrix had to be maintained on an on-going basis by the operator.

Two other respondents stated that they are not in position to assess the workload involved with establishing a compliance matrix, until they see the CASA template for such a document.

CASA response

CASA has reconsidered the requirement for a compliance matrix and has decided that this will not be a mandatory requirement. CASA does consider that operators would benefit from developing a compliance matrix to satisfy themselves that they are compliant with the Flight Operations regulations before they submit their exposition or operations manual to CASA. CASA will therefore recommend to operators that a matrix is developed and maintained; however, this will not be a legal requirement.

Comment 4-3

A small number of respondents suggested that the commencement of the new Flight Operations regulations and the transition should be delayed, ranging from three months (to complete the update/re-write of expositions/operations manuals), to four months (to get past the December peak business and holiday leave period) to five years (to get past the COVID-19 pandemic and business recovery period). Two other respondents suggested an indefinite delay, pending a re-write of the rules in performance-based terms.

CASA response

See CASA's response to 'Common and key issues' and other responses above. CASA is committed to the current transition timelines but will respond to new or changing circumstances, as required.

Comment 4-4

One respondent indicated they disagreed with specific policies of the new Flight Operations regulations, and the risks of not requiring expositions and manuals to be approved by CASA prior to the commencement date.

CASA response

CASA notes the respondent's comment regarding the risks involved with not approving operator expositions and manuals prior to the commencement date. This was not considered necessary or practicable. Exposition and operations manual content will, however, be assessed and pre-approved by CASA in regard to an operator's change management process, procedures for the carriage of aerial work passengers, and in respect of the deferred requirements for training and checking systems, human factors and non-technical skills training programs, safety management systems and rotorcraft performance, as applicable. Other aspects of expositions and operations manuals will be reviewed as part of CASA oversight activities.

Comment 4-5

In relation to transition deadlines and deliverables, one respondent suggested that CASA should publish timeline(s), so these are more transparent to operators.

CASA response

CASA agrees with this suggestion and has published two timelines in relation to the transition deadlines and deliverables in Appendix A to this SOC.

Note: Relevant time periods have been adjusted by a day or two in the timelines to avoid deadlines falling on a weekend.

Response 5 - New AOC/operating certificate applicants (Section 3.3)

There was majority agreement with CASA's proposed policies which permits applicants, starting 180 days before the commencement date, to apply for a new AOC or certificate under the Flight Operations regulations.

Comment 5-1

One respondent suggested that this policy was unfair because such an applicant could seemingly take advantage of some of the regulatory alleviations of the new rules that a current AOC holder could not. The same respondent suggested that CASA's transition policies should generally permit operators to transition early, i.e. prior to the commencement date.

CASA response

To clarify CASA policy, any new AOC or certificate issued under the new Flight Operations regulations could only take effect from or after the commencement date. For example, if a new applicant applies under the new rules for an AOC or certificate 120 days before the commencement date and is approved 30 days before the commencement date, the operator could not start operating under the new AOC or certificate until the commencement date.

CASA's transition policies do not contemplate 'early starters'. Operations before the commencement date need to be conducted under the existing rules.

Response 6 - Delayed commencement dates for some new regulatory requirements (Section 3.4)

There was support (but not unanimous support) for CASA's policy proposals to defer the commencement dates for some new and costly requirements of the new rules and there was no clear consensus on the sequencing and duration of the deferrals, or interim milestones. Some respondents wanted additional deferrals, some wanted no deferrals, and some wanted the sequencing of the proposed deferrals changed.

Comment 6-1 - Training and checking system requirements

Some respondents considered the one-year deferral too short and suggested this should be two or five years. Another respondent said that operators have already effectively received a deferral by virtue of the extended commencement date for the new Flight Operations regulations (from March 2021 to December 2021) and that operators should be encouraged to transition earlier than one year. Another respondent said there should be no deferral of the training and checking system requirements.

One respondent did not understand that they were subject to new training and checking system requirements and for this reason did not offer any comment on this proposal.

CASA response

CASA intends to proceed with this deferral in relation to the training and checking requirements of Part 119, related requirements in Parts 121, 133 and 135 and their MOSs, and Part 138 and its MOS. These deferrals will apply to existing operators not required to have a training and checking organisation/system under the current legislation, provided they do not commence new operations of a kind that require such a system under the new rules.

In order to de-conflict the deadlines for this deferral with other critical dates, and retain sufficient time for CASA engagement with operators transitioning to training and checking requirements, the deadline for submission of an operator's proposed training and checking system will be extended by 3 months to 2 September 2022 and the deadline for implementation of the training and checking system will be extended to 2 March 2023. For small operators the development of a training and checking system for flight crew should not be onerous.

CASA's on-going stakeholder engagement activities for the new Flight Operations regulations will include the advice that operators who are required to comply with the operating rules of Parts 121, 133 or 135 of CASR, are all Part 119 Australian air transport operators, being subject to the organisational and safety system requirements of Part 119 of CASR.

Comment 6-2 - HF/NTS training program requirements

Comments on this two-year deferral generally mirrored the comments regarding training and checking system requirements. In addition, one respondent said the deferral for HF/NTS training should be aligned with the training and checking system deferral.

Some respondents did not agree with the regulatory requirement to have an HF/NTS training program.

CASA response

CASA intends to proceed with this deferral as proposed. There would be no impediment to an operator establishing and implementing their HF/NTS training program at an earlier date, to coincide with implementation of their training and checking system. There are requirements in the existing rules for operators to have an HF/NTS training program and the new rules continue this requirement for Australian air transport operators.

Comment 6-3 - Safety manager and SMS requirements

A variety of comments were received on the proposed SMS related deferrals. They suggested that the deferral was either not required, too short or too long, and that basing the deferral period on whether the operator had or did not have an SMS under Part 142 of CASR was confusing and unnecessary. "Too many dates and too much confusion", as one respondent put it. Another respondent who advocated de-linking the SMS requirement from Part 142 requirements stated that the need for an SMS should be based on the numbers of aircraft and employees and not whether an SMS is required under another Part of the rules.

One respondent strongly objected to any deferral of these requirements. This respondent considered that having an SMS has safety benefits and is a cost saving measure rather than a cost burden. The same respondent considered that the safety manager and SMS mandate should precede and inform the mandate for a training and checking system and HF/NTS training program. They referred to the fact that an SMS is scalable and that CASA has a tool kit and template which can be adopted by an operator.

Another respondent considered that the SMS requirement may be an impediment to the "organic and effective safety practises" that a small operator may have in place.

CASA response

CASA does not, at this time, intend to revise its proposed policy for a 1 or 3 year deferral of safety manager and SMS requirements under the Flight Operations regulations, being dependent on whether the operator already has an SMS as a Part 142 operator. In this context CASA will monitor the industry's recovery from the COVID-19 pandemic and will make any necessary adjustments to the deferral periods. CASA continues to consider the proposed sequencing of the deferrals appropriate, in consideration of the benefits and costs of the deferred provisions as well as the level of effort required of operators and CASA. As stated by one respondent, an SMS has safety benefits and can be scaled to the size and complexity of an operator's operations. There is no reason why the "effective safety practices" of a small operator could not be integrated into their SMS.

Comment 6-4 - Rotorcraft performance requirements for MTO under the VFR by day

Five respondents agreed with this deferral and 3 disagreed, the latter on the basis that the deferral was too long or did not achieve a safety outcome.

CASA response

CASA intends to proceed with this deferral for the portion of an MTO flight conducted by day in VMC. Operators will not have to comply the requirements of paragraphs 133.335(3)(a) and (b)

provided the rotorcraft is operated in accordance with the requirements of performance class 3. CASA will discuss implementation details with MTO operators.

CASA intends to establish an interim milestone for this deferral that would require MTO operators to submit their proposed procedures to CASA for approval, not less than 3 months before the deferred commencement date.

Comment 6-5 - Rotorcraft performance requirements for MTO under the VFR at night or IFR

Four respondents agreed with this deferral and 3 disagreed, the latter on the basis that the deferral was too long or did not achieve a safety outcome.

One respondent was of the view that the deferral should only apply to existing AOC holders, and the deferral period should be three years, or otherwise aligned with contractual periods in place prior to the commencement date, subject to a CASA approved implementation plan.

In relation to applying a condition related to the approach and landing, or baulked landing stage of a flight, the same respondent suggested that the same performance requirement could apply to other stages of flight, specifically that MTO rotorcraft be required to comply with PC2 requirements for all stages of flight—other than when below V_y during take-off, approach and landing, or baulked landing.

Another respondent suggested that perhaps there should be no deferral for the approach and landing phase of flight.

CASA response

CASA intends to proceed with the deferral for MTO flights below minimum height in IMC or under the VFR at night and to extend the application of the deferral to the approach and landing, or baulked landing stage of a flight. Operators will not have to comply with the requirements of paragraph 133.335(1)(a), subject to conditions related to climb performance and obstacle avoidance. CASA plans on extending the deferral to the approach and landing, or baulked landing stage of a flight, subject to conditions. Conditions and implementation details will be discussed with MTO operators.

CASA intends to establish an interim milestone for this deferral that would require MTO operators to submit their proposed procedures to CASA for approval, not less than 3 months before the deferred commencement date.

CASA will not align deferral periods with operator contractual arrangements, as this would result in uneven and inequitable access to the deferral.

Comment 6-6 - Flight deck indicator for particle detection systems

Six respondents agreed and three disagreed with CASA's proposal to defer the requirement to install a flight deck indicator in relation to new requirements for rotorcraft particle detection systems.

CASA response

CASA intends to proceed with this deferral as proposed.

Comment 6-7 - Usage monitoring system (UMS) requirements

This deferral relates to usage monitoring system (UMS) requirements for operations with no suitable forced landing area or marine pilot transfer, when either are conducted in single engine rotorcraft.

Five respondents agreed with the deferral for existing operators and 4 disagreed on the basis that the deferral was too long or did not achieve safety outcomes.

One respondent who agreed believed that the deferral should be for three years or otherwise aligned with contractual periods in place prior to the commencement date, subject to a CASA approved implementation plan.

CASA response

CASA intends to proceed with this deferral as proposed. CASA will not align deferral periods with operator contractual arrangements, as this would result in uneven and unequitable access to the deferral.

Comment 6.8 - Fitment of TAWS and H-TAWS

Five respondents agreed with the deferral for operators and three respondents disagreed on the basis that the deferral was too long or did not achieve safety outcomes.

One respondent who agreed believed that the deferral should be for three years or otherwise aligned with contractual periods in place prior to the commencement date, subject to a CASA approved implementation plan.

CASA response

CASA intends to proceed with the deferral as proposed. CASA will not align deferral periods with operator contractual arrangements, as this would result in uneven and inequitable access to them.

Comment 6.9 - Additional deferrals

One operator requested an additional deferral in relation to new NVIS requirements.

Another operator wanted an additional deferral or relief otherwise in relation to new cabin crew checks, recency requirements, emergency procedures training and route checks.

CASA response

Regarding the new NVIS requirements for operations other than marine pilot transfer, the use of NVIS enables the carriage of passengers in single engine rotorcraft at night. Such an operation is currently only permitted for marine pilot transfer operations via exemption in CAO 95.7.3. This exemption is conditional on a number of risk controls.

Marine pilot transfer operations by helicopter at night are currently the subject of an ongoing investigation by the ATSB. The final investigation report for AO-2018-022 is due to be released in the 2nd quarter of 2021. CASA will consider the findings of this report prior to making final decisions regarding a deferral of these specific NVIS requirements.

In relation to the new requirements for cabin crew checks, recency requirements, emergency procedures training and route checks, as part of the general transitional arrangements for the Flight Operations regulations, these requirements will be initially deemed to be satisfied on the commencement date through the recognition of existing competencies. As outlined earlier in this document, CASA will continue to review the necessity for additional deferrals as part of its continuing assessment of industry recovery from the COVID-19 pandemic.

Response 7 - Expiry periods for specific authorisations under old regulations (Section 3.5)

Over 75% of respondents agreed with, or agreed with changes, to CASA's proposed policy to permit operators to continue to make use of current approvals or other authorisations for a period of time after the commencement date, when the new rules have a requirement that corresponds to a requirement of the existing rules.

Comment 7-1

One operator asked whether the operator had to apply to CASA, under the new Flight Operations regulations, to use a specific approval they held under the old law. In a similar thread, another operator asked whether CASA or the operator's FOI would provide advice to a pilot or operator whether an instrument continued to have effect under the new rules.

CASA response

CASA plans on providing information of a general nature to operators on 'saved' instruments and which are eligible to be carried over.

Assessments of whether an approval, other authorisation or exemption granted under the legislation before the commencement date, can be used by the operator in relation to a provision of the new Flight Operations regulations should be conducted by the approval or exemption holder using the guidance material provided by CASA.

Instruments determined by the approval or exemption holder to be relevant under a corresponding provision of the new flight operations rules and which the holder intends to implement and benefit from, must be appended to the operator's exposition or operations manual, if any. This ensures there is regulatory clarity about which instruments operators wish to continue to rely upon.

Comment 7-2

One operator suggested that approvals and exemptions under the current legislation should be in effect for a minimum of three years after the commencement date.

CASA response

CASA does not agree that approvals and exemptions issued under the legislation existing prior to the commencement date should be carried over for a minimum of 3 years. The proposed transition policy is that the instrument would continue until the earlier of the following: its expiry date, the renewal of the operator's AOC or certificate, or the second anniversary of the instrument after the commencement date. On the earlier of these specified dates, or when the approval is otherwise cancelled by CASA, the approval would cease to have effect. However,

this is not to say, that an approval or exemption in accordance with the new rules could not be re-applied for under the new rules or be considered as part of the operator's AOC or certificate re-issue process.

Comment 7-3

One operator asked if this savings policy would apply to an operator's currently approved key personnel, if they did not meet CASA's minimum requirements for key personnel under the Flight Operations regulations.

CASA response

The transition policy would not result in the 'disqualification' of a currently approved key person on the commencement date, whose approval would continue in effect (other than for cause) until the AOC or certificate is re-issued. At the earliest, this would not occur before three months after the commencement date, in accordance with CASA's policy to extend for six months the expiry dates of AOCs that expire within the period of 89 days before the commencement date and 90 days after the commencement date. New Parts 119, 131 and 138 of CASR provide for CASA to approve alternate experience requirements for key personnel, where prescribed prescriptive requirements do not apply.

Comment 7-4

Another respondent suggested that existing approvals should not be brought forward.

CASA response

An individual pilot or operator approval or exemption would only have been issued to a pilot or operator on the basis that an acceptable level of safety resulted. In order to facilitate a smooth transition to the new rules, and to minimise disruption to industry, CAS considers it appropriate not to require all authorisations to be re-assessed prior to the commencement date.

Response 8 - Flights in progress on commencement date (Section 3.6)

Over 70% of respondents agreed with this policy. CASA intends to proceed with this policy as proposed.

Future direction

CASA anticipates the making of the consequential and transitional (CATS) regulations in the first quarter of 2021. CASA will also be issuing throughout the first half of 2021, legal exemptions to give effect to the deferred provisions and a legal determination providing, for the existing personnel of an existing operator, that the new training and checking requirements are initially satisfied on the basis of previous training and checking events.

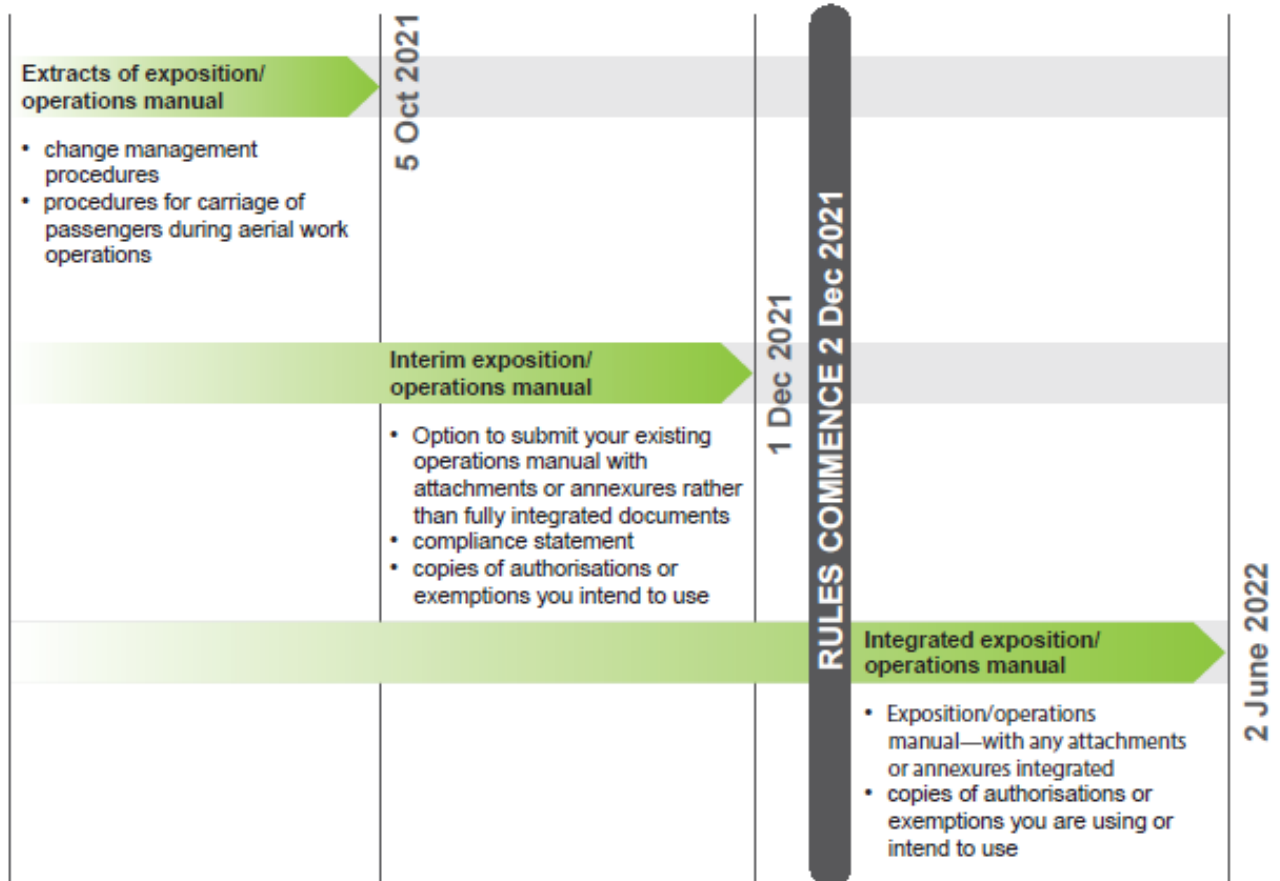
As appropriate, CASA has used the input from respondents from this consultation and other consultation opportunities to refine its transition policies and provide instructions to the Office of Parliamentary Counsel (OPC) to incorporate these in regulation. Exemption and determination drafting and CASA guidance material will also take account of these updated transition policies.

Appendix A

Flight operations regulations transition dates

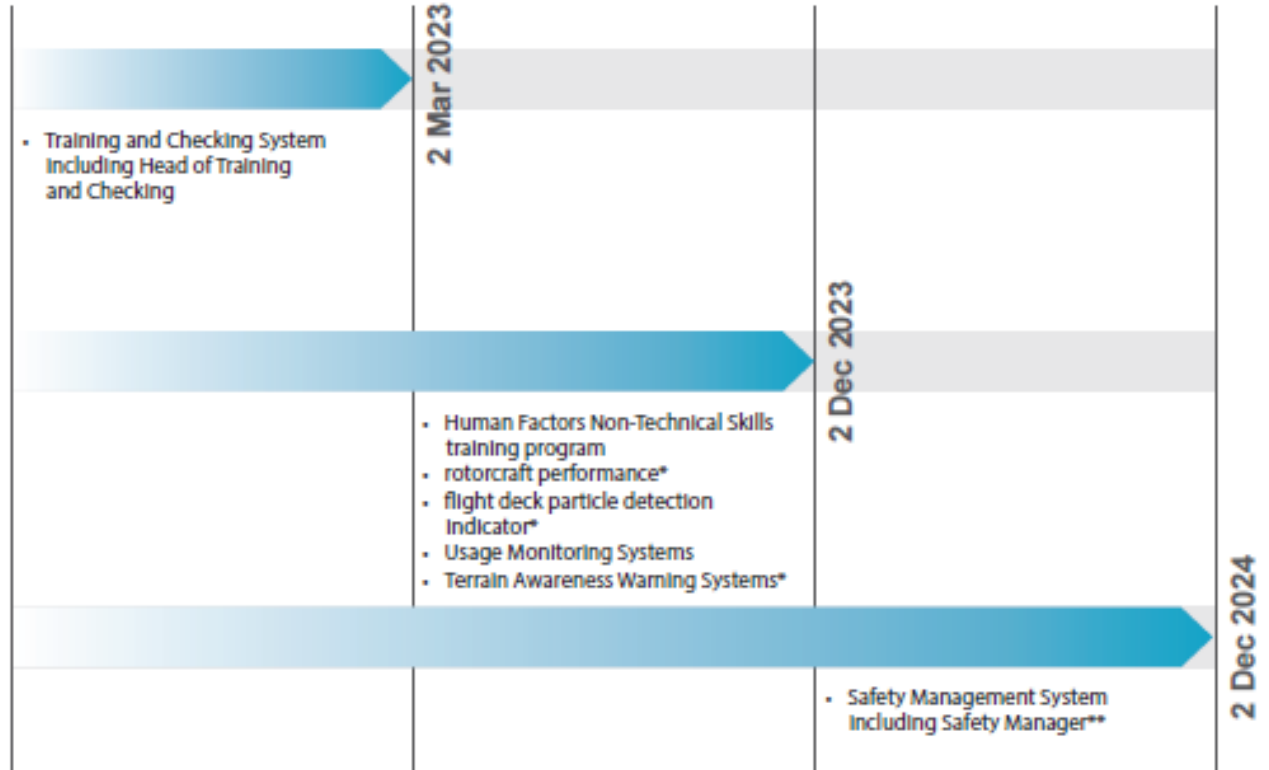
Timeline to commencement for AOC holders transitioning to new rules

FLIGHT OPERATIONS REGULATIONS



Delayed provisions for eligible existing AOC holders

FLIGHT OPERATIONS REGULATIONS



* Deferral also applies to new AOC and certificate holders

** Earlier Implementation for operators with Part 142 SMS – 2 Dec 2022