



# SUMMARY OF CONSULTATION



## **Proposed amendments to Part 101 of CASR and MOS**

Part 101 Manual of Standards 2019

Part 101 Civil Aviation Safety Regulations 1998

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## Overview

In 2016, major amendments were made to Part 101 (Unmanned Aircraft and Rockets) of the Civil Aviation Safety Regulations 1998 (CASR) enabling the associated Part 101 Manual of Standards (MOS) to be published in its initial form in 2019. Following this, CASA conducted a regulatory post-implementation review (PIR) of Part 101 of CASR and its MOS. The aim of the PIR was to recognise what is working well, what could work better, and what will be needed in the future to support the rapidly evolving operating environment.

Through the PIR process as well as formal and informal feedback (from industry, Airservices Australia, the recreational sector and the public), CASA identified a need for further amendments to remotely piloted aircraft (RPA) and model aircraft rules. As a result, these proposed amendments formed Policy Proposal 2107US, which was opened to public comment on 15 December 2021.

The proposed amendments were created to improve safety, facilitate better efficiency for CASA and industry through better processes, reduce costs, clarify requirements, and provide a more consistent framework for the regulation and operation of RPA, model aircraft and rockets under Part 101 of CASR and its MOS.

The consultation closed 21 February 2022. CASA has considered all feedback provided and incorporated, or further clarified, the proposed amendments. These amendments reflect CASA's intent to continue to streamline these instruments to create a set of regulations and standards, with improved flexibility and provide clarity and consistency for industry.

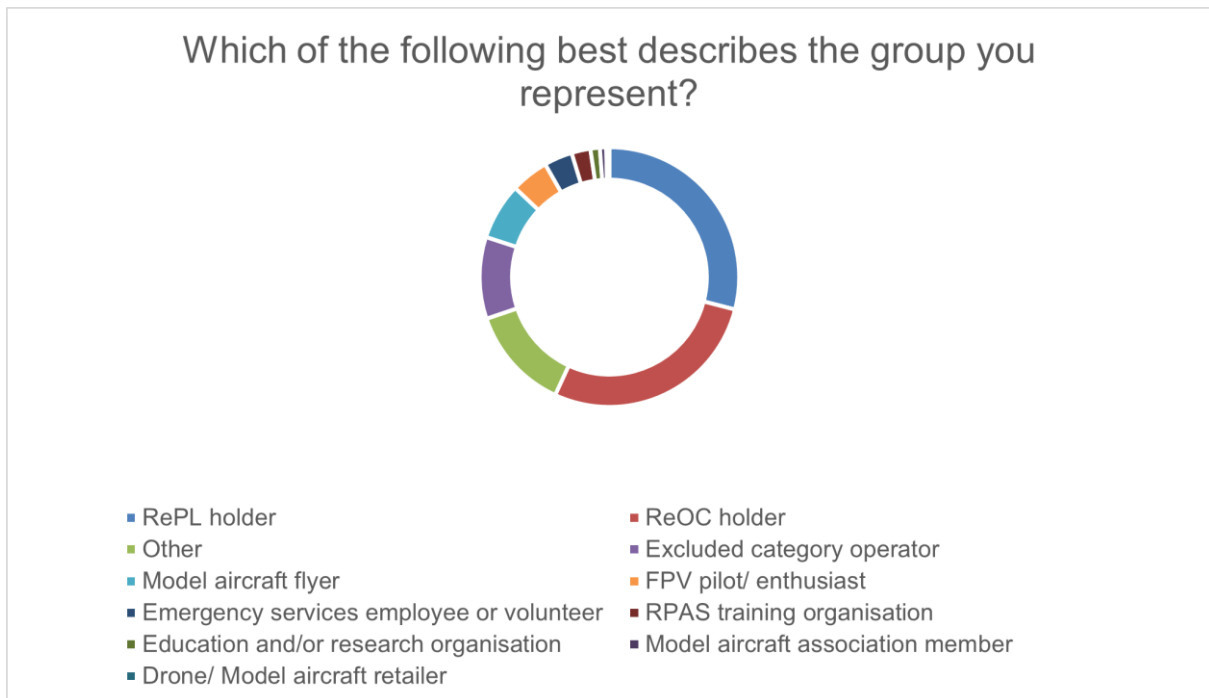
A summary of the feedback received is below.

## Respondents

A total of 255 responses were received to the consultation.

The respondents identified themselves as the following:

- RePL holder (74)
- ReOC holder (71)
- Other (33)
- Excluded category operator (26)
- Model aircraft flyer (18)
- FPV pilot/ enthusiast (12)
- Emergency services employee or volunteer (9)
- RPAS training organisation (6)
- Education and/or research organisation (3)
- Model aircraft association member (2)
- Drone/ Model aircraft retailer (1)



**Figure 1: Groups represented by respondents**

One hundred and sixty seven respondents gave permission for their response to be published.

CASA values the contributions made by all respondents. Where permission to publish has been granted by the respondent, individual consultation responses can be found at [Proposed amendments to Part 101 CASR and MOS - Unmanned aircraft and rockets.](#)

## Key feedback

The purpose of the consultation on the proposed policies and amendments was to seek feedback on whether what is proposed meets industry's needs, and to identify any unforeseen consequences. Overall, respondents were positive in supporting the direction CASA is taking. It should be noted that 20-30% of respondents either chose not to respond to a particular question or considered it to be beyond their area of expertise. This may be attributed to Part 101 of CASR covering a broad range of topics and not all respondents were fully informed or had an interest in every topic.

In general, comments on consultation questions were from people who disagreed with the amendments or who 'agreed with changes'. Respondents identified the proposed changes as fit for purpose and likely to ease pain-points through increased efficiency. In particular, the reductions in cost and administrative burden were positively highlighted in the comments, as was the support for maintaining a high level of safety.

Some amendments proposing to introduce new administrative requirements caused some contention. However, these, were balanced with the strong support shown for easing of the current administrative requirements in other areas. In terms of the top three key priorities for respondents, the issues of safety, clearer regulation and regulations which reduce or eliminate processing times were most frequently identified. The following thematic summaries express some respondents' suggestions and concerns, and CASA's response to that feedback. It should be noted that all comments from respondents were considered in developing CASA's position in respect of the various questions in the survey.

## Alcohol and other drugs

Most respondents (61%) agreed that CASA should have the ability to conduct alcohol and other drug testing of individuals, with only 13% of respondents disagreeing. Respondents were more evenly split on whether all RPA operator certificate (ReOC) holders should be required to develop and maintain a drug and alcohol management plan (DAMP) or a micro-DAMP, with 29% agreeing and 35% disagreeing. Nevertheless, more than 40% of respondents supported a DAMP requirement only for ReOC holders operating medium and large RPA.

Feedback from the responses received outlined that drug and alcohol testing may already be required by employers, and any new regulations in this area should be primarily aimed at those who are in direct command of an RPA in flight. Other respondents state as this testing may be difficult to track, testing should be intelligence-based. Respondents also felt that the requirement on all ReOC holders to develop a DAMP or micro-DAMP would be an unnecessary bureaucratic burden, with existing laws on safety and duty of care being sufficient to mitigate risk.

## Enclosed and sheltered operations

There was strong support for the proposed amendments in this section. Comments focused on the low risk profile of indoor operations to people or property and the limitations of current regulations for remotely piloted aircraft systems (RPAS). Eighty percent of all respondents supported deregulating indoor spaces where risks associated with RPA or model aircraft escaping are managed. The positive support also extended to newly proposed definitions of 'enclosed operations' and 'sheltered operations,' which were deemed to suitably reflect the policy intent.

## **EVLOS, BVLOS, risk assessment and research and development**

Strong support (69%) was shown for the research and development of micro, very small and small RPA to be included within the meaning of excluded RPA.

Only 14% of respondents disagreed or were undecided with the proposal to issue the BVLOS approval to the ReOC holder.

Respondents welcomed the increased flexibility for CASA to approve operations that meet acceptable risk management frameworks, with 76% of respondents agreeing. Suggestions on this question included that the process should be transparent but not too onerous, with the possible introduction of a fee waiver system and some leniency for recreational flyers.

Responses in relation to EVLOS remote pilots suggested that more flexibility be provided in terms of experience and recency standards. In terms of research and development activity, respondents provided support but voiced concern over potential safety issues.

## **Micro, excluded and large RPA**

Overall, support was shown for the incorporation of the requirements of CASA EX38/21 - *Obtaining Experience for Grant of RePL for Medium RPA, and for RePL Upgrade to Different Category of Small or Medium RPA – Exemption Instrument 2021* into the MOS, amending sections 5.10 and 5.11 of the MOS and introducing testing after maintenance or repair of an RPA into the meaning of excluded RPA. Respondents agreed that demonstration of RPAS should fall within the meaning of excluded RPA, as the requirement for a business to hold a ReOC to conduct demonstration flights may be too onerous given the risk profile. Feedback on the contrary (8% disagreed) indicated that some RPAS vendors do not understand to a satisfactory level the equipment they are selling and that removing the need to hold an ReOC would further degrade that understanding of what is required of an operator to meet CASA requirements. A similar sentiment was expressed for permitting test flights after maintenance and repair activity to be included in the excluded category (8% disagreed).

## **CASA Direction 55/20 (since reissued as CASA Direction 22/22)**

Just over half of all respondents (55%) agreed with the incorporation of CASA Direction 55/20 *Operation of Certain Unmanned Aircraft Directions 2020* into Part 101 of CASR and MOS, weighed against 2.5% of respondents who disagreed with this amendment. Stronger support (67%) was shown for prescribing the requirements of subregulation 101.300 (5) of CASR and section 10 of CASA Direction 55/20 into the MOS. More than two thirds of respondents supported requirements in paragraphs 101.095 (1) (a) and (c) of CASR to no longer be applicable to RPA and model aircraft, and that RPA night operations should be prescribed in the MOS. Key feedback on this section include that 'essential to the control and navigation' does not remove ambiguity, the difficulty of visual meteorological conditions (VMC) restrictions, and the need for simplifying night operations.

## **Enforcement provisions**

Just over 50% of respondents supported CASA to be granted powers to direct a person to provide identification or to cease operations where CASA has reasonable grounds the person is unlawfully operating an RPA or model aircraft. Further, 67% of respondents supported CASA to

have the ability to use computer programs to assist with the management of low-risk decision making. Although still overwhelmingly positive, support was less marked for CASA having the power to vary or suspend RePL/ ReOC authorisations, approvals and excluded category operations. Respondents stated in their feedback that greater clarity is needed around these amendments. More specifically, what constitutes 'reasonable grounds,' who may demand to see authorisation/identification and the extent of the enforcement powers sought. The question of whether CASA can delegate this power was also of concern.

## **Aerodromes and airspace**

Sixty-four percent of respondents believed that CASA should be the relevant authority for RPA and model aircraft operations near aerodromes, as well as for issuing Notices to Airmen (NOTAMs). More than two thirds of respondents further agreed that amending references of 'movement area,' to instead reference 'three nautical miles from the intersection of the centreline and the thresholds of a runway' will improve clarity and will not introduce any unintended consequences. There were mixed views around the proposal to streamline regulations for operations near controlled aerodromes, especially regarding NOTAMs. Around 16% of respondents stated that more controls were needed, while others felt that there were still too many restrictions, especially for certified operators.

## **Record keeping, manuals and documentation**

Regarding the requirement to keep records or give information to CASA, fewer than half of all respondents agreed with the proposed regulation 101.062 and repeal of regulation 101.272 of CASR. Slightly stronger support (47%) was shown for a proposed new subregulation for chief executive officer responsibilities and requirements, and amendment to subregulation 101.340 (1) of CASR. Nevertheless, 62% of responses indicated that the proposed amendments will appropriately reduce record-keeping requirements.

Eleven respondents contended that the proposed record-keeping requirements for ReOC holders were excessive, particularly for simple and single-person operations. It was noted that some respondents expressed agreement with the record-keeping proposals, provided that suitable templates are provided by CASA to keep the process as simple as possible.

The terminology shift from '*unmanned*' to '*uncrewed*' was supported by 42% of respondents, and two respondents highlighting that the amendment was in line with a similar change in terminology by the United States Federal Aviation Administration and the Australian Association for Uncrewed Systems. Some dissatisfaction with the amendment was expressed amongst 22% of respondents, namely expressing concern that this change may cause confusion in the industry.

## **RePL holders and instructors**

Sixty percent of respondents were in favour of removing outdated eligibility requirements. Sixty-four percent of respondents supported the clarification that a person must have five hours of RPA general aeronautical experience, but not necessarily five hours on the type or category for which they apply. Two key concerns were raised regarding this amendment. Firstly, whether a minimum requirement of practical operating time should be prerequisite for each class or



category endorsement. Secondly, whether five hours is sufficient or if it would be beneficial to extend the minimum requirement to 10 hours.

The introduction of a general competency requirement would add a requirement that a RePL holder must be competent and current on an RPAS they operate commercially. Respondents were in favour of this requirement for RePL holders (52%) and agreed with the proposed standards in the MOS in relation to competency (49%). Both the new regulation for the chief RePL instructor role and the delay in the commencement of RePL training instructor requirements were supported, with 36% and 40% in favour, respectively.

## RePL training and schedules

Strong support (64%) was shown by respondents for the removal of the requirement for an applicant to re-sit all theory components of an RePL course for the purposes of currency, however, this support decreased to 47% for the removal of condition requirements on a RePL. Support of between 50%- 60% was shown by the respondents for the rest of the amendments in this section, such as allowing CASA to set aeronautical knowledge examinations and permitting nominated remote pilots to perform EVLOS checks.

Regarding support for amendment to paragraph 101.295 (2) (c) of CASR, four respondents expressed concern that this may open the ability for training organisations to minimise face-to-face time for financial benefit through reduced resource costs. Suggested changes to wording included a proposal that the minimum operating hours or experience must be on an airframe of the same weight class of the applicant's RePL. In terms of competency requirements and penalty provisions, respondents requested further detailed information.

## Machinery amendments

Several respondents either did not answer questions in this section (30%) or marked them as 'undecided / not my area of expertise' (20%). Nevertheless, support for the machinery amendments ranged around 40% to 50%, and comments were supportive of the efforts to streamline and simplify the regulations.

## Rockets, balloons, fireworks, and tethered operations

The amendments in this section received strong support, however, more than 60% of all respondents either did not answer or marked themselves as undecided.

## Other feedback

Overall, respondents agreed that CASA's aim to streamline processes and increase efficiency for industry has been achieved, with only 11% disagreeing. Most respondents agreed that the proposed changes could be complied with by industry without undue burden, with only 6% disagreeing.

Five respondents stated that CASA must consult more with model aircraft and sport and recreation flyers to identify opportunities for improved collaboration and consultation. CASA notes that model aircraft associations were represented in the formal technical working group consultation meetings conducted in July 2021 but will endeavour to engage with unaffiliated aero modellers beyond public consultation mechanisms.



## Future direction

The feedback received from this consultation has provided CASA further insight into the effect of the proposed amendments and has informed the development of policy and implementation and transition timeframes.

CASA anticipates making of the proposed Part 101 of CASR amendments in 2023, subject to the federal government's priorities. Amendment to the Part 101 MOS is planned to progress in tranches during 2022 and 2023.

In addition to this, CASA will introduce a transition period for some of the proposed CASR and MOS amendments to ensure that industry and/or CASA have sufficient time to adapt to the new requirements. The timeframe for this transition would depend on the date the instrument is signed, registered, and implemented by CASA. CASA will monitor and review the new rules during the transition phase and on an ongoing basis. CASA will also continue work on further proposed changes to the Part 101 of CASR regulations and its MOS to support remotely piloted aircraft and model aircraft operations.