Civil Aviation Act 1988

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About this compilation

This compilation

This is a compilation of the *Civil Aviation Act 1988* that shows the text of the law as amended and in force on 18 December 2020 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish a Civil Aviation Safety Authority with functions relating to civil aviation, in particular the safety of civil aviation, and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Civil Aviation Act 1988*.

2 Commencement

(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Part III, section 98 and Part X, and the amendments made by Part IX, commence on a day or days to be fixed by Proclamation.

3 Interpretation

In this Act, unless the contrary intention appears:

83 bis agreement means an agreement entered into under Article 83 bis of the Chicago Convention.

AA means Airservices Australia established by the *Air Services Act 1995*.

aerodrome means an area of land or water (including any buildings, installations and equipment), the use of which as an aerodrome is authorised under the regulations, being such an area intended for use wholly or partly for the arrival, departure or movement of aircraft.

aeronautical product means any part or material that is, or is intended by its manufacturer to be, a part of or used in an aircraft, unless excluded by the regulations.

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aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface.

air route means the navigable airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for application of flight rules.

air route and airway facilities means facilities provided to permit safe navigation of aircraft within the airspace of air routes and airways, including:

(a) visual and non-visual aids along the air routes and airways;
(b) visual and non-visual aids to approach and landing at aerodromes;
(c) communications services;
(d) meteorological observations;
(e) air traffic control services and facilities; and
(f) flight service services and facilities.

airway means a designated path in an air route identified by an area of specified width on the surface of the earth.

ANZA is short for Australia New Zealand Aviation.

ANZA activities in Australian territory, in relation to a New Zealand AOC with ANZA privileges, means the operations in, or flights into or out of, Australian territory that are authorised by the AOC, to the extent that it is expressed to be issued under section 11G of the Civil Aviation Act 1990 of New Zealand.

ANZA activities in New Zealand, in relation to an Australian AOC with ANZA privileges, means the operations in, or flights into or out of, New Zealand that are authorised by the AOC, to the extent that it is expressed to be issued for the purposes of the ANZA mutual recognition agreements.

ANZA mutual recognition agreements means the agreement or arrangement, or agreements or arrangements, as amended and in force from time to time, identified in regulations made for the purposes of this definition.

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AOC means an Air Operator's Certificate issued under Division 2 of Part III.

Note: In some provisions ***AOC*** is used in the context of a New Zealand AOC with ANZA privileges (which is a document granted under the Civil Aviation Act 1990 of New Zealand).

Australian aircraft means:

(a) aircraft registered in Australia; and

(b) aircraft in Australian territory, other than foreign registered aircraft and state aircraft.

Note: Some references to Australian aircraft may be affected by the operation of section 4A.

Australian AOC with ANZA privileges means an AOC that is expressed, wholly or partly, to be issued for the purposes of the ANZA mutual recognition agreements (see subsections 27(2AA) to (2AC)).

Australian temporary stop notice has the meaning given by subsection 28D(1).

Australian territory means:

(a) the territory of Australia and of every external Territory;

(b) the territorial sea of Australia and of every external Territory; and

(c) the air space over any such territory or sea.

authorised officer means an officer authorised by CASA in writing to act under the provision in which the expression occurs.

authority of the Commonwealth includes:

(a) the Defence Force;

(c) the Australian Federal Police;

(d) a body, whether incorporated or not, established for public purposes by or under a law of the Commonwealth or of a Territory;

(e) the holder of an office established for public purposes by or under a law of the Commonwealth or of a Territory; and

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(f) a company in which the whole of the shares or stock, or shares or stock carrying more than half the voting power, is or are owned by or on behalf of the Commonwealth.

aviation safety standards means standards relating to the following:

(a) the flight crews engaged in operations of aircraft;

(b) the design, construction, maintenance, operation and use of aircraft and related equipment;

(c) the planning, construction, establishment, operation and use of aerodromes;

(d) the establishment and use of airspace;

(e) the planning, construction, establishment, maintenance, operation and use of:

(i) services and facilities of the kind covered by paragraph 8(1)(a) of the *Air Services Act 1995*; and

(iii) services of the kind referred to in paragraph 6(1)(b) of the *Australian Maritime Safety Authority Act 1990* to the extent that those services use aircraft;

and any construction associated with those facilities or services;

(f) the personnel engaged in:

(i) the maintenance of aircraft and related equipment; or

(ii) anything referred to in paragraph (c) or (e).

aviation security means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference.

Board means the Board of CASA.

Board member means a member of the Board appointed in accordance with section 54.

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

CAA New Zealand means the Civil Aviation Authority established by the Civil Aviation Act 1990 of New Zealand, or any successor to that Authority.

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CASA means the Civil Aviation Safety Authority established by this Act.

certificate includes an AOC.

Chair means the Chair of the Board.

Chicago Convention means:

(a) the Convention on International Civil Aviation done at Chicago on 7 December 1944, whose English text is set out in Schedule 1 to the *Air Navigation Act 1920*;

(b) the Protocols amending that Convention, being the Protocols referred to in subsection 3A(2) of that Act, whose English texts are set out in Schedules to that Act; and

(c) the Annexes to that Convention relating to international standards and recommended practices, being Annexes adopted in accordance with that Convention.

civil aviation authorisation means an authorisation under this Act or the regulations to undertake a particular activity (whether the authorisation is called an AOC, permission, authority, licence, certificate, rating or endorsement or is known by some other name).

civil aviation legislation means:

(a) this Act or the regulations; or

(b) legislative instruments made under this Act or the regulations; or

(c) Chapter 7 of the *Criminal Code*, insofar as that Chapter applies to conduct in relation to:

(i) this Act or the regulations; or

(ii) legislative instruments made under this Act or the regulations; or

(iii) CASA; or

(iv) an officer acting, or purporting to act, in the course of the officer's official duties; or

(v) an authorised person acting, or purporting to act, in accordance with powers conferred under the regulations; or

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(vi) a person to whom a power or function has been delegated under this Act, the regulations, or an instrument made under this Act or the regulations.

civil aviation offence means an offence against the civil aviation legislation.

Civil Aviation Orders means the orders made under subsection 98(4A) or referred to in subsection 98(5).

commercial presence means any type of business or professional establishment.

Example: A person can have a ***commercial presence*** through the creation or maintenance of a branch or representative office.

constitutional corporation means:

(a) a corporation to which paragraph 51(xx) of the Constitution applies; or

(b) a body corporate that is incorporated in a Territory.

Contracting State means a foreign country that is a party to the Chicago Convention.

Council means the Council of the International Civil Aviation Organization.

country where the aircraft is registered, in relation to an aircraft registered under a joint registration plan or an international registration plan, means any Contracting State that is a member of the international operating agency that established the plan.

data has the same meaning as in Part IAA of the *Crimes Act 1914*.

data held in a computer has the same meaning as in Part IAA of the *Crimes Act 1914*.

data storage device has the same meaning as in Part IAA of the *Crimes Act 1914*.

Deputy Chair means the Deputy Chair of the Board.

Director means the Director of Aviation Safety appointed under section 74.

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Director of CAA New Zealand has the same meaning as ***Director*** has in the Civil Aviation Act 1990 of New Zealand.

evidential material means a thing that may be relevant to a civil aviation offence.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

flight means:

(a) in the case of a heavier-than-air aircraft, the operation of the aircraft from the moment at which the aircraft first moves under its own power for the purpose of taking-off until the moment at which it comes to rest after being airborne; and

(b) in the case of a lighter-than-air aircraft, the operation of the aircraft from the moment when it becomes detached from the surface of the earth or from a fixed object on the surface of the earth until the moment when it becomes again attached to the surface of the earth or a fixed object on the surface of the earth.

foreign registered aircraft means an aircraft registered:

(a) in a foreign country; or

(b) under a joint registration plan or an international registration plan.

ICAO means the International Civil Aviation Organization referred to in the Chicago Convention.

in force for Australia, in relation to a New Zealand AOC with ANZA privileges, has the meaning given by section 3AA.

inspection powers, in relation to prescribed premises, means the following powers:

(a) power to search the premises;

(b) power to inspect, examine, and take samples of, any substance or thing on or in the premises;

(c) power to photograph, or make sketches of, the premises and any substance or thing on or in the premises;

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(d) power to take extracts from, or make copies of, any books, records or documents relating to an aircraft or required to be kept under this Act or the regulations.

international operating agency has the same meaning as in the regulations.

international registration plan has the same meaning as in the regulations.

investigator means an investigator appointed under section 32AA.

joint registration plan has the same meaning as in the regulations.

licence, except in paragraph 26(2)(b), includes a rating or other endorsement on a licence.

maintenance means any task required to ensure, or that could affect, the continuing airworthiness of an aircraft or aeronautical product, including any one or combination of overhaul, repair, inspection, replacement of an aeronautical product, modification or defect rectification.

manoeuvring area means that part of an aerodrome to be used for the take-off and landing of aircraft and for the movement of aircraft associated with take-off and landing, but does not include any part of an aerodrome to be used:

(a) for the purpose of enabling passengers to board aircraft or disembark from aircraft;

(b) for loading cargo on to aircraft or unloading cargo from aircraft; or

(c) for refuelling, parking or carrying out maintenance on aircraft.

New Zealand has the same meaning as in the Interpretation Act 1999 of New Zealand.

New Zealand AOC with ANZA privileges has the same meaning as in section 2 of the Civil Aviation Act 1990 of New Zealand.

New Zealand temporary stop notice has the same meaning as in section 2 of the Civil Aviation Act 1990 of New Zealand.

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non-scheduled flight means a flight over or into Australian territory otherwise than under the authority of an international airline licence issued under the *Air Navigation Act 1920*.

occupier, in relation to prescribed premises, being an aircraft, vessel or vehicle, means the person apparently in charge of the aircraft, vessel or vehicle.

officer means a member of the staff of CASA.

operate, in relation to an aerodrome, includes manage, maintain and improve the aerodrome.

premises means:

(a) an area of land or any other place, whether or not it is enclosed or built on; or

(b) a structure, building, aircraft, vessel or vehicle;

and includes a part of any such premises.

prescribed premises means premises connected with, or used for the purposes of, activities related to civil aviation, or where any records relating to such activities are kept.

provide includes maintain, operate and use.

regulated domestic flight means a flight:

(a) that is undertaken wholly within Australia for a purpose prescribed by the regulations for the purposes of subsection 27(9); and

(b) that is not undertaken as part of a flight into or out of Australian territory.

regulatory function means the function under subsection 9(1).

safety rules, in relation to a permission or AOC, means the provisions of this Act, the regulations and the Civil Aviation Orders that relate to safety (including rules about the competence of persons to do anything that would be covered by the permission or AOC).

show cause notice means a written notice to the holder of a civil aviation authorisation:

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(a) that, by this Act or the regulations, is required to set out the reasons why CASA is considering making a decision under the Act or regulations; and

(b) that is required to state a period during which the holder may show cause why CASA should not make the decision.

state aircraft means:

(a) aircraft of any part of the Defence Force (including any aircraft that is commanded by a member of that Force in the course of duties as such a member); and

(b) aircraft used in the military, customs or police services of a foreign country.

time-in-service, in relation to an aircraft, has the same meaning as in the regulations.

unmanned aircraft levy means the levy imposed by the *Civil Aviation (Unmanned Aircraft Levy) Act 2020*.

vehicle includes:

(a) a trailer, caravan or portion of an articulated vehicle; and

(b) an object that was designed or adapted for use as a vehicle but is incapable of being so used because:

(i) a part has, or parts have, been removed from it; or

(ii) it is in a wrecked or damaged condition.

3AA When a New Zealand AOC with ANZA privileges is *in force for Australia*

(1) For the purposes of this Act, a New Zealand AOC with ANZA privileges is ***in force for Australia*** if the AOC:

(a) is current under the Civil Aviation Act 1990 of New Zealand; and

(b) has come into force for Australia under subsection 28C(1) of this Act.

(2) However, while an Australian temporary stop notice is in force in relation to particular activities authorised by a New Zealand AOC with ANZA privileges, the AOC is not ***in force for Australia*** in relation to those activities.

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3A Main object of this Act

The main object of this Act is to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

4 Application to state aircraft

Except where the expression ***state aircraft*** is used, references in Part III or IIIB or section 98 to aircraft or air navigation do not include references to state aircraft or air navigation by state aircraft.

4A Application to aircraft subject to 83 bis agreements

(1) In this section:

function includes duties;

this Act includes the regulations.

(2) Despite anything in this Act, a provision in this Act (the ***applied provision***) applies to an aircraft that is registered in a Contracting State as if the aircraft were an Australian aircraft if:

(a) an 83 bis agreement to which Australia is a party and which is in force has the effect of transferring a function of the Contracting State as the State of registry in respect of the aircraft to Australia; and

(b) the agreement states that the applied provision relates to that function.

(3) Despite anything in this Act, a provision in this Act (the ***disapplied provision***) does not apply to an Australian aircraft if:

(a) an 83 bis agreement to which Australia is a party and which is in force has the effect of transferring a function of Australia as the State of registry in respect of the aircraft to a Contracting State; and

(b) the agreement states that the disapplied provision relates to that function.

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(4) Despite anything in this Act, a reference in this Act (other than subsections (2) and (3) of this section) to or in relation to a Contracting State in which an aircraft is registered includes a reference to or in relation to another Contracting State to which any function of the State of registry in respect of that aircraft has been transferred under an 83 bis agreement that has effect in relation to Australia in accordance with Article 83 bis of the Chicago Convention.

(5) If:

(a) Australia has entered into an 83 bis agreement; or

(b) an 83 bis agreement to which Australia is a party has been amended;

CASA must, as soon as practicable, publish a *Gazette* notice setting out particulars of the agreement or amendment.

(6) Without limiting subsection (5), the notice must set out:

(a) the Contracting State that is the other party to the agreement; and

(b) the date of commencement of the agreement or amendment; and

(c) the aircraft to which the agreement or amendment relates; and

(d) the functions of the State of registry in respect of the aircraft that are transferred under the agreement or amendment; and

(e) the provisions of this Act that are stated in the agreement or amendment to be related to the functions.

(7) If an 83 bis agreement has ceased to be in force, CASA must, as soon as practicable, publish a *Gazette* notice setting out particulars of that cessation.

(8) A notice under subsection (5) or (7) is prima facie evidence of the matters stated in it.

5 Act to bind Crown

(1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

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(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence, but this subsection does not prevent the prosecution of:
  (a) a member of the crew of an aircraft owned by the Crown; or
  (b) any other person employed by the Crown.

6 Extension to external Territories

This Act extends to all the external Territories.

7 Extra-territorial application

This Act extends to matters relating to:
  (a) foreign registered aircraft flying into or out of Australian territory or operating in Australian territory; and
  (aa) foreign registered aircraft specified in any 83 bis agreement that has the effect of transferring functions or duties; and
  (ab) the provision of services referred to in subsection 9(4); and
  (b) subject to any 83 bis agreement, Australian aircraft operating outside Australian territory; and
  (c) ANZA activities in New Zealand authorised by Australian AOCs with ANZA privileges.

7A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part II—Establishment, functions etc. of CASA

8 Establishment of CASA

(1) An authority called the Civil Aviation Safety Authority is established by this subsection.

(2) CASA:

(a) is a body corporate with perpetual succession;

(b) shall have a seal; and

(c) may sue and be sued in its corporate name.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the CASA. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of CASA appearing on a document and shall presume that the document was duly sealed.

9 CASA's functions

(1) CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:

(a) civil air operations in Australian territory;

(b) the operation of Australian aircraft outside Australian territory;

(ba) ANZA activities in New Zealand authorised by Australian AOCs with ANZA privileges;

by means that include the following:

(c) developing and promulgating appropriate, clear and concise aviation safety standards;

(d) developing effective enforcement strategies to secure compliance with aviation safety standards;

(da) administering Part IV (about drug and alcohol management plans and testing);

(e) issuing certificates, licences, registrations and permits;

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(f) conducting comprehensive aviation industry surveillance, including assessment of safety-related decisions taken by industry management at all levels for their impact on aviation safety;

(g) conducting regular reviews of the system of civil aviation safety in order to monitor the safety performance of the aviation industry, to identify safety-related trends and risk factors and to promote the development and improvement of the system;

(h) conducting regular and timely assessment of international safety developments.

(2) CASA also has the following safety-related functions:

(a) encouraging a greater acceptance by the aviation industry of its obligation to maintain high standards of aviation safety, through:

(i) comprehensive safety education and training programs; and

(ii) accurate and timely aviation safety advice; and

(iii) fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and compliance with relevant legislation;

(b) promoting full and effective consultation and communication with all interested parties on aviation safety issues.

(3) CASA also has the following functions:

(aa) implementing the ANZA mutual recognition agreements;

(a) cooperating with the Australian Transport Safety Bureau in relation to investigations under the *Transport Safety Investigation Act 2003* that relate to aircraft;

(b) any functions conferred on CASA under the *Civil Aviation (Carriers' Liability) Act 1959*, or under a corresponding law of a State or Territory;

(ba) enforcing the requirements of this Act and the regulations in relation to insurance and financial arrangements required under Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959*;

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(c) any functions conferred on CASA under the *Air Navigation Act 1920*;

(ca) entering into 83 bis agreements on behalf of Australia;

(cb) any functions conferred on CASA under the *Aviation Transport Security Act 2004*;

(cc) any functions conferred on CASA under the *Airspace Act 2007* or under regulations under that Act;

(cd) any functions conferred on CASA under the *International Interests in Mobile Equipment (Cape Town Convention) Act 2013* or rules made under that Act;

(d) any other functions prescribed by the regulations, being functions relating to any matters referred to in this section;

(e) promoting the development of Australia's civil aviation safety capabilities, skills and services, for the benefit of the Australian community and for export;

(f) providing consultancy and management services relating to any of the matters referred to in this section, both within and outside Australian territory;

(g) any functions incidental to any of the functions specified in this section.

(4) In performing the function under paragraph (3)(f), CASA may, under a contract with a foreign country or with an agency of a foreign country, provide services for that country or agency in relation to the regulation of the safety of air navigation or any other matter in which CASA has expertise. Those services may include conducting safety regulation in relation to foreign registered aircraft under the law of a foreign country.

9A Performance of functions

(1) In exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

(2) Subject to subsection (1), CASA must exercise its powers and perform its functions in a manner that ensures that, as far as is practicable, the environment is protected from:

(a) the effects of the operation and use of aircraft; and

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(b) the effects associated with the operation and use of aircraft.

(3) Subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

(a) consider the economic and cost impact on individuals, businesses and the community of the standards; and

(b) take into account the differing risks associated with different industry sectors.

11 Functions to be performed in accordance with international agreements

CASA shall perform its functions in a manner consistent with the obligations of Australia under the Chicago Convention and any other agreement between Australia and any other country or countries relating to the safety of air navigation.

11A Compliance with Australian Airspace Policy Statement

(1) Subject to subsection 9A(1), CASA must exercise its powers and perform its functions in a manner consistent with the Australian Airspace Policy Statement.

(2) If CASA proposes to exercise a power or perform a function in a manner that is inconsistent with the Australian Airspace Policy Statement, CASA must notify the Minister in writing that it is proposing to do so and of its reasons.

(3) In this section:

Australian Airspace Policy Statement means the statement made under subsection 8(1) of the *Airspace Act 2007*.

12 Directions

(1) The Minister may give the Board written directions as to the performance of its functions or the exercise of its powers.

(1A) Without limiting subsection (1), a direction under that subsection may require the Board to consult:

(a) in the manner specified by the Minister; and

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(b) about matters specified by the Minister; and
(c) with bodies and organisations specified by the Minister.

(2) Directions as to the performance of its regulatory function shall be only of a general nature.

(4) The Board must comply with a direction given under subsection (1).

(5) This section does not affect the application of section 22 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the application of government policy to corporate Commonwealth entities) in relation to CASA.

12A Minister may give the Board notices about its strategic direction etc.

(1) The Minister may notify the Board in writing of the Minister's views on the following matters:
(a) the appropriate strategic direction for CASA;
(b) the manner in which CASA should perform its functions.

(1A) Subsection (1) does not permit the Minister to notify views in relation to a particular case or a particular holder of a civil aviation authorisation.

(2) In performing its functions, the Board must act in accordance with notices given under subsection (1).

12B Minister may direct CASA to give documents and information to nominee

(1) The Minister may direct CASA to give to a specified ministerial nominee any documents or information relating to CASA's operations that the nominee requests.

(2) CASA must comply with the direction.

(3) In this section:

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ministerial nominee means a person whose responsibilities or duties include advising the Minister about CASA's performance and strategies.

13 CASA's powers

(1) In addition to any other powers conferred on it by this Act, CASA has, subject to this Act, power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the powers include, subject to this Act, power:

(a) to enter into contracts; and

(b) to acquire, hold and dispose of real and personal property; and

(e) to let on hire plant, machinery, equipment or goods of CASA not immediately required by CASA; and

(f) to do anything incidental to any of the powers specified in this subsection or otherwise conferred on CASA.

(4) Where CASA may provide a service, CASA may do so:

(a) itself;

(b) in co-operation with another person (including the Commonwealth); or

(c) by arranging for another person (including the Commonwealth) to do so on its behalf.

(5) CASA may appoint a body or bodies to advise CASA in relation to the performance of its functions.

16 Consultation

In the performance of its functions and the exercise of its powers, CASA must, where appropriate, consult with government, commercial, industrial, consumer and other relevant bodies and organisations (including ICAO and bodies representing the aviation industry).

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Part III—Regulation of civil aviation

Division 1—General regulatory provisions

19 Civil Air Ensign

(1) The design and colours of the Civil Air Ensign of Australia are as specified by notification in the *Gazette* on 4 March 1948, until another ensign is appointed in its place under section 5 of the *Flags Act 1953*.

(2) The Civil Air Ensign of Australia may be flown or otherwise displayed:
  (a) by CASA; or
  (aa) by AA; or
  (b) on an Australian aircraft engaged in international air navigation; or
  (c) with the permission of CASA and in accordance with any conditions specified in the permission.

(3) Except as provided in subsection (2), a person shall not fly or otherwise display the Civil Air Ensign.

  Penalty: 5 penalty units.

(4) An offence under subsection (3) is an offence of strict liability.

  Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

20AA Flying unregistered aircraft etc.

Flying an unregistered aircraft

(1) A person must not fly an aircraft within Australian territory if:
  (a) the aircraft is not registered under the regulations; and
  (b) the aircraft is, under this Act or those regulations, required to be registered under those regulations.

  Penalty: Imprisonment for 2 years.

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(1A) Subsection (1) does not apply to an aircraft that is employed in private operations and that possesses the nationality of a Contracting State.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

(2) In subsection (1A), ***employed in private operations*** has the same meaning as it has in the regulations.

Flying without a certificate of airworthiness

(3) An owner, operator, hirer (other than the Crown) or pilot of an Australian aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if:

(a) there is no certificate of airworthiness under the regulations in force in respect of the aircraft; and

(b) the regulations do not authorise the flight without the certificate.

Penalty: Imprisonment for 2 years.

Flying without satisfying safety requirements

(4) An owner, operator, hirer (other than the Crown) or pilot of an Australian aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if one or more of the following apply:

(a) there is outstanding a requirement imposed by or under the regulations in relation to the maintenance of the aircraft;

(b) the aircraft will require maintenance before the flight can end;

(c) there is a defect or damage that may endanger the safety of the aircraft or any person or property;

(d) the aircraft is unsafe for flight.

Penalty: Imprisonment for 2 years.

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20AB Flying aircraft without licence etc.

(1) A person must not perform any duty that is essential to the operation of an Australian aircraft during flight time unless:

(a) the person holds a civil aviation authorisation that is in force and authorises the person to perform that duty; or

(b) the person is authorised by or under the regulations to perform that duty without the civil aviation authorisation concerned.

Penalty: Imprisonment for 2 years.

(2) A person must not carry out maintenance on:

(a) an Australian aircraft; or

(b) an aeronautical product in Australian territory; or

(c) an aeronautical product for an Australian aircraft;

if the person is not permitted by or under the regulations to carry out that maintenance.

Penalty: Imprisonment for 2 years.

(3) Nothing in subsection (1) or (2) limits the power to make regulations under this Act that provide for an offence of undertaking another activity without the appropriate civil aviation authorisation or special authorisation under the regulations.

(4) In this section, ***flight time*** has the same meaning as in the regulations.

20AC Purported issue of authorisation

(1) A person must not purport to give a civil aviation authorisation for the purposes of the regulations unless the person is authorised under those regulations to give the authorisation.

Penalty: Imprisonment for 2 years.

(2) Without limiting subsection (1), a person is to be taken to give an authorisation for the purposes of that subsection if the person endorses the authorisation on another document (for example, endorses a rating on a licence or in a log book).

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20 Defence aerodromes

CASA may arrange with the appropriate Ministers for aircraft to use an aerodrome controlled by a part of the Defence Force and, subject to the arrangement, CASA may authorise the aircraft to use the aerodrome in accordance with conditions specified by CASA.

20A Reckless operation of aircraft

(1) A person must not operate an aircraft being reckless as to whether the manner of operation could endanger the life of another person.

(2) A person must not operate an aircraft being reckless as to whether the manner of operation could endanger the person or property of another person.

21 Interference with aeronautical facilities

(1) In this section:

installation includes any electrical or other equipment or any structure.

proprietor, in relation to an installation, means the owner or user of the installation or the owner or occupier of the premises or place where the installation is installed, kept or operated.

(2) The following provisions apply if CASA believes on reasonable grounds that an installation is or may be, either actively or passively, causing interference with communications to or from aircraft, or communications to or from centres established for air traffic control, or with navigational aids or with surveillance systems, in circumstances that are likely to endanger the safety of aircraft engaged in interstate or international air navigation or air navigation within, to or from a Territory.

(3) CASA may serve a notice on the proprietor directing the proprietor to permit the installation to be inspected and tested by an officer.

(4) Upon the service of the notice, an officer may enter the premises or place where the installation is installed, kept or operated and inspect or test the installation.

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(5) An officer exercising powers under subsection (4) shall produce identification in writing if requested to do so.

(6) If as a result of such an inspection or otherwise, CASA considers it necessary to do so for the safety of aircraft referred to in subsection (2), CASA may serve a notice on the proprietor directing the proprietor to make such modifications to the installation, or to take such other action, as is necessary to eliminate the cause of the interference, within a reasonable time specified in the notice.

(7) If the installation has been installed and is used and operated in accordance with all applicable laws, the proprietor may recover from CASA the amount of all reasonable expenses incurred, and of loss actually suffered, in complying with a direction under subsection (6).

(8) A person must not fail to comply with a direction contained in a notice under this section.

Penalty: Imprisonment for 12 months.

(8A) Subsection (8) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (8A) (see subsection 13.3(3) of the *Criminal Code*).

(9) If the proprietor fails to comply with a direction under subsection (6), CASA may authorise an officer, with such reasonable assistance as the officer requires, to enter the premises or place in which the installation is installed, kept or operated, with such force as is necessary and reasonable, and to take the action that was so directed.

(10) A notice under this section may be served personally or may be served by post at the last-known place of residence or business of the proprietor or at the address at which the installation is installed, kept or operated.

(11) The Director may, in writing, delegate any of CASA's powers under this section to AA.

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(12) The Chief Executive Officer of AA may delegate to a member or employee of AA any powers that are delegated to AA under subsection (11).

(13) In this section:

officer includes an employee of AA.

22 Interception etc. of aircraft

(1) This section applies to:
  (a) an Australian aircraft; or
  (b) any other aircraft (including an aircraft that is not registered anywhere) that is, at the relevant time, being operated by an Australian operator.

(2) The pilot in command of an aircraft that is in flight over the territory of a foreign country shall not operate the aircraft for a purpose that is prejudicial to the security or public order of, or to the safety of air navigation in relation to, the foreign country.

Penalty: Imprisonment for 2 years.

(3) Where:
  (a) an aircraft flies over the territory of a foreign country; and
  (b) either:
    (i) the flight is required to be authorised by the foreign country and is not so authorised; or
    (ii) there are reasonable grounds for believing that the aircraft is being operated for a purpose that is prejudicial to the security or public order of, or to the safety of air navigation in relation to, the foreign country;

the pilot in command of the aircraft shall comply with any direction given by an authorised official of the foreign country:
  (c) requiring that the aircraft land at a specified aerodrome in the territory of the foreign country; or
  (d) for the purpose of preserving the security or public order of, or the safety of air navigation in relation to, the foreign country.

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Penalty: Imprisonment for 2 years.

(4) In a prosecution of a person for an offence against subsection (3) it is a defence if it is established that the person believed on reasonable grounds that compliance with the direction would be more likely to endanger the safety of the aircraft or of persons on board the aircraft than would a failure to comply with the direction.

(5) Subsections (2) and (3) do not affect any other obligation imposed by law, including the law of a foreign country, to comply with a direction given by an authorised official of a foreign country.

(6) Where a person has been convicted of an offence in respect of an act or omission under the law of the foreign country, the person is not liable to be convicted of an offence arising under subsection (2) or (3) in respect of the act or omission.

(7) In this section:

Australian operator means an operator whose principal place of business, or whose place of permanent residence, is in Australian territory.

authorised official, in relation to a foreign country, means:

(a) a member of the military, police, customs or air-traffic control services of the foreign country; or

(b) a person authorised by the foreign country to give directions to aircraft flying over the territory of the foreign country.

operator has the same meaning as in the regulations.

territory, in relation to a foreign country, means the land and the adjacent territorial sea under the sovereignty, suzerainty, protection or mandate of the foreign country.

23 Dangerous goods

(1) An aircraft must not carry dangerous goods except:

(a) in accordance with the regulations, including any conditions subject to which the regulations permit the carriage of those goods; or

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(ab) in accordance with the *Aviation Transport Security Regulations 2005*, including any conditions subject to which those regulations permit the carriage of those goods; or

(b) with the written permission of CASA and in accordance with any conditions specified in the permission.

(2) A person must not carry or consign for carriage any dangerous goods on board an aircraft except:

(a) in accordance with the regulations, including any conditions subject to which the regulations permit the carriage or consignment of those goods; or

(ab) in accordance with the *Aviation Transport Security Regulations 2005*, including any conditions subject to which those regulations permit the carriage or consignment of those goods; or

(b) with the written permission of CASA and in accordance with any conditions specified in the permission.

Penalty: Imprisonment for 7 years.

(2AA) A person must not carry or consign for carriage any goods on board an aircraft and be negligent as to whether the goods are dangerous goods, except:

(a) in accordance with the regulations, including any conditions subject to which the regulations permit the carriage or consignment of those goods; or

(b) in accordance with the *Aviation Transport Security Regulations 2005*, including any conditions subject to which those regulations permit the carriage or consignment of those goods; or

(c) with the written permission of CASA and in accordance with any conditions specified in the permission.

Penalty: Imprisonment for 2 years.

(2A) A person must not carry or consign for carriage any dangerous goods on board an aircraft, except:

(a) in accordance with the regulations, including any conditions subject to which the regulations permit the carriage or consignment of those goods; or

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(ab) in accordance with the *Aviation Transport Security Regulations 2005*, including any conditions subject to which those regulations permit the carriage or consignment of those goods; or

(b) with the written permission of CASA and in accordance with any conditions specified in the permission.

Penalty: Imprisonment for 2 years.

(2B) An offence under subsection (2A) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(3) In this section:

dangerous goods means:

(a) explosive substances; and

(b) things:

(i) which by reason of their nature are liable to endanger the safety of an aircraft or persons on board an aircraft; or

(ii) which the regulations declare to be dangerous goods.

(3A) Regulations made for the purposes of subparagraph (b)(ii) of the definition of ***dangerous goods*** in subsection (3) may apply, adopt or incorporate (with or without modification) the Dangerous Goods List contained in the Technical Instructions for the Safe Transport of Dangerous Goods by Air, approved and published by decision of the Council of the International Civil Aviation Organisation, as in force from time to time.

(4) Nothing in this section prevents the carriage and use on aircraft of signalling apparatus and other apparatus necessary for the operation or navigation of the aircraft or the safety of the crew or passengers.

23A Statements of the contents of cargo

(1) The regulations may require a person who, in the circumstances specified in the regulations, consigns for carriage any cargo on

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board an aircraft to make a statement, of a kind specified in the regulations, concerning the contents of the cargo.

(2) A person must not consign for carriage any cargo on board an aircraft, in circumstances in which regulations made for the purposes of subsection (1) require a statement to be made, unless:

(a) the cargo is accompanied by; or

(b) the person responsible for delivery of the cargo has been given;

a statement that complies with the regulations made for the purposes of that subsection.

Penalty: 30 penalty units.

23B Training relating to dangerous goods

(1) The regulations may require that persons handling, or involved in handling, cargo in the course of the cargo being carried or consigned for carriage on an aircraft are to undertake specified training relating to dangerous goods.

(2) A person must not carry or consign for carriage any cargo on board an aircraft unless each person who:

(a) handles, or is involved in the handling of, the cargo for or on behalf of the first-mentioned person; and

(b) has been required, by regulations made for the purposes of this section, to undertake training relating to dangerous goods;

has undertaken training relating to dangerous goods in accordance with the regulations.

Penalty: 30 penalty units.

(3) In this section:

dangerous goods has the same meaning as in section 23.

24 Interference with crew or aircraft

(1) A person commits an offence if:

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(a) the person does an act; and
(b) the act:
(i) interferes with a crew member of an aircraft in the course of the performance of his or her duties as such a crew member; or
(ii) threatens the safety of an aircraft or of persons on board an aircraft.

Penalty: Imprisonment for 2 years.

(2) A person must not tamper with:
(a) an aircraft; or
(b) an aeronautical product that is of such a type that tampering with it may endanger the safety of an aircraft or any person or property;
if tampering with it may endanger the safety of the aircraft or any person or property.

Penalty: Imprisonment for 2 years.

25 Non-scheduled flights by foreign registered aircraft

Directions

(1) Notwithstanding anything in section 14 of the *Air Navigation Act 1920*, if CASA considers that a foreign registered aircraft possessing the nationality of a Contracting State intends, in the course of a non-scheduled flight over Australian territory, to proceed over regions that are inaccessible or without adequate air navigation facilities, CASA may direct:
(a) that the aircraft follow an established air route; or
(b) that the flight be conducted in accordance with conditions specified by CASA.

Permissions

(2) Where a foreign registered aircraft possessing the nationality of a Contracting State makes a non-scheduled flight into Australian territory, it shall not take on or discharge passengers, cargo or mail in Australian territory (being passengers, cargo or mail carried, or

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to be carried, for reward) except with the permission of CASA and in accordance with any conditions to which the permission is subject.

(3) A foreign registered aircraft not possessing the nationality of a Contracting State shall not make a non-scheduled flight over or into Australian territory except with the permission of CASA and in accordance with any conditions to which the permission is subject.

(4) If a person applies to CASA for a permission under subsection (2) or (3), CASA must grant the permission if CASA is satisfied that the person has complied with, or is capable of complying with:
  (a) if the person does not have a commercial presence in Australia—the condition referred to in paragraph (5)(a) (if applicable); and
  (b) in any case—the safety rules.

Permissions—conditions

(5) A permission granted under subsection (2) or (3) is subject to:
  (a) the condition that section 41E of the *Civil Aviation (Carriers' Liability) Act 1959* (which deals with personal injury liability insurance) is complied with (if applicable); and
  (b) any conditions specified in the permission.

(6) CASA must not do either of the following, except to ensure compliance with the safety rules:
  (a) specify a condition under paragraph (5)(b);
  (b) vary a condition specified under paragraph (5)(b).

Permissions—suspension and cancellation

(7) CASA must not suspend or cancel a permission granted under subsection (2) or (3), except:
  (a) if the condition referred to in paragraph (5)(a) is breached; or
  (b) to ensure compliance with the safety rules.

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26 Aircraft on international flights to have permission

Permissions

(1) An aircraft shall not, except with the permission of CASA and in accordance with any conditions to which the permission is subject:
  (a) arrive in Australian territory from a place outside Australian territory; or
  (b) depart from Australian territory for a place outside Australian territory.

(2) Subsection (1) does not apply to anything done:
  (a) as provided by section 14 of the *Air Navigation Act 1920*;
  (b) in accordance with an international airline licence granted under regulations made under that Act;
  (c) in accordance with a permission granted under subsection 25(3) and any conditions to which the permission is subject; or
  (d) as authorised by an AOC; or
  (e) as authorised by a New Zealand AOC with ANZA privileges that is in force for Australia (but only so far as it authorises ANZA activities in Australian territory).

Note: For when a New Zealand AOC with ANZA privileges is in force for Australia, see section 3AA.

(3) If a person applies to CASA for a permission under this section, CASA must grant the permission if CASA is satisfied that the person has complied with, or is capable of complying with:
  (a) if the person does not have a commercial presence in Australia—the condition referred to in paragraph (4)(a) (if applicable); and
  (b) in any case—the safety rules.

(3A) For the purposes of being satisfied that the person has complied with, or is capable of complying with, the safety rules, CASA may have regard to the matters set out in section 28AA as if:
  (a) the reference in that section to subsection 28(1A) were a reference to paragraph (3)(b) of this section; and

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(b) the reference in subparagraph (1)(c)(ii) and paragraph (5)(a) of that section to an AOC were to a permission.

Permissions—conditions

(4) A permission granted under this section is subject to:
(a) the condition that section 41E of the *Civil Aviation (Carriers' Liability) Act 1959* (which deals with personal injury liability insurance) is complied with (if applicable); and
(b) any conditions specified in the permission.

(4A) For the purposes of deciding whether to specify a condition in the permission, CASA may have regard to the matters set out in section 28AA as if:
(a) the reference in that section to subsection 28(1A) were a reference to paragraph (4)(b) of this section; and
(b) the reference in subparagraph (1)(c)(ii) and paragraph (5)(a) of that section to an AOC were to a permission.

(5) CASA must not do either of the following, except to ensure compliance with the safety rules:
(a) specify a condition under paragraph (4)(b);
(b) vary a condition specified under paragraph (4)(b).

Permissions—suspension and cancellation

(6) CASA must not suspend or cancel a permission granted under this section, except:
(a) if the condition referred to in paragraph (4)(a) is breached; or
(b) to ensure compliance with the safety rules.

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Division 1A—General provisions about mutual recognition under the ANZA mutual recognition agreements

26A Guide to how this Act deals with mutual recognition between Australia and New Zealand

(1) This Division contains various general provisions relating to mutual recognition under the ANZA mutual recognition agreements.

(2) Other provisions of this Act also deal with mutual recognition under the ANZA mutual recognition agreements, as set out in the table below.

Outline of other provisions of this Act that deal with mutual recognition

Item	For provisions concerning...	See...
1	New Zealand AOCs that will be recognised in Australia (known as ***New Zealand AOCs with ANZA privileges***)	(a) section 3AA (when a New Zealand AOC with ANZA privileges is in force for Australia); and (b) paragraph 26(2)(e) and subsection 27(2) (operating in Australia under such an AOC); and (c) section 28C (holder of such an AOC to provide certain documents and information to CASA); and (d) sections 28D and 28E (the Director's power to issue and revoke Australian temporary stop notices); and (e) section 28G (disapplying regulations that would otherwise apply to the holder of a New Zealand AOC with ANZA privileges).

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Outline of other provisions of this Act that deal with mutual recognition

Item	For provisions concerning...	See...
2	Australian AOCs that will be recognised in New Zealand (known as ***Australian AOCs with ANZA privileges***)	(a) paragraph 7(c) (extension of Act to New Zealand activities); and (b) paragraph 9(1)(ba) (CASA's safety regulation role in relation to New Zealand activities); and (c) subsections 27(2AA) to (2AC) (CASA's power to issue Australian AOCs with ANZA privileges); and (d) paragraph 28(1)(e) and section 28B (additional conditions for issue of such AOCs); and (da) subsection 28BAA(2) (making certain additional conditions for issue of Australian AOCs with ANZA privileges have effect as ongoing conditions); and (e) subsection 28BD(2) (holders of such AOCs to comply with New Zealand law); and (f) section 28F (CASA's obligations in response to a New Zealand temporary stop notice).
3	Other aspects of mutual recognition	(a) subsection 3(1) (definitions of key terms); and (b) paragraph 9(3)(aa) (CASA's role in implementing the ANZA mutual recognition agreements); and (c) Part IIIA (use of powers to monitor compliance with New Zealand law).

26B Disclosure of information by CASA to the Director of CAA New Zealand

(1) CASA may disclose information (including personal information) to the Director of CAA New Zealand for a purpose connected with the ANZA mutual recognition agreements.

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(2) In this section:

personal information has the same meaning as in section 6 of the *Privacy Act 1988*.

26C Obligation to consult Director of CAA New Zealand before taking certain actions

Before taking any action under this Act or the regulations that would or might affect the ANZA activities in New Zealand that an Australian AOC with ANZA privileges authorises, CASA must:

(a) if required by the ANZA mutual recognition agreements, consult the Director of CAA New Zealand; and

(b) carry out the consultation in accordance with the ANZA mutual recognition agreements.

26D Delegation of Australian powers to employees of CAA New Zealand

(1) The Director may, in writing, delegate all or any of CASA's powers under this Act, other than Part IIIA, to an employee of CAA New Zealand for the purposes of the ANZA mutual recognition agreements.

(2) A delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Director.

26E Delegation of New Zealand powers and functions to CASA officers

(1) Subject to subsection (2), an officer may exercise powers or perform functions delegated to the officer under the Civil Aviation Act 1990 of New Zealand, but only so far as they relate to New Zealand AOCs with ANZA privileges.

(2) Subsection (1) does not apply to powers or functions conferred by section 15, 21 or 24 of the Civil Aviation Act 1990 of New Zealand.

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Division 2—Air Operators' Certificates (AOCs)

Subdivision A—General

27 AOCs

(1) CASA may issue AOCs for the purposes of its functions.

(2) Except as authorised by an AOC, by a New Zealand AOC with ANZA privileges that is in force for Australia (but only so far as it authorises ANZA activities in Australian territory), or by a permission under section 27A:

(a) an aircraft shall not fly into or out of Australian territory; and

(b) an aircraft shall not operate in Australian territory; and

(c) an Australian aircraft shall not operate outside Australian territory.

Note: For when a New Zealand AOC with ANZA privileges is in force for Australia, see section 3AA.

(2AA) For the purpose of the ANZA mutual recognition agreements, CASA may issue an AOC that authorises aircraft to operate in, or fly into or out of, New Zealand, but only if the AOC also authorises aircraft to operate in, or fly into or out of, Australian territory.

Note: The kind of operations authorised by the AOC in New Zealand need not be the same kind of operations as are authorised by the AOC in Australian territory.

(2AB) Subsection (2AA) is not intended to limit the circumstances in which CASA may, otherwise than for the purpose of the ANZA mutual recognition agreements, issue an AOC that covers matters referred to in that subsection.

(2AC) An AOC that is, to an extent (whether wholly or partly), issued for the purpose of the ANZA mutual recognition agreements, must be expressed to be issued for that purpose to that extent.

(2A) An AOC may authorise the flying or operation of an aircraft, other than the operation of a foreign registered aircraft on regulated

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domestic flights, by authorising the flying or operation of aircraft included in a class of aircraft described in the AOC.

(2B) An AOC may be issued only to a natural person or to a body having legal personality.

(3) If a holder of an AOC makes a request in writing to CASA for the revocation of the AOC, CASA must cancel the AOC.

(7) The term of an AOC shall be as determined by CASA.

(8) An AOC is not transferable.

(9) Subsection (2) applies only to the flying or operation of an aircraft for such purposes as are prescribed.

(10) For the purpose of subsection (2A) as it applies to an Australian AOC with ANZA privileges, a foreign registered aircraft does not include an aircraft registered in New Zealand.

Subdivision B—Application for AOC

27AA Application in approved form

An application for an AOC must be in a form approved by CASA.

27AB Lodgment of manuals

(2) If an applicant for an AOC is (or will be) required by the regulations or Civil Aviation Orders to have any of the following manuals, the applicant must lodge the current or proposed version of the manual concerned:

(a) an operations manual;

(b) a training and checking manual;

(c) a dangerous goods manual.

(3) The applicant is not required to lodge a manual under this section if the applicant has previously lodged a copy of the same version of the manual.

(4) If the applicant already holds a current AOC and is applying for a new AOC that:

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(a) would authorise the same things as the current AOC; and
(b) would come into force when the term of the current AOC expires;

the applicant is required to comply with the lodgment requirements of this section only to the extent (if any) that CASA, by written notice, requires compliance.

27AC CASA may require information etc. and inspections etc.

(1) CASA may give a written notice to an applicant for an AOC, requiring the applicant to give CASA information in writing, or documents, that:
(a) are described in the notice; and
(b) are in the applicant's possession or under the applicant's control; and
(c) are reasonably required by CASA:
(i) to properly consider the application; or
(ii) to ensure that section 28BI (which deals with personal injury liability insurance) is complied with in relation to an operation, which would be covered by the AOC, to which that section applies; or
(iii) in accordance with the regulations (if any) referred to in paragraph 98(3)(b).

(2) CASA may give a written notice to an applicant for an AOC, requiring the applicant to permit an authorised officer to carry out an inspection or test that:
(a) is described in the notice; and
(b) is reasonably required by CASA to properly consider the application.

(3) In this section:

inspection or test means an inspection or test of any of the following:
(a) any aircraft covered by the application;
(b) any aeronautical product that is a part of, or that relates to, any aircraft covered by the application;

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(c) any premises used, or proposed to be used, for the purpose of conducting or carrying out the operations covered by the application;

(d) any facilities, procedures or practices used, or proposed to be used, for a purpose covered by the application.

27AD CASA may require proving flights etc.

(1) CASA may give a written notice to an applicant for an AOC, requiring the applicant:

(a) to conduct proving flights; or

(b) to carry out other aircraft tests or demonstrations of procedures;

to assess whether the applicant can safely conduct the operations covered by the application.

(2) The notice must describe the proving flights, tests or demonstrations that the applicant is required to conduct or carry out.

(3) The proving flights, tests or demonstrations must be conducted or carried out under the supervision or observation of an authorised officer and in accordance with the requirements mentioned in the notice.

27AE Application for foreign aircraft AOC

(1) CASA may give a written notice to an applicant for a foreign aircraft AOC, requiring the applicant to give CASA all or any of the following:

(a) a copy of any air operator's certificate, or any document having substantially the same effect, issued by the authority responsible for regulating civil aviation in the country in which the aircraft is registered or operating;

(b) a copy of any limitations or conditions imposed by the authority on operations conducted or carried out by the applicant, unless those limitations or conditions are specified in a certificate or document specified in paragraph (a);

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(c) copies of any operational authorisations or requirements, however described, issued by the authority in relation to the operations of the applicant, unless those authorisations or requirements are specified in a certificate or document specified in paragraph (a) or (b);

(d) written particulars of all licences held by flight crew members intended to be engaged in carrying out operations under the foreign aircraft AOC;

(e) evidence of the matters listed in paragraphs 28AA(1)(a), (b), (c) and (d) (including, as applicable, by giving examples of the things mentioned in subsections 28AA(2) to (5)).

(2) CASA must state in the notice whether the applicant is to comply with the notice:

(a) in addition to complying with the lodgment requirements of section 27AB; or

(b) instead of complying with those requirements, or such of them as are identified in the notice.

(3) If the notice indicates that the applicant is to do something instead of complying with all or any of the requirements of section 27AB, the applicant need not comply with those requirements of section 27AB.

(4) In this section:

foreign aircraft AOC means:

(a) an AOC (other than an Australian AOC with ANZA privileges) authorising the operation of a foreign registered aircraft on flights that are not regulated domestic flights; or

(b) an Australian AOC with ANZA privileges authorising the operation of a foreign registered aircraft, other than an aircraft registered in New Zealand, on flights that are not regulated domestic flights.

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27AF CASA not required to consider application until requirements complied with

(1) CASA may refuse to consider an application, or to consider it further, while there are requirements under this Subdivision that the applicant has not complied with.

(2) If the applicant is not a constitutional corporation, subsection (1) applies, in relation to a requirement that relates to an acceptable contract of insurance or adequate financial arrangements (within the meaning of Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959*), to the extent that the application relates to carriage by air covered by Part IA, II, III or IV of that Act.

Subdivision C—Operation of a foreign registered aircraft without AOC

27A Permission for operation of foreign registered aircraft without AOC

Granting permission

(1) If:
(a) a person wishes to operate a foreign registered aircraft on regulated domestic flights; and
(b) CASA has not entered into an agreement of a kind referred to in paragraph 28A(1)(a) that is necessary to permit the issue of an AOC authorising that operation;

the person may apply for a permission for the aircraft to be so operated.

(1A) CASA may, by written notice given to the applicant, require the applicant to give CASA evidence of the matters listed in paragraphs 28AA(1)(a), (b), (c) and (d) (including, as applicable, by giving examples of the things mentioned in subsections 28AA(2) to (5)).

(2) CASA may only grant the permission if it is satisfied:
(a) if the person does not have a commercial presence in Australia—that the person has complied with, or is capable

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of complying with, the condition referred to in paragraph (4)(a) (if applicable); and

(b) in any case—that to do so will not adversely affect the safety of air navigation.

(3) The permission may be granted only for a period of not more than 7 days specified in the permission starting on a day specified in the permission.

Conditions

(4) A permission granted under this section has effect subject to:

(a) the condition that section 41E of the *Civil Aviation (Carriers' Liability) Act 1959* (which deals with personal injury liability insurance) is complied with (if applicable); and

(b) any conditions relating to the operation, maintenance and airworthiness of the aircraft covered by the permission:

(i) that CASA considers necessary in the interests of the safety of air navigation; and

(ii) that are specified by CASA in the permission.

(5) CASA may, at any time, by written notice given to the holder of the permission, vary the conditions (other than the condition referred to in paragraph (4)(a)) or impose further conditions if CASA considers it necessary to do so in the interests of the safety of air navigation.

Cancellation

(6) CASA may, by oral or written notice given to the holder of a permission granted under this section, cancel the permission if:

(a) the condition referred to in paragraph (4)(a) is breached; or

(b) CASA considers it necessary to do so in the interests of the safety of air navigation.

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Subdivision D—Issue of AOCs

28 CASA must issue AOC if satisfied about certain matters

(1) If a person applies to CASA for an AOC, CASA must issue the AOC if, and only if:

(a) CASA is satisfied that the applicant has complied with, or is capable of complying with, the safety rules; and

(b) CASA is satisfied about the following matters in relation to the applicant's organisation:

(i) the organisation is suitable to ensure that the AOC operations can be conducted or carried out safely, having regard to the nature of the AOC operations;

(ii) the organisation's chain of command is appropriate to ensure that the AOC operations can be conducted or carried out safely;

(iii) the organisation has a sufficient number of suitably qualified and competent employees to conduct or carry out the AOC operations safely;

(iv) key personnel in the organisation have appropriate experience in air operations to conduct or to carry out the AOC operations safely;

(v) the facilities of the organisation are sufficient to enable the AOC operations to be conducted or carried out safely;

(vi) the organisation has suitable procedures and practices to control the organisation and ensure that the AOC operations can be conducted or carried out safely;

(vii) if CASA requires particulars of licences held by flight crew members of the organisation—the authorisations conferred by the licences are appropriate, having regard to the nature of the AOC operations; and

(c) if the AOC sought is:

(i) an AOC (other than an Australian AOC with ANZA privileges) authorising the operation of a foreign registered aircraft on regulated domestic flights; or

(ii) an Australian AOC with ANZA privileges authorising the operation of a foreign registered aircraft, other than

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an aircraft registered in New Zealand, on regulated domestic flights;

CASA is also satisfied that the additional conditions in section 28A are satisfied; and

(d) CASA is satisfied that the person does not hold a New Zealand AOC with ANZA privileges that covers all or any of the AOC operations; and

(e) if the AOC sought is an Australian AOC with ANZA privileges—the additional conditions in section 28B are satisfied.

(1A) For the purposes of paragraph (1)(a), if the AOC sought is an AOC authorising the operation of foreign registered aircraft into Australia, out of Australia, or both, or on regulated domestic flights, other than:

(a) an Australian AOC with ANZA privileges; or

(b) an Australian AOC with ANZA privileges authorising operations of an aircraft registered in New Zealand on regulated domestic flights;

CASA may have regard to the matters set out in section 28AA.

(2) The financial position of the applicant is one of the matters that CASA may take into account in forming a view for the purposes of paragraph (1)(a).

(3) In this section:

AOC operations means the operations covered by the application.

applicant's organisation means the organisation established, or proposed to be established, by the applicant to conduct or carry out the operations covered by the application.

key personnel means the people (however they are described) that hold, or carry out the duties of, the following positions in the applicant's organisation:

(a) the chief executive officer;

(b) the head of the flying operations part of the organisation;

(c) the head of the aircraft airworthiness and maintenance control part (if any) of the organisation;

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(d) the head of the training and checking part (if any) of the organisation;

(e) any other position prescribed by the regulations.

28A Additional conditions for issue of AOC in relation to certain foreign registered aircraft

(1) The additional conditions of which CASA must be satisfied for the purposes of paragraph 28(1)(c) are:

(a) that CASA has entered into agreements with:

(i) the authority responsible for regulating civil aviation in the country where the aircraft is registered; and

(ii) if, when the application for the AOC is made, the aircraft is operating in another country under an air operator's certificate, or a document to substantially the same effect, issued by the authority responsible for regulating civil aviation in that other country (a ***foreign certificate***)—the body that issued the foreign certificate; and

(b) that each agreement sets out the areas of responsibility of the parties to the agreement in relation to the supervision of flight operations, the maintenance, and the airworthiness, of aircraft covered by the agreement; and

(c) that the applicant has informed CASA:

(i) of the aircraft's type, serial number and registration marks; and

(ii) of the country where the aircraft is registered; and

(iii) of the name and address of the person in whose name the aircraft is registered; and

(d) that the applicant has informed CASA:

(i) of the age and total time-in-service of the aircraft; and

(ii) of the country in which any person who operated the aircraft in the period of one year immediately before the application for the AOC had his or her principal place of business; and

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(iii) of the country or countries in which maintenance was carried out on the aircraft during that year, other than line maintenance; and

(e) that the applicant has given CASA a copy of either:

(i) the certificate of airworthiness of the aircraft; or

(ii) a document to substantially the same effect as such a certificate;

that was issued by the authority responsible for regulating civil aviation in the country where the aircraft is registered; and

(f) that the applicant has given CASA a statement that the aircraft complies with the airworthiness requirements of Annex 8 of the Chicago Convention or with such other airworthiness standard as CASA directs; and

(g) if the aircraft is leased—that the applicant has given CASA:

(i) the name and address of the person responsible for operational control of the aircraft under the lease agreement (whether or not that person is the applicant); and

(ii) the name and address of the person responsible for controlling the airworthiness and maintenance of the aircraft (whether or not the person is the applicant); and

(iii) a separate signed statement from each of those persons that they understand their respective responsibilities under the regulations; and

(h) if the aircraft is leased—that the applicant for the AOC has given CASA a description of the lease provisions.

(2) In this section:

line maintenance, in relation to an aircraft, means routine checks, inspections and malfunction rectifications performed en route and at base stations on the aircraft during transit, turn-around or night stops.

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28AA Matters that CASA may have regard to in issuing an AOC in relation to certain flights by foreign registered aircraft

(1) For the purposes of subsection 28(1A), the matters which CASA may have regard to are:

(a) evidence of any serious safety deficiencies in relation to the applicant's operations in another country; and

(b) evidence of the applicant's ability and willingness to address those safety deficiencies; and

(c) evidence relating to the authority or authorities responsible for:

(i) the safety oversight of the applicant's operations; and

(ii) the registration, certification and airworthiness of aircraft used by the applicant in its operations or to be used under the AOC sought; and

(d) evidence relating to the management and control of the applicant's operations.

(2) For the purposes of paragraph (1)(a), examples of the kinds of evidence of serious safety deficiencies include all or any of the following:

(a) a report that identifies serious safety deficiencies;

(b) the applicant's failure to address deficiencies identified during ramp inspections, or similar inspections, carried out by the aviation authority of another country or group of countries;

(c) the fact that another country or group of countries has imposed an operating ban on the applicant because of deficiencies relating to international aviation safety standards;

(d) information relating to an accident or serious incident that indicates systemic safety deficiencies in relation to the applicant's operations.

(3) For the purposes of paragraph (1)(b), examples of the kinds of evidence of the applicant's ability and willingness to address safety deficiencies include either or both of the following:

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(a) how the applicant responds to requests from CASA for information about the safety aspects of the applicant's operations;

(b) if the applicant has presented a plan for corrective action to CASA, the aviation authority of another country or group of countries, ICAO or another relevant body or organisation—whether the corrective action proposed is appropriate and sufficient.

(4) For the purposes of paragraph (1)(c), examples of the kinds of evidence mentioned in that paragraph include all or any of the following:

(a) how a relevant authority responds to concerns or issues raised by CASA about:

(i) the safety of the applicant's operations; or

(ii) the safety of aircraft used by the applicant or another carrier licensed or certified by that authority;

(b) a relevant authority's reputation for implementing and enforcing relevant aviation safety standards, including:

(i) audits and related corrective action plans established under ICAO's Universal Safety Oversight Audit Programme or any other similar program; and

(ii) whether the applicant's authorisation (however described) by the authority is not, or is no longer, recognised by another country or group of countries; and

(iii) if the applicant's authorisation was not issued by the authority of the country in which the applicant has its principal place of business—that fact;

(c) in relation to aircraft used by the applicant in the country in which the aircraft is registered—whether the aviation authority of that country administers its obligations in accordance with the Chicago Convention.

(5) For the purposes of paragraph (1)(d), examples of the kinds of evidence relating to the management and control of the applicant's operations include either or both of the following:

(a) whether a person who is participating in, or is likely to participate in, managing the applicant's operations is not a fit

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and proper person to participate in the management of the operations of a holder of an AOC;

(b) whether a person who has, or is likely to have, effective control over the applicant's operations is not a fit and proper person to have effective control over the applicant's operations.

28B Additional conditions for issue of an Australian AOC with ANZA privileges

(1) The additional conditions that must be satisfied for the purposes of paragraph 28(1)(e) are:

(a) that CASA is satisfied that the applicant does not hold an aviation document granted by the Director of CAA New Zealand that authorises the applicant to conduct all or any of the ANZA activities in New Zealand that the AOC will authorise; and

(b) that the Secretary of the Department has advised CASA that, having regard to the ANZA mutual recognition agreements, the applicant is eligible for consideration for an Australian AOC with ANZA privileges; and

(c) that CASA is satisfied that the applicant has complied, or is capable of complying, with the provisions of the Civil Aviation Act 1990 of New Zealand, and the regulations and rules made under that Act, that will apply to the applicant in relation to the ANZA activities in New Zealand that the AOC will authorise; and

(d) that CASA is satisfied that it will be able to effectively regulate all the operations covered by the application, having regard to the following matters:

(i) whether the applicant's supervision of systems that affect the safety of the operations will be principally undertaken from or within Australian territory; and

(ii) whether the applicant's training and supervision of employees involved in those systems will be undertaken principally from or within Australian territory; and

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(iii) whether the majority of the resources used in those systems that are required for the operations will be situated within Australian territory; and

(iv) whether the persons who will control the operations will spend the majority of their time in Australian territory; and

(e) any applicable additional conditions set out in regulations.

(2) CASA must consult the Director of CAA New Zealand about whether the conditions referred to in subsection (1) (other than paragraph (1)(b)) are satisfied.

Subdivision E—Conditions of AOC

28BA General conditions

(1) An AOC has effect subject to the following conditions:

(a) the condition that sections 28BD, 28BE, 28BF, 28BG and 28BH are complied with;

(aa) the conditions subject to which the AOC has effect because of section 28BAA;

(ab) the condition that section 28BI is complied with in relation to each operation, covered by the AOC, to which that section applies;

(b) any conditions specified in the regulations or Civil Aviation Orders;

(c) any conditions imposed by CASA under section 28BB.

(2) If a condition of an AOC referred to in paragraph (1)(a) or (aa) is breached, the AOC continues, despite the breach, to authorise flights or operations to which the condition relates.

(2A) If a condition of an AOC referred to in paragraph (1)(ab), (b) or (c) is breached, the AOC does not authorise any flight or operation to which the condition relates while the breach continues.

(3) If a condition of an AOC is breached, CASA may, by written notice given to its holder, suspend or cancel:

(a) the AOC; or

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(b) any specified authorisation contained in the AOC;

whether or not the breach is continuing.

(4) Before making a decision under subsection (3), CASA must:

(a) give the holder of the AOC a notice setting out the reasons why CASA is considering making the decision; and

(b) allow the holder of the AOC to show cause, within such reasonable time as CASA specifies in the notice, why CASA should not make the decision.

(5) If CASA makes a decision under subsection (3), the notice of its decision must include a summary of section 31A. However, a failure to include such a summary does not affect the validity of the notice.

28BAA Certain conditions for grant of AOC also have effect as ongoing conditions on the AOC

(1) An AOC has effect subject to the condition that CASA remains satisfied as mentioned in paragraphs 28(1)(a) and (b) in relation to the operations that are covered by the AOC.

(2) If the AOC is an Australian AOC with ANZA privileges, the AOC also has effect subject to the conditions that:

(a) CASA remains satisfied as mentioned in paragraphs 28B(1)(a), (c) and (d) in relation to the ANZA activities in New Zealand that the AOC authorises; and

(b) the Secretary of the Department does not advise CASA that, having regard to the ANZA mutual recognition agreements, the holder of the AOC is no longer eligible to hold an Australian AOC with ANZA privileges.

28BB CASA may impose and vary AOC conditions

(1) CASA may:

(a) at the time of issuing an AOC, impose conditions by specifying them in the AOC; and

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(b) at any time after the issue of an AOC, give a written notice to the holder of the AOC, imposing conditions, or further conditions, on the AOC.

(2) CASA may at any time give a written notice to the holder of an AOC, varying any of the conditions of the AOC that were imposed by CASA. A variation may be made:
(a) on the application of the holder of an AOC; or
(b) on CASA's own initiative.

(3) An application for variation must:
(a) be in writing; and
(b) set out the variation sought and the reasons why it is sought.

(4) Section 27AD applies to an application under this section in the same way that section 27AD applies to an application for an AOC.

28BC Limits on CASA's powers in relation to suspension, cancellation and AOC conditions

(1) CASA must not:
(a) impose or vary a condition of an AOC that:
(i) is not a mixed authority AOC; and
(ii) authorises the operation of a foreign registered aircraft on regulated domestic flights; or
(b) impose or vary a condition relating to the authorisation of the operation of a foreign registered aircraft on regulated domestic flights that is contained in a mixed authority AOC;
except to ensure that the aircraft's operation, maintenance and airworthiness are of a standard that CASA considers necessary in the interests of the safety of air navigation.

(1A) CASA must not suspend or cancel an AOC of the kind to which paragraph (1)(a) applies or an authorisation of the kind to which paragraph (1)(b) applies except:
(a) to ensure that the aircraft's operation, maintenance and airworthiness are of a standard that CASA considers necessary in the interests of the safety of air navigation; or
(b) as provided by subsection (1B).

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(1B) Subject to subsection (1C), CASA may suspend or cancel an AOC of the kind to which paragraph (1)(a) applies or an authorisation to which paragraph (1)(b) applies if the condition of the AOC or the condition relating to the authorisation, as the case may be, that section 28BI is complied with has been breached in relation to any operation, covered by the AOC or authorisation, to which that section applies.

(1C) To the extent that an AOC, or an authorisation contained in a mixed authority AOC, authorises carriage by air that is not covered by Part IA, II, III or IV of the *Civil Aviation (Carriers' Liability) Act 1959*, CASA does not have power to suspend or cancel the AOC or authorisation because of a breach of the condition that section 28BI is complied with unless the holder of the AOC is a constitutional corporation.

(2) CASA must not:

(a) impose or vary a condition of an AOC that does not authorise the operation of a foreign registered aircraft on regulated domestic flights; or

(b) impose or vary a condition of a mixed authority AOC relating to any authorisation of an operation (other than the operation of a foreign registered aircraft on regulated domestic flights) that is contained in a mixed authority AOC;

except to ensure compliance with the provisions of this Act, the regulations and the Civil Aviation Orders, relating to safety.

(2A) CASA must not suspend or cancel an AOC of the kind to which paragraph (2)(a) applies or an authorisation of the kind to which paragraph (2)(b) applies except:

(a) to ensure compliance with the provisions of this Act, the regulations, and the Civil Aviation Orders, relating to safety; or

(b) as provided by subsection (2B).

(2B) Subject to subsection (2C), CASA may suspend or cancel an AOC of the kind to which paragraph (2)(a) applies or an authorisation to which paragraph (2)(b) applies if the condition of the AOC or the condition relating to the authorisation, as the case may be, that section 28BI is complied with has been breached in relation to any

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operation, covered by the AOC or authorisation, to which that section applies.

(2C) To the extent that an AOC, or an authorisation contained in a mixed authority AOC, authorises carriage by air that is not covered by Part IA, II, III or IV of the *Civil Aviation (Carriers' Liability) Act 1959*, CASA does not have power to suspend or cancel the AOC or authorisation because of a breach of the condition that section 28BI is complied with unless the holder of the AOC is a constitutional corporation.

(3) The financial position of the holder of the AOC is one of the matters that CASA may take into account in forming a view for the purposes of subsection (1), paragraph (1A)(a), subsection (2) and paragraph (2A)(a).

(4) In this section:

mixed authority AOC means an AOC authorising:

(a) the operation of a foreign registered aircraft on regulated domestic flights; and

(b) other operations.

28BD Compliance with civil aviation law

(1) The holder of an AOC must comply with all requirements of this Act, the regulations and the Civil Aviation Orders that apply to the holder.

(2) The holder of an Australian AOC with ANZA privileges must comply with all requirements of the Civil Aviation Act 1990 of New Zealand, and of the regulations and rules under that Act, that apply to the holder in relation to the ANZA activities in New Zealand authorised by the AOC.

28BE Duty to exercise care and diligence

(1) The holder of an AOC must at all times take all reasonable steps to ensure that every activity covered by the AOC, and everything done in connection with such an activity, is done with a reasonable degree of care and diligence.

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(2) If the holder is a body having legal personality, each of its directors must also take the steps specified in subsection (1).

(3) It is evidence of a failure by a body and its directors to comply with this section if an act covered by this section is done without a reasonable degree of care and diligence mainly because of:

(a) inadequate corporate management, control or supervision of the conduct of any of the body's directors, employees or agents; or

(b) failure to provide adequate systems for communicating relevant information to relevant people in the body.

(4) No action lies, for damages or compensation, in respect of a contravention of this section.

(5) This section does not affect any duty imposed by, or under, any other law of the Commonwealth, or of a State or Territory, or under the common law.

28BF Organisation, personnel etc.

(1) The holder of an AOC must at all times maintain an appropriate organisation, with a sufficient number of appropriately qualified personnel and a sound and effective management structure, having regard to the nature of the operations covered by the AOC.

(2) The holder must establish and maintain any supervisory positions in the organisation, or in any training and checking organisation established as part of it, that CASA directs, having regard to the nature of the operations covered by the AOC.

28BG Operations headquarters and suitable buildings

The holder of an AOC must at all times maintain:

(a) an operations headquarters, through which CASA can communicate with any person responsible for any part of the operations covered by the AOC; and

(b) suitable buildings, having regard to the nature of those operations, at each aerodrome where members of the holder's operating crews are based.

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28BH Reference library

(1) The holder of an AOC must maintain a reference library within the organisation, the contents of which must be readily available to all members of the holder's operating crews.

(2) The contents of the reference library must include:
  (a) all operational documents and material; and
  (b) all material required by the regulations or Civil Aviation Orders.

(3) The holder must keep the contents of the reference library up-to-date and in a readily accessible form.

(4) The holder must keep up-to-date records of the distribution of operational documents to members of the holder's flight crew and any other people employed in the holder's organisation, who are employed as cabin crew, or to carry out duties associated with fuelling, loading or despatching aircraft.

(5) In this section, ***operating crew*** has the same meaning as in the regulations.

28BI Personal injury liability insurance

Application

(1) This section applies in relation to an operation covered by an AOC if any of the following provisions apply in relation to the operation:
  (a) subsection 41E(1) or (3) of the *Civil Aviation (Carriers' Liability) Act 1959*;
  (b) subsection 41E(1) or (3) of the *Civil Aviation (Carriers' Liability) Act 1959* as that subsection has effect under a law of a State.

Insurance requirements

(2) The holder of the AOC must at all times comply with the applicable provision in relation to the operation.

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Note: The provisions referred to in paragraphs (1)(a) and (b) prescribe, for passenger-carrying operations, certain requirements relating to personal injury liability insurance.

Subdivision F—Other provisions relating to Australian and New Zealand AOCs with ANZA privileges

28C Certain documents and information to be given to CASA by holder of New Zealand AOC with ANZA privileges

(1) A New Zealand AOC with ANZA privileges comes into force for Australia when the holder gives CASA:

(a) a copy of the AOC; and

(b) written notice of the following:

(i) details of all conditions imposed by the Director of CAA New Zealand in relation to the AOC;

(ii) the holder's New Zealand contact details, including business address, telephone number, fax number (if any), and email address (if any);

(iii) the holder's Australian contact details, including business address, telephone number, fax number (if any), and email address (if any);

(iv) any other information required by the regulations.

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for providing false or misleading information or documents.

(2) If the AOC is varied after it has come into force for Australia, the holder must give CASA a copy of the varied AOC by the end of 7 days after the day on which the holder receives the varied AOC or a copy of it.

Penalty: 2 penalty units.

Note 1: Section 137.2 of the *Criminal Code* creates an offence for providing false or misleading documents.

Note 2: The obligation to give CASA a copy of the varied AOC is a continuing obligation and the holder commits an offence for each day, after the 7 day period, until the copy is given to CASA (see section 4K of the *Crimes Act 1914*).

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(3) If, after the AOC has come into force for Australia, there is a change to:

(a) what ANZA activities in Australia are authorised by the AOC; or

(b) any information previously provided by the holder under subsection (1) or this subsection;

the holder must give CASA written notice of the change by the end of 7 days after the day on which the change occurs.

Penalty: 2 penalty units.

Note 1: Section 137.1 of the *Criminal Code* creates an offence for providing false or misleading information.

Note 2: The obligation to notify CASA of a change is a continuing obligation and the holder commits an offence for each day, after the 7 day period, until written notice of the change is given to CASA (see section 4K of the *Crimes Act 1914*).

(4) Subsections (2) and (3) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

28D Director's power to give an Australian temporary stop notice to holder of New Zealand AOC with ANZA privileges

(1) The Director may give the holder of a New Zealand AOC with ANZA privileges a notice (an ***Australian temporary stop notice***) that requires the holder to cease conducting all or any of the ANZA activities in Australian territory that the AOC authorises for the period (which must not be more than 7 days) specified in the notice.

Note: Section 11J of the Civil Aviation Act 1990 of New Zealand obliges the Director of CAA New Zealand to consider what action to take in response to a notice under this subsection.

(2) The Director may issue the notice only if he or she considers that the conduct of the activities to which the notice will apply constitutes a serious risk to civil aviation safety in Australian territory.

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(3) Subject to section 28E, the notice comes into force when it is given to the holder and remains in force for the period specified in the notice.

(4) The notice must state the facts and circumstances which, in the Director's opinion, give rise to the serious risk to civil aviation safety in Australian territory.

(5) The Director must give a copy of the notice to the Director of CAA New Zealand as soon as practicable after the Director of CASA gives the notice to the holder.

(6) A failure to comply with subsection (4) or (5) does not invalidate the notice.

(7) The Director may not delegate the power to give an Australian temporary stop notice.

28E Revocation of an Australian temporary stop notice

(1) The Director may revoke an Australian temporary stop notice by notice in writing to the holder of the relevant New Zealand AOC with ANZA privileges.

(2) The Director must revoke an Australian temporary stop notice if, while the notice is in force, CASA receives notice from the Director of CAA New Zealand of that Director's decision in response to the Australian temporary stop notice, whether or not the decision is to take action.

(3) The Director may not delegate the power to revoke an Australian temporary stop notice.

28F CASA's obligation on receiving copy of a New Zealand temporary stop notice

(1) If the Director of CAA New Zealand gives CASA a copy of a New Zealand temporary stop notice that relates to a particular Australian AOC with ANZA privileges, CASA must consider the notice immediately and decide, as soon as is practicable, what action (if

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any) to take under this Act or the regulations in relation to the AOC or the holder of the AOC.

(2) In deciding what action to take, CASA must comply with the ANZA mutual recognition agreements.

(3) CASA must notify the Director of CAA New Zealand of its decision, and if its decision is to take action, what that action is.

Note: CASA must consult the Director of CAA New Zealand if CASA proposes to take action that would or might affect ANZA activities in New Zealand (see section 26C).

28G Disapplying regulations that would otherwise apply to the holder of a New Zealand AOC with ANZA privileges

(1) The regulations may provide that specified regulations made under this Act do not apply in relation to all or specified ANZA activities in Australian territory authorised by a New Zealand AOC with ANZA privileges.

(2) Without limiting subsection (1), regulations made for the purposes of that subsection may provide that specified regulations made under this Act do not apply in relation to an aircraft while it is being operated under a New Zealand AOC with ANZA privileges.

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Division 3—General offences in relation to aircraft

29 Offences in relation to aircraft

(1) The owner, operator, hirer (not being the Crown) or pilot of an aircraft commits an offence if he or she:

(a) operates the aircraft or permits the aircraft to be operated; and

(b) the operation of the aircraft results in:

(i) the use by the aircraft of an aerodrome in contravention of a condition specified under section 20; or

(ii) the aircraft being flown or operated in contravention of a provision of this Part (other than subsection 20A(1) or 23(1)), or of a direction given or condition imposed, under such a provision.

Penalty: Imprisonment for 2 years.

(2) Strict liability applies to subparagraphs (1)(b)(i) and (ii).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(3) The owner, operator, hirer (not being the Crown) or pilot of an aircraft commits an offence if he or she:

(a) operates the aircraft or permits the aircraft to be operated; and

(b) the operation of the aircraft results in a contravention of subsection 20A(1).

Penalty: Imprisonment for 5 years.

(4) Strict liability applies to paragraph (3)(b).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(5) The owner, operator, hirer (not being the Crown) or pilot of an aircraft commits an offence if he or she:

(a) operates the aircraft or permits the aircraft to be operated; and

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(b) the operation of the aircraft results in a contravention of subsection 23(1) or a condition imposed under that subsection.

Penalty: Imprisonment for 7 years.

(6) Strict liability applies to paragraph (5)(b).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

30 Weather etc. to be a defence

(1) In any proceedings for an offence against this Act or the regulations, it is a defence if the act or omission charged is established to have been due to extreme weather conditions or other unavoidable cause.

(2) Any defence established under subsection (1) need only be established on the balance of probabilities.

30A Court may impose exclusion period if offence committed

(1) If:

(a) a person is convicted of an offence against this Act or the regulations; and

(b) the person holds a civil aviation authorisation (in this section called the ***old authorisation***); and

(c) the old authorisation authorises the person to undertake a particular activity (in this section called the ***previously authorised activity***); and

(d) the Court considers that it is in the interests of air navigation safety for the person to be excluded from that activity;

the Court may order that the person is to be excluded from that activity for the period specified in the order (in this section called the ***exclusion period***).

(2) The Court may make the order even if the conduct that was involved in the offence was not engaged in by the person while exercising his or her rights under the old authorisation.

(3) The exclusion period may be indefinite.

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(4) During the exclusion period:
  (a) the old authorisation is of no effect; and
  (b) a new civil aviation authorisation to undertake the previously authorised activity is not to be granted to the person.

(5) The person is not entitled to any refund of fees that the person has paid in respect of the old authorisation.

(6) The person must return the old authorisation to CASA as soon as practicable after the order is made.

  Penalty: 30 penalty units.

(7) If the old authorisation is endorsed on another document, the person must, in order to comply with subsection (6), return that other document to CASA and CASA will take appropriate steps to issue a new document without the endorsement.

(8) If the exclusion period ends before the period for which the old authorisation was granted, CASA is to return the authorisation to the person as soon as practicable after the end of the exclusion period.

  Note: This subsection may require CASA to endorse a document already issued to the person.

(9) In this section:

  civil aviation authorisation includes an AOC.

30B Variation and termination of exclusion order

(1) If a Court makes an order under subsection 30A(1):
  (a) the person may apply to the Court at any time for the termination or variation of the order; and
  (b) CASA is to be a party to any proceedings on an application under paragraph (a).

(2) If an application is made under paragraph (1)(a), the Court may terminate or vary the order but only if it is satisfied that doing so would not prejudice air navigation safety.

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30C Court to give CASA details of exclusion orders

The Court is to give CASA details of:

(a) orders made under subsection 30A(1); and

(b) terminations and variations made as a result of applications made under paragraph 30B(1)(a).

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Division 3A—Serious and imminent risks to air safety

Subdivision A—Preliminary

30DA Engage in conduct

In this Division:

engage in conduct means to do an act or omit to do an act.

Subdivision B—Suspension for contravening the serious and imminent risk prohibition

30DB Serious and imminent risk prohibition

The holder of a civil aviation authorisation must not engage in conduct that constitutes, contributes to or results in a serious and imminent risk to air safety.

30DC Suspension

(1) Where CASA has reason to believe that the holder of a civil aviation authorisation has engaged in, is engaging in, or is likely to engage in, conduct that contravenes section 30DB, CASA may suspend the authorisation by giving written notice to the holder.

Note: CASA is not required to give the holder a show cause notice before making a decision under this subsection.

(2) The notice of the decision must include a summary of Subdivisions C and D. However, a failure to include such a summary does not affect the validity of the notice.

(3) The suspension ends at the end of the fifth business day after the day on which the holder was notified of the suspension, unless before that time CASA makes an application to the Federal Court under section 30DE.

Note: If CASA makes an application in time, the suspension continues in force until it comes to an end under the rules in section 30DJ.

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30DD CASA may suspend despite other processes

(1) CASA may make a decision under section 30DC in relation to a civil aviation authorisation even if CASA has given the holder of the authorisation the show cause notice required before making a decision under another provision of this Act or the regulations.

(2) A suspension of a civil aviation authorisation under section 30DC has effect despite a stay (whether or not a stay under section 31A) of an earlier decision to vary, suspend or cancel the authorisation.

Subdivision C—Court order in relation to the serious and imminent risk prohibition

30DE Application for and making of order

(1) If CASA suspends a civil aviation authorisation under section 30DC, CASA may, before the end of the fifth business day after the day on which the holder of the authorisation was notified of the suspension, apply to the Federal Court for an order under this section.

(2) If the Federal Court is satisfied that there are reasonable grounds to believe that the holder has engaged in, is engaging in, or is likely to engage in, conduct that contravenes section 30DB, the Court must make an order that prohibits the holder from doing anything that is authorised by the authorisation but that, without the authorisation, would be unlawful.

(3) In deciding under subsection (2), the Federal Court must have regard to section 3A and subsection 9A(1).

(4) Subject to section 30DF, an order continues in force for the period determined by the Federal Court when making the order, being the period (not more than 40 days) that the Court considers reasonable to allow CASA to complete an investigation into the circumstances that gave rise to CASA's decision to suspend the authorisation.

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30DF Court may vary period of order

(1) On application by CASA or the holder of the civil aviation authorisation, the Federal Court may:

(a) extend (but not for more than 28 days); or

(b) shorten;

the period determined by the Court in relation to an order under subsection 30DE(4) (the ***original period***).

(2) An application under subsection (1) must be made before the end of the original period.

(3) CASA may apply only once to extend the period of an order.

(4) If the Court has heard and determined an application under subsection (1) in relation to an order, no further applications to vary the period of that order may be made.

(5) If:

(a) a party (being CASA or the holder of the civil aviation authorisation concerned) applies to vary the period of an order; and

(b) before the Court determines the application, the other party also applies to vary the period of the order;

the Court must hear the applications together.

(6) If an application is made to vary the period of an order, the order continues in force until the day worked out under the table.

Period of order when an application to vary is made

Item	If...	the order continues in force until...
1	the holder applies to shorten the period and CASA does not apply to extend it	the earlier of: (a) the last day of the original period; and (b) if the Court grants the application—the day determined by the Court in granting the application.

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Period of order when an application to vary is made		
Item	**If...**	**the order continues in force until...**
2	CASA applies to extend the period of the order and the holder does not apply to shorten it	whichever of the following applies: (a) if the Court grants CASA's application—the day determined by the Court in granting the application; (b) if the Court refuses CASA's application before the end of the original period—the end of the original period; (c) if the Court refuses CASA's application after the end of the original period and before the 28th day after the end of the original period—the day of the refusal; (d) otherwise—the 28th day after the end of the original period.
3	the Court hears applications from both parties together under subsection (5)	whichever of the following applies: (a) if the Court grants one of the applications—the day determined by the Court in granting the application; (b) if the Court refuses both applications before the end of the original period—the end of the original period; (c) if the Court refuses the extension application after the end of the original period and before the 28th day after the end of the original period—the day of the refusal; (d) otherwise—the 28th day after the end of the original period.

Subdivision D—Investigation and further action by CASA

30DG CASA must investigate circumstances giving rise to suspension decision

If the Federal Court makes an order under section 30DE in relation to a civil aviation authorisation, CASA must, by the end of the

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period that the order is in force, complete an investigation into the circumstances that gave rise to CASA's decision to suspend the authorisation under section 30DC.

30DH CASA may give a show cause notice within 5 days after end of order

(1) This section applies if, after CASA's investigation under section 30DG:

(a) CASA has reason to believe that a serious and imminent risk to air safety would exist if the civil aviation authorisation were not varied, suspended or cancelled; and

(b) the grounds for CASA's belief are related to the circumstances that gave rise to CASA's decision to suspend the authorisation under section 30DC.

(2) CASA may, within 5 business days after the last day on which the order is in force:

(a) give the holder of the authorisation a show cause notice; and

(b) allow the holder to show cause, within such reasonable time as CASA specifies in the notice (not more than 28 days), why the authorisation should not be varied, suspended or cancelled.

Note: The suspension under section 30DC continues in force beyond the end of the order and may continue until at least the end of the 5 days that CASA has to decide whether to give a show cause notice—see section 30DJ.

30DI CASA may vary, suspend or cancel an authorisation within 5 days after end of show cause period

(1) This section applies if, after the end of the period specified in a show cause notice given under section 30DH:

(a) CASA is satisfied that a serious and imminent risk to air safety would exist if the civil aviation authorisation were not varied, suspended or cancelled; and

(b) the grounds for CASA's belief are related to the circumstances that gave rise to CASA's decision to suspend the authorisation under section 30DC.

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(2) CASA may vary, suspend or cancel the authorisation, by written notice given to the holder of the authorisation within 5 business days after the end of the period specified in the show cause notice.

Note: The suspension under section 30DC continues in force beyond the end of the period specified in the show cause notice and may continue until the end of the 5 days that CASA has to decide whether to vary, suspend or cancel the authorisation—see section 30DJ.

30DJ When a suspension under section 30DC ends

If CASA suspends a civil aviation authorisation under section 30DC and applies to the Federal Court for an order under section 30DE, the suspension continues in force until the time worked out under the table (unless earlier revoked).

When a section 30DC suspension ends

Item	If...	suspension ends at...
1	CASA's application for an order is withdrawn or refused	the time of withdrawal or refusal.
2	in the 5 business days after the last day on which the order was in force, CASA does not give the holder a show cause notice under section 30DH in relation to the authorisation	the end of the fifth business day after the order ceased to be in force.
3	CASA varies, suspends or cancels the authorisation under section 30DI	the time the holder is notified of the variation, suspension or cancellation.
4	CASA gave the holder a show cause notice under section 30DH in relation to the authorisation, but, in the 5 business days after the last day of the period specified in the notice, CASA does not vary, suspend or cancel the authorisation	the end of the fifth business day after the last day of the period specified in the show cause notice.

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Division 3B—Enforceable voluntary undertakings

30DK Enforceable voluntary undertakings

(1) CASA may accept a written undertaking given by the holder of a civil aviation authorisation in connection with a matter:
  (a) arising under this Act or the regulations; and
  (b) in relation to which CASA has a function or power under this Act or the regulations.

(2) The period for which the undertaking applies must not exceed 12 months. However, CASA may accept a further undertaking from the holder.

(3) The undertaking must not require, or have the effect of requiring, the holder to pay money to CASA.

(4) CASA must publish details of the undertaking on the internet.

(5) The holder may withdraw or vary the undertaking at any time, but only with the consent of CASA.

(6) If CASA considers that the holder has breached any of the terms of the undertaking, CASA may apply to the Federal Court for an order under subsection (7).

(7) If the Federal Court is satisfied that the holder has breached a term of the undertaking, the Court may make all or any of the following orders:
  (a) an order directing the holder to comply with that term of the undertaking;
  (b) an order directing the holder to pay to the Commonwealth an amount up to the amount of any financial benefit that the holder has obtained directly or indirectly and that is reasonably attributable to the breach of the undertaking;
  (c) any other order that the Court considers appropriate.

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Division 3C—Protection from administrative action for voluntary reporting

Subdivision A—Preliminary

30DL Definitions

In this Division:

accident means an occurrence that is associated with the operation or maintenance of an aircraft and that results in:

(a) the death of, or serious injury to, a person; or

(b) the destruction of, or serious damage to, an aircraft or other property (whether or not property on the aircraft).

prescribed person means the person prescribed under section 30DM.

reportable contravention means a contravention of the regulations, other than the following:

(a) a contravention that is deliberate;

(b) a contravention that is fraudulent;

(c) a contravention that causes or contributes to an accident or to a serious incident (whether before or after the contravention is reported);

(d) a contravention of a regulation that is prescribed for the purposes of this paragraph.

serious incident means an occurrence that is associated with the operation or maintenance of an aircraft where either or both of the following applies:

(a) the occurrence gives rise to a danger of death or serious harm to a person;

(b) the occurrence gives rise to a danger of serious damage to an aircraft or other property (whether or not property on the aircraft).

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30DM Prescribed person

(1) The regulations may prescribe a person for the purposes of this Division.

(2) Without limitation, the person prescribed under subsection (1) may be:
  (a) a statutory corporation; or
  (b) any person from time to time holding, occupying or performing the duties of, a specified position or office (including a statutory office).

(3) The prescribed person has the powers and functions conferred on the person by the regulations.

30DN Voluntary reporting scheme

(1) The regulations may establish a scheme for the voluntary reporting of reportable contraventions to the prescribed person.

(2) The regulations may prescribe:
  (a) the purposes of the scheme; and
  (b) the manner in which reports are to be made; and
  (c) the use by the prescribed person of information contained in reports; and
  (d) any other matters necessary or incidental to the establishment or operation of a scheme in accordance with subsection (1).

(3) The regulations must not permit the prescribed person to disclose information about a reportable contravention that is personal information within the meaning of the *Privacy Act 1988* (except where the person who reported the contravention consents to the disclosure).

Subdivision B—Protection from administrative action

30DO Protection for reporting a reportable contravention

(1) In exercising a power under this Act or the regulations to vary, suspend or cancel a civil aviation authorisation, CASA may

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disregard a reportable contravention if, having regard to the circumstances in which the contravention occurred, the holder of the authorisation proves to CASA, in accordance with section 30DP, that the holder reported the contravention to the prescribed person:

(a) within 10 days after the contravention; and

(b) before the holder was given the show cause notice for the proposed decision.

(2) If:

(a) the holder of a civil aviation authorisation is given an infringement notice under the regulations; and

(b) the holder proves to CASA, in accordance with section 30DP, that the holder reported the contravention to the prescribed person:

(i) within 10 days after the contravention; and

(ii) before the holder was given the infringement notice;

then:

(c) the holder is not required to pay the penalty specified in the infringement notice; and

(d) the notice is taken to be withdrawn.

30DP Proof of report

It is proof in accordance with this section if:

(a) before CASA varies, suspends or cancels the authorisation; or

(b) before the due date for payment of the penalty specified in the infringement notice;

the holder produces a receipt from the prescribed person that identifies:

(c) the holder; and

(d) the date the report was made to the person; and

(e) the date and nature of the contravention.

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30DQ Only protected once every 5 years

Section 30DO does not apply to a reportable contravention by the holder of a civil aviation authorisation if, in the 5 years ending on the date of the contravention:

(a) CASA disregarded another reportable contravention by the same holder; or

(b) an infringement notice given to the same holder for another reportable contravention was taken under that section to be withdrawn.

30DR Use of information

(1) None of the following is admissible in evidence in any criminal proceedings against the holder of a civil aviation authorisation:

(a) a report of a reportable contravention made by the holder to the prescribed person;

(b) a receipt given to CASA in accordance with section 30DP by the holder;

(c) any other evidence of the fact that a report of a reportable contravention was made by the holder to the prescribed person.

(2) Subsection (1) only applies if the contravention is still a reportable contravention at the time when the criminal proceedings commence.

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Division 3D—Demerit points scheme

Subdivision A—Preliminary

30DS Definitions

In this Division:

demerit cancellation notice means a notice under section 30EC.

demerit suspension notice means a notice under section 30DY or 30DZ.

prescribed offence means an offence prescribed under section 30DT.

register means the register kept under section 30EG.

30DT Regulations may prescribe offences that the demerit points scheme applies to

The regulations may prescribe:

(a) offences to which this Division applies; and

(b) the number of points that are incurred in relation to an offence.

30DU Classes of civil aviation authorisations

The regulations must prescribe classes to which particular civil aviation authorisations belong, having regard to the activities covered by the civil aviation authorisations.

30DV Other regulations

If:

(a) a civil aviation authorisation is cancelled; and

(b) if the authorisation had not been cancelled, a subsequent suspension or cancellation under this Division would have had effect in relation to the authorisation; and

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(c) the cancellation mentioned in paragraph (a) is later set aside by the Administrative Appeals Tribunal;

the regulations may provide that the subsequent suspension or cancellation under this Division has effect in accordance with the regulations.

Subdivision B—Incurring demerit points

30DW When demerit points are incurred

The holder of a civil aviation authorisation incurs demerit points for a prescribed offence if:

(a) the holder is given an infringement notice under the regulations in relation to the offence and pays (in whole or in part) the penalty specified in the notice; or

(b) the holder is convicted or found guilty of the offence.

30DX Demerit points are incurred in relation to a class of authorisations

(1) If the holder of a civil aviation authorisation incurs demerit points, the demerit points are incurred in relation to the class of authorisations to which the offence relates.

(2) A person incurs demerit points if:

(a) the person does not hold a civil aviation authorisation; and

(b) the person commits an offence prescribed by the regulations under paragraph 30DT(a).

(3) If the person incurs demerit points, the demerit points are incurred in relation to an authorisation that is:

(a) within the class of authorisations to which the offence relates; and

(b) held in the 3 year period beginning on the day on which the demerit points would have been incurred had an authorisation been held at the time the offence was committed.

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Subdivision C—Consequences of incurring demerit points

30DY First-time demerit suspension notice

(1) CASA must give the holder of a civil aviation authorisation a demerit suspension notice under this section if:

(a) the holder incurs demerit points for a prescribed offence; and

(b) taken together with demerit points incurred by the holder for offences committed by the holder in the 3 years ending on the day the offence was committed, the holder has incurred at least 12 demerit points in relation to the same class of authorisations; and

(c) the holder has not previously been given a demerit suspension notice in relation to that class of authorisations.

(1A) If a person incurs demerit points before becoming a holder of a civil aviation authorisation, then, for the purpose of paragraph (1)(b), those points are taken to have been incurred by the holder for offences committed by the holder.

(2) The effect of giving the notice is that:

(a) from the start date specified in the notice, all of the holder's civil aviation authorisations of that class are suspended for the suspension period; and

(b) the holder is not entitled to be granted a civil aviation authorisation of that class, from the date of the notice until the end of the last day on which a civil aviation authorisation of that class is suspended as a result of the notice.

(3) The suspension period for an authorisation is:

(a) if the total of the demerit points counted under paragraphs (1)(a) and (b) is 12, 13, 14 or 15—90 days; or

(b) if the total of the demerit points counted under paragraphs (1)(a) and (b) is 16, 17, 18 or 19—120 days; or

(c) otherwise—150 days.

Note: The suspension period for a particular authorisation may be affected by section 30EB.

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30DZ Second-time demerit suspension notice

(1) CASA must give the holder of a civil aviation authorisation a demerit suspension notice under this section if:

(a) the holder incurs demerit points for a prescribed offence; and

(b) taken together with demerit points incurred by the holder for offences committed by the holder in the 3 years ending on the day the offence was committed, the holder has incurred at least 6 demerit points in relation to the same class of authorisations; and

(c) the holder has, once previously, been given a demerit suspension notice in relation to that class of authorisations.

(1A) If a person incurs demerit points before becoming a holder of a civil aviation authorisation, then, for the purpose of paragraph (1)(b), those points are taken to have been incurred by the holder for offences committed by the holder.

(2) The effect of giving the notice is that:

(a) from the start date specified in the notice, all of the holder's civil aviation authorisations of that class are suspended for the suspension period; and

(b) the holder is not entitled to be granted a civil aviation authorisation of that class, from the date of the notice until the end of the last day on which a civil aviation authorisation of that class is suspended as a result of the notice.

(3) The suspension period for an authorisation is:

(a) if the total of the demerit points counted under paragraphs (1)(a) and (b) is 6, 7, 8 or 9—90 days; or

(b) if the total of the demerit points counted under paragraphs (1)(a) and (b) is 10, 11, 12 or 13—120 days; or

(c) otherwise—150 days.

Note: The suspension period for a particular authorisation may be affected by section 30EB.

30EA Details in a demerit suspension notice

A demerit suspension notice must state the following:

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(a) the date of the notice;
(b) the start date, being the date that the suspension period begins (which must not be earlier than the 28th day after the date of the notice);
(c) the suspension period;
(d) the class of authorisations covered by the notice;
(e) any other information required by the regulations.

30EB Suspension period not to be served concurrently

A day is not counted for the purposes of a suspension period that applies to a holder's civil aviation authorisation under this Division if:

(a) on that day, a suspension of the authorisation has effect under another provision of this Act or the regulations; or
(b) the day is a day prescribed by the regulations for the purposes of this section.

Example: At the time that a 90 day suspension under section 30DY comes into force, another suspension of one of the affected civil aviation authorisations has been stayed under section 31A. 20 days into the section 30DY suspension, the Administrative Appeals Tribunal reviews the other suspension and upholds it. The other suspension runs for 30 days. Those 30 days do not count for the purposes of the section 30DY suspension of the relevant authorisation. The section 30DY suspension of that authorisation has 70 days to run after the end of the other suspension.

30EC Demerit cancellation notice

(1) CASA must give the holder of a civil aviation authorisation a demerit cancellation notice if:
(a) the holder incurs demerit points for a prescribed offence; and
(b) taken together with demerit points incurred by the holder for offences committed by the holder in the 3 years ending on the day the offence was committed, the holder has incurred at least 6 demerit points in relation to the same class of authorisations; and
(c) the holder has, twice previously, been given a demerit suspension notice in relation to that class of authorisations.

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(1A) If a person incurs demerit points before becoming a holder of a civil aviation authorisation, then, for the purpose of paragraph (1)(b), those points are taken to have been incurred by the holder for offences committed by the holder.

(2) The effect of giving the notice is that:

(a) from the start date specified in the notice, all of the holder's civil aviation authorisations of that class are cancelled; and

(b) the holder is not entitled to be granted a civil aviation authorisation of that class for 3 years from the date of the notice.

30ED Details in a demerit cancellation notice

A demerit cancellation notice must state the following:

(a) the date of the notice;

(b) the start date, being the date that the cancellation begins (which must not be earlier than the 28th day after the date of the notice);

(c) the period of disqualification mentioned in paragraph 30EC(2)(b);

(d) the class of authorisations covered by the notice;

(e) any other information required by the regulations.

30EE Expiry of demerit points

(1) If the holder of a civil aviation authorisation is given a demerit suspension notice or a demerit cancellation notice, all demerit points incurred by the holder that counted under subsection 30DY(1), 30DZ(1) or 30EC(1) towards that suspension or cancellation are disregarded for the purposes of subsequent calculations of demerit points under those subsections.

Note: Demerit points incurred after the date of the notice but before the suspension or cancellation begins are not disregarded.

(2) If a person incurs demerit points before becoming a holder of a civil aviation authorisation, then, for the purpose of subsection (1), those points are taken to have been incurred by the holder.

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Subdivision D—Reinstatement of civil aviation authorisation in special circumstances

30EF CASA may reinstate if satisfied that holder's livelihood depends on authorisation

(1) A holder of a civil aviation authorisation who has been given a demerit suspension notice or demerit cancellation notice may apply to CASA to have the authorisation reinstated.

(2) Subsection (1) applies despite paragraphs 30DY(2)(b), 30DZ(2)(b) and 30EC(2)(b).

(3) If, and only if, CASA is satisfied that the suspension or cancellation would cause the holder severe financial hardship because, without the authorisation, the holder would not be able to earn the holder's principal or only income, CASA may:
  (a) reinstate the authorisation; and
  (b) impose on the authorisation such conditions as CASA considers appropriate in the circumstances.

Subdivision E—Administration of the demerit points scheme

30EG CASA must maintain a demerit points register

(1) CASA must maintain a register that records details necessary for, or directly relevant to, the administration of this Division.

(2) CASA must, if it becomes aware of it, correct any mistake, error or omission in the register.

(3) The regulations may provide for other matters in relation to the keeping of the register.

30EH CASA may maintain other records

For the purposes of administering this Division, CASA may, in addition to the register, keep records of information obtained and actions taken under this Division.

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30EI Demerit points incurred to be included in register

(1) If the holder of a civil aviation authorisation incurs demerit points in relation to a prescribed offence, CASA must record in the register:

(a) the number of demerit points prescribed by the regulations in relation to the offence; and

(b) the date the offence was committed; and

(c) the class of authorisations in relation to which the demerit points are incurred.

(2) If a person incurs demerit points before becoming a holder of a civil aviation authorisation, then, for the purpose of subsection (1), those points are taken to have been incurred by the holder.

30EJ Expired points to be removed from register

CASA must remove from the register demerit points that can no longer be taken into account under subsection 30DY(1), 30DZ(1) or 30EC(1).

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Division 4—Miscellaneous

31 Review of decisions

(1) In this section:

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

reviewable decision means:

(a) a refusal to grant or issue, or a cancellation, suspension or variation of, a certificate, permission, permit or licence granted or issued under this Act or the regulations; or

(b) the imposition or variation of a condition, or the cancellation, suspension or variation of an authorisation, contained in such a certificate, permission, permit or licence; or

(c) a decision under subsection 30EF(3) (about reinstating a civil aviation authorisation that has been suspended or cancelled under Division 3D);

but does not include:

(d) a suspension of a civil aviation authorisation under section 30DC (suspension for contravening the serious and imminent risk prohibition); or

(e) a suspension or cancellation of a civil aviation authorisation under Division 3D (the demerit points scheme).

(2) Application may be made to the Administrative Appeals Tribunal for review of a reviewable decision.

(3) Where the person making a reviewable decision gives to the person whose interests are affected by the decision notice in writing of the decision, the notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal, by or on behalf of any person whose interests are affected by the decision, for review of the decision.

(4) A failure to comply with subsection (3) in relation to a decision does not affect the validity of the decision.

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31A Automatic stay of certain reviewable decisions

(1) This section applies to a decision under this Act or the regulations that is reviewable by the Administrative Appeals Tribunal if, before making the decision, CASA was required by this Act or the regulations to give a show cause notice to the holder of the civil aviation authorisation concerned.

(2) This section does not apply to a decision under section 30DI or a decision under the regulations to cancel a licence, certificate or authority on the ground that the holder of that licence, certificate or authority has contravened a provision of this Act or the regulations (including the regulations as in force by virtue of a law of a State).

(3) If this section applies to a decision, the operation of the decision is stayed by force of this section.

(4) The stay ceases to have effect at the end of the fifth business day after the day CASA notified the holder of the decision, unless, before the end of that fifth business day, the holder applies to the Tribunal for an order under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975*.

(5) If the holder applies to the Tribunal as mentioned in subsection (4), the stay continues to have effect until the Tribunal makes an order under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975* or decides that no order should be made.

(6) If the holder applies to the Tribunal as mentioned in subsection (4), the holder must give a copy of the application to CASA as soon as practicable after lodging it with the Tribunal.

31B Stay ends if application is withdrawn

(1) If the holder of a civil aviation authorisation withdraws an application covered by section 31A, the stay ceases to have effect from the time of the withdrawal.

(2) The holder must notify CASA of the withdrawal as soon as practicable.

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31C Tribunal's ordinary powers not affected

To avoid doubt, section 31A does not affect the operation of subsection 31(2).

31D CASA may still suspend for a serious and imminent risk

Nothing in section 31A prevents CASA from suspending a civil aviation authorisation under section 30DC (suspension for contravening the serious and imminent risk prohibition).

Note: See also section 30DD.

32 Powers and functions under State and Territory laws

CASA or the Director, or an officer, authority or person having powers and functions under this Act or the regulations, may also have similar powers and functions conferred by the law of a State or Territory relating to air navigation.

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Part IIIA—Investigation powers

Division 1—Appointment of investigators and issue of identity cards

32AA Appointment of investigators

(1) CASA may, in writing, appoint an officer to be an investigator for the purposes of this Part.

(2) CASA must not appoint an officer as an investigator unless CASA is satisfied that the officer has suitable qualifications and experience to properly exercise the powers of an investigator.

(3) An investigator must, in exercising powers as an investigator, comply with any directions of CASA.

(4) If a direction is given under subsection (3) in writing, the direction is not a legislative instrument.

32AB Identity cards

(1) CASA must cause each investigator to be issued with an identity card in a form approved by CASA and bearing a recent photograph of the investigator.

(2) A person who stops being an investigator must, as soon as practicable, return his or her identity card to CASA.

(3) A person must not fail to comply with subsection (2).

Penalty: 1 penalty unit.

(4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

(5) An offence under subsection (3) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

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(6) An investigator must carry his or her identity card at all times when exercising powers as an investigator.

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Division 2—Powers of investigators

Subdivision A—Searches without a warrant

32AC Search with consent to monitor compliance

(1) Subject to section 32ACB, for the purpose of finding out whether the civil aviation legislation is being complied with, an investigator may:

(a) enter premises; and

(b) exercise inspection powers.

(2) The power to enter premises and exercise inspection powers can only be exercised for the purpose of finding out whether the Civil Aviation Act 1990 of New Zealand, and the regulations and rules made under that Act, are being complied with if a request has been made to CASA, in accordance with the ANZA mutual recognition agreements, for the exercise of powers under this Part in relation to that legislation.

32ACA Search with consent for evidence in relation to civil aviation offences

Subject to section 32ACB, if an investigator has reasonable grounds for suspecting that there is on, or in, any premises a particular thing which may be evidential material, the investigator may:

(a) enter the premises; and

(b) search the premises for the thing.

32ACB Consent to enter premises

(1) An investigator is not authorised to enter premises unless:

(a) the occupier of the premises has consented to the entry; and

(b) the investigator has shown his or her identity card to the occupier.

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(2) An investigator must, before obtaining the consent of an occupier of premises for the purposes of subsection (1), inform the occupier that the occupier may refuse consent.

(3) A consent has no effect unless the consent is voluntary.

(4) A consent may be expressed to be limited to entry during a particular period. If so, the consent has effect for that period unless the consent is withdrawn before the end of that period.

(5) A consent that is not limited as mentioned in subsection (4) has effect until the consent is withdrawn.

(6) If an investigator entered premises because of the consent of the occupier of the premises, the investigator, and any person assisting the investigator, must leave the premises if the consent ceases to have effect.

Subdivision B—Applying for and issuing a warrant

32AD Monitoring warrants

(1) An investigator may apply to a magistrate for a warrant under this section in relation to particular prescribed premises.

(1A) An application under subsection (1) can only be made for the purpose of finding out whether the Civil Aviation Act 1990 of New Zealand, and the regulations and rules made under that Act (the ***New Zealand legislation***), are being complied with if a request has been made to CASA, in accordance with the ANZA mutual recognition agreements, for the exercise of powers under this Part in relation to that legislation.

(2) Subject to subsection (3), the magistrate may issue the warrant if satisfied, by information on oath, that it is reasonably necessary that the investigator should have access to the premises for the purpose of finding out whether the civil aviation legislation or the New Zealand legislation is being complied with.

(3) The magistrate must not issue the warrant unless the investigator or someone else has given the magistrate, either orally or by affidavit,

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any further information the magistrate may require about the grounds on which the issue of the warrant is being sought.

(4) The warrant must:

(a) authorise an investigator named in the warrant, with such assistance and by such force as is necessary and reasonable, to enter, and exercise inspection powers on, the premises; and

(b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) specify the day (not more than one month after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

32AF Offence related warrants

(1) An investigator may apply to a magistrate for a warrant under this section in relation to particular premises.

(2) Subject to subsection (3), the magistrate may issue the warrant if satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, on the premises a particular thing that may afford evidence of the commission of a civil aviation offence.

(3) The magistrate must not issue the warrant unless the investigator or someone else has given the magistrate, either orally or by affidavit, any further information the magistrate may require about the grounds on which the issue of the warrant is being sought.

(4) The warrant must:

(a) authorise an investigator named in the warrant, with such assistance and by such force as is necessary and reasonable:

(i) to enter the premises; and

(ii) to search the premises for the thing; and

(iii) if the thing is found—to seize it; and

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(b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) specify the day (not more than one week after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

32AG Warrants may be granted by telephone

(1) Where, because of circumstances of urgency, an investigator thinks it necessary to do so, the investigator may apply for a warrant under section 32AF by telephone, in accordance with this section.

(2) Before making such an application, an investigator must prepare an information of the kind mentioned in subsection 32AF(2) that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.

(3) Where a magistrate to whom an application under this section is made is satisfied:

(a) after having considered the terms of the information prepared under subsection (2); and

(b) after having received any further information that the magistrate may require about the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign a warrant that is the same as the warrant that the magistrate would issue under section 32AF if the application had been made under that section.

(4) Where a magistrate signs a warrant under subsection (3):

(a) the magistrate must inform the investigator of the terms of the warrant, the date and time when it was signed, and the day on which it ceases to have effect, and record on the warrant the reasons for issuing it; and

(b) the investigator must complete a form of warrant in the terms given to the investigator by the magistrate and write on it the

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magistrate's name and the date and time when the warrant was signed.

(5) Where an investigator completes a form of warrant, the investigator must, not later than the day after:

(a) the day on which the warrant ceases to have effect; or

(b) the day on which the warrant is executed;

whichever happens first, send the magistrate who signed the warrant the form of warrant completed by the investigator and the information duly sworn in connection with the warrant.

(6) Upon receipt of the documents mentioned in subsection (5), the magistrate must attach to them the warrant signed by the magistrate and deal with the documents in the same way that the magistrate would have dealt with the information if the application for the warrant had been made under section 32AF.

(7) The form of warrant completed by an investigator under subsection (4) is, if it is in accordance with the terms of the warrant signed by the magistrate, authority for any entry, search, seizure or other exercise of a power that the warrant so signed authorised.

(8) Where, in any proceedings, the court must be satisfied that an entry, search, seizure, or other exercise of power, was authorised under this section, and the warrant signed by a magistrate under this section authorising the entry, search, seizure, or other exercise of power, is not produced in evidence, the court must assume, unless the contrary is proved, that the entry, search, seizure, or other exercise of power, was not authorised by such a warrant.

32AH Seizures related to civil aviation offences

(1) This section applies if:

(a) an investigator searches premises with the consent of the occupier, as mentioned in section 32ACA; or

(b) an investigator searches premises in accordance with a warrant that has been issued under section 32AF or 32AG.

(2) The investigator may seize a thing that he or she:

(a) finds in the course of the search; and

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(b) believes on reasonable grounds to be evidential material; and
(c) believes on reasonable grounds needs to be seized to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating a civil aviation offence.

Subdivision C—General provisions about executing a warrant

32AHA Announcement before entry

(1) An investigator executing a warrant must, before any person enters premises under the warrant:
(a) announce that he or she, and any other person who enters the premises under the warrant, is authorised to enter the premises; and
(b) give any person at the premises an opportunity to allow entry to the premises.

(2) An investigator is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure:
(a) the safety of a person; or
(b) that the effective execution of the warrant is not frustrated.

32AHB Assistance and force in executing a warrant

In executing a warrant, the investigator executing the warrant may:
(a) obtain the assistance that is necessary and reasonable in the circumstances; and
(b) use the force against persons and things that is necessary and reasonable in the circumstances.

32AHC Copy of warrant to be shown to occupier etc.

(1) If the occupier of the premises, or another person who apparently represents the occupier, is present at the premises, the investigator executing the warrant must make a copy of it available to the person.

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(2) The investigator must identify himself or herself to the person at the premises.

(3) The copy of the warrant need not include the signature of the magistrate who issued it.

32AHD Occupier entitled to watch search

(1) The occupier of the premises, or another person who apparently represents the occupier, who is present at the premises, is entitled to watch the search.

(2) The right to watch the search being conducted ceases if the occupier, or the person representing the occupier, impedes the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

32AHE Specific powers available to investigator executing a warrant

(1) The investigator executing the warrant or a person assisting him or her may take photographs or video recordings of the premises or things on the premises:
  (a) for a purpose incidental to the execution of the warrant; or
  (b) with the written consent of the occupier of the premises.

(2) The investigator executing the warrant and all people assisting him or her may, if the warrant is still in force, finish executing the warrant after all of them temporarily stop executing it and leave the premises:
  (a) for not more than one hour; or
  (b) for a longer period with the written consent of the occupier of the premises.

(3) The execution of a warrant that is stopped by an order of a court may be completed if:
  (a) the order is later revoked or reversed on appeal; and
  (b) the warrant is still in force.

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32AHF Use of equipment to examine or process things

(1) The investigator executing the warrant or a person assisting him or her may bring to the premises any equipment (including electronic equipment) reasonably necessary to examine or process things found at the premises in order to determine whether they are things that may be seized under the warrant.

(2) A thing found at the premises may be moved to another place for examination or processing in order to determine whether it may be seized if:

(a) both of the following apply:

(i) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance;

(ii) there are reasonable grounds to believe that the thing contains or constitutes evidential material; or

(b) the occupier of the premises consents in writing.

(3) If things are moved to another place for the purpose of examination or processing, the investigator must, if it is practicable to do so:

(a) inform the occupier of the address of the place and the time at which the examination or processing will be carried out; and

(b) allow the occupier or his or her representative to be present during the examination or processing.

(4) The thing may be moved to another place for examination or processing for no longer than 72 hours.

(5) An investigator may apply to a magistrate for one or more extensions of that time if the investigator believes on reasonable grounds that the thing cannot be examined or processed within 72 hours or that time as previously extended.

(6) The investigator must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard in relation to the application.

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(7) The investigator executing the warrant or a person assisting him or her may operate equipment (including electronic equipment) already on the premises to examine or process a thing found on the premises in order to determine whether it may be seized under the warrant, if the investigator or the person believes on reasonable grounds that:

(a) the equipment is suitable for the examination or processing; and

(b) the examination or processing can be carried out without damaging the equipment or thing.

(8) A notice of the application given to the occupier of the premises is not a legislative instrument.

32AHG Use of electronic equipment at premises without expert assistance

(1) The investigator executing the warrant or a person assisting him or her may operate electronic equipment on the premises to access data (including data not held at the premises) if he or she believes on reasonable grounds that:

(a) the data might constitute evidential material; and

(b) the equipment can be operated without damaging it.

Note: An investigator can obtain an order requiring a person with knowledge of a computer or computer system to provide assistance: see section 32AHI.

(2) If the investigator or the person assisting him or her believes on reasonable grounds that any data accessed by operating the electronic equipment might constitute evidential material, he or she may:

(a) copy the data to a disk, tape or other associated device brought to the premises; or

(b) if the occupier of the premises agrees in writing—copy the data to a disk, tape or other associated device at the premises;

and take the device from the premises.

(3) If:

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(a) the investigator or the person assisting him or her takes the device from the premises; and

(b) CASA is satisfied that the data is not required (or is no longer required) for an investigation or the prosecution of a person;

CASA must arrange for:

(c) the removal of the data from any device in the control of CASA; and

(d) the destruction of any other reproduction of the data in the control of CASA.

(4) If the investigator or the person assisting him or her, after operating the equipment, finds that evidential material is accessible by doing so, he or she may:

(a) seize the equipment and any disk, tape or other associated device; or

(b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents so produced.

(5) A person may seize equipment under paragraph (4)(a) only if:

(a) it is not practicable to put the material in documentary form as referred to in paragraph (4)(b); or

(b) possession of the equipment by the occupier could constitute an offence.

32AHH Use of electronic equipment at premises with expert assistance

(1) If the investigator executing the warrant or a person assisting him or her believes on reasonable grounds that:

(a) evidential material may be accessible by operating electronic equipment at the premises; and

(b) expert assistance is required to operate the equipment; and

(c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;

he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

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(2) The investigator or the person assisting him or her must notify the occupier of the premises, in writing, of:
  (a) his or her intention to secure the equipment; and
  (b) the fact that the equipment may be secured for up to 24 hours.

(3) The equipment may be secured for up to 24 hours to allow the equipment to be operated by an expert.

(4) If the investigator or the person assisting him or her believes on reasonable grounds that expert assistance will not be available within 24 hours, he or she may apply to a magistrate for an extension of that period.

(5) The investigator or the person assisting him or her must notify the occupier of the premises of his or her intention to apply for an extension, and the occupier is entitled to be heard in relation to the application.

(6) The provisions of this Part in relation to the issuing of warrants apply, with such modifications as are necessary, to the issuing of an extension.

(7) A notification given to the occupier of the premises under this section is not a legislative instrument.

32AHI Person with knowledge of a computer or a computer system to assist access etc.

(1) The investigator executing the warrant may apply to a magistrate for an order requiring a specified person to provide any information or assistance that is reasonable and necessary to allow the officer or a person assisting him or her or to do one or more of the following:
  (a) access data held in a computer, or accessible from a computer, that is on premises in relation to which the warrant is in force;
  (b) copy the data to a data storage device;
  (c) convert the data into documentary form.

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(2) The magistrate may grant the order if he or she is satisfied that:
  (a) there are reasonable grounds for suspecting that evidential material is held in, or is accessible from, the computer; and
  (b) the specified person is:
    (i) in the case of a warrant—reasonably suspected of having committed the offence stated in the warrant; or
    (ii) the owner or lessee of the computer; or
    (iii) an employee of the owner or lessee of the computer; and
  (c) the specified person has relevant knowledge of:
    (i) the computer or a computer network of which the computer forms a part; or
    (ii) measures applied to protect data held in, or accessible from, the computer.

(3) A person commits an offence if the person fails to comply with the order.

Penalty: Imprisonment for 6 months.

32AHJ Accessing data held on other premises—notification to occupier of those premises

(1) If:
  (a) data that is held on premises (other than the premises in relation to which the warrant is in force) is accessed under subsection 32AHG(1); and
  (b) it is practicable to notify the occupier of the other premises that the data has been accessed under a warrant;

the investigator executing the warrant must:
  (c) do so as soon as practicable; and
  (d) if the investigator has arranged, or intends to arrange, for continued access to the data under subsection 32AHG(2) or (5)—include that information in the notification.

(2) A notification under subsection (1) must include sufficient information to allow the occupier of the other premises to contact the investigator.

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32AHK Compensation for damage to electronic equipment

(1) This section applies if:

(a) as a result of equipment being operated as mentioned in section 32AHF, 32AHG or 32AHH:

(i) damage is caused to the equipment; or

(ii) the data recorded on the equipment is damaged; or

(iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and

(b) the damage or corruption occurs because:

(i) insufficient care was exercised in selecting the person who was to operate the equipment; or

(ii) insufficient care was exercised by the person operating the equipment.

(2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.

(3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.

(4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier's employees or agents, if they were available at the time, had provided any appropriate warning or guidance on the operation of the equipment.

(5) For the purpose of subsection (1):

damage, in relation to data, includes damages by erasure of data or addition of other data.

32AHL Copies of seized things to be provided

(1) If the investigator executing the warrant or a person assisting him or her seizes:

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(a) a document, film, computer file or other thing that can be readily copied; or

(b) a device storing information that can be readily copied;

the investigator or the person assisting him or her must, if requested to do so by the occupier of the premises or another person who apparently represents the occupier and who is present when the warrant is executed, give a copy of the thing or the information to that person as soon as practicable after the seizure.

(2) However, subsection (1) does not apply if:

(a) the thing that has been seized was seized under subsection 32AHG(2) or paragraph 32AHG(5)(a); or

(b) possession of the document, film, computer file, thing or information by the occupier could constitute an offence.

32AHM Receipts of things seized under warrant

(1) If a thing is seized, as allowed by section 32AH, the investigator executing the warrant or person assisting him or her must provide a receipt for the thing.

(2) If 2 or more things are seized, they may be covered by the one receipt.

32AHN Retention of seized things

(1) Subject to any contrary order of a court, if an investigator seizes a thing, as allowed by section 32AH, an investigator must return it if:

(a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or

(b) the period of 60 days after its seizure ends;

whichever first occurs, unless the thing is forfeited or forfeitable to the Commonwealth.

(2) At the end of the 60 days specified in subsection (1), an investigator must take reasonable steps to return the thing to the person from whom it was seized, unless:

(a) proceedings in respect of which the thing may afford evidence were instituted before the end of the 60 days and

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have not been completed (including an appeal to a court in relation to those proceedings); or

(b) an investigator may retain the thing because of an order under section 32AHO; or

(c) an investigator is otherwise authorised (by a law, or an order of a court, of the Commonwealth) to retain, destroy or dispose of the thing.

(3) The thing may be returned under subsection (2) either unconditionally or on such terms and conditions as CASA sees fit.

32AHO Magistrate may permit a thing to be retained

(1) A magistrate may, on application made by an investigator, make an order under this section in respect of a thing seized, as allowed by a warrant or section 32AH, if proceedings in respect of which the thing may afford evidence have not commenced, or there is a reasonable likelihood that such proceedings will not commence, by the later of the following times:

(a) the end of 60 days after the seizure;

(b) if a previous order has been made under this section in respect of the thing—the end of the period specified in the previous order.

(2) Before making the application, the investigator must:

(a) take reasonable steps to discover who has an interest in the retention of the thing; and

(b) if it is practicable to do so, notify each such person of the proposed application.

(3) If the magistrate is satisfied that it is necessary for the investigator to continue to retain the thing:

(a) for the purposes of an investigation as to whether a civil aviation offence has been committed; or

(b) to enable evidence of a civil aviation offence to be secured for the purposes of a prosecution;

the magistrate may order that the investigator may retain the thing for a period (not exceeding 90 days) specified in the order.

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32AJ Power to require persons to answer questions and produce documents

(1) An investigator who is on or in premises that he or she has entered under a warrant under this Part may require anyone on or in the premises to:

(a) answer any questions put by the investigator; and

(b) produce any books, records or documents requested by the investigator.

(2) A person must not fail to comply with a requirement under subsection (1).

Penalty: 30 penalty units.

(2A) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

(3) It is not a reasonable excuse for a person to refuse or fail to answer a question or produce a book, record or document on the ground that to do so would tend to incriminate the person, but the answer to any question, or any book, record or document produced, or any information or thing obtained as a direct or indirect consequence of answering the question or producing the book, record or document is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (2).

32AK Powers in relation to aircraft etc.

(1) An investigator may, for the purpose of performing the functions or exercising the powers of an investigator under this Part in relation to an aircraft, vessel or vehicle, require the person apparently in control of the aircraft, vessel or vehicle to do either or both of the following:

(a) to stop and detain the aircraft, vehicle or vessel for such reasonable period as the investigator specifies;

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(b) to take all reasonable steps to ensure that the aircraft, vehicle or vessel, or a specified part of it, is left undisturbed for such reasonable period as the investigator specifies.

(2) A person must not fail to comply with a requirement under subsection (1).

Penalty: 30 penalty units.

(3) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

(4) An offence under subsection (2) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

32AL Destruction or disposal of certain goods

A magistrate may, on application by CASA, make an order authorising CASA to destroy, or otherwise dispose of, specified goods seized under section 32AH, if the magistrate is satisfied that:

(a) apart from this section, an investigator is required to return the goods to a person; and

(b) either:

(i) the investigator cannot, despite making reasonable efforts, locate the person; or

(ii) the person has refused to take possession of the goods.

32AM Compensation for acquisition of property

(1) If:

(a) apart from this section, the operation of this Part would result in the acquisition of property from a person otherwise than on just terms; and

(b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;

CASA is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.

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(2) If CASA and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from CASA of such reasonable amount of compensation as the court determines.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

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Division 3—Offences

32AMA Making false statements in warrants

A person commits an offence if:

(a) the person makes a statement in applying for a warrant; and

(b) the person knows that the statement is false or misleading in a material particular.

Penalty: Imprisonment for 2 years.

32AMB Offence for stating incorrect names in telephone warrants

A person commits an offence if:

(a) the person states a name of a magistrate in a document; and

(b) the document purports to be a form of warrant under section 32AG; and

(c) the name is not the name of the magistrate who issued the warrant.

Penalty: Imprisonment for 2 years.

32AMC Offence for unauthorised form of warrant

A person commits an offence if:

(a) the person states a matter in a form of warrant under section 32AG; and

(b) the person knows that the matter departs in a material particular from the form authorised by the magistrate.

Penalty: Imprisonment for 2 years.

32AMD Offence for executing etc. an unauthorised form of warrant

A person commits an offence if:

(a) the person executes or presents a document to another person; and

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(b) the document purports to be a form of warrant under section 32AG; and

(c) the person knows that the document:

(i) has not been approved by a magistrate under either of those sections; or

(ii) departs in a material particular from the terms authorised by a magistrate under either of those sections.

Penalty: Imprisonment for 2 years.

32AME Offence for giving unexecuted form of warrant

A person commits an offence if:

(a) the person gives a magistrate a form of warrant under section 32AG; and

(b) the document is not the form of warrant that the person executed.

Penalty: Imprisonment for 2 years.

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Division 4—Miscellaneous

32AMF Other laws about search and seizure not affected

(1) This Part is not intended to limit, or exclude the operation of, another law of the Commonwealth relating to:
  (a) the search of premises; or
  (b) the seizure of things.

(2) To avoid doubt, even though another law of the Commonwealth provides power to do either or both of the things referred to in subsection (1), a similar power conferred by this Part may be used despite the existence of the power under the other law.

32AMG Magistrates—personal capacity

(1) A function or power conferred on a magistrate by this Part is conferred on the magistrate:
  (a) in a personal capacity; and
  (b) not as a court or a member of a court.

(2) A magistrate need not accept a function or power conferred.

(3) A magistrate has, in relation to the performance or exercise of a function or power conferred on the magistrate by this Part, the same protection and immunity as if he or she were exercising that function or power as, or as a member of, the court of which the magistrate is a member.

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Part IIIB—Protection of CVR (cockpit voice recording) information

32AN Definitions

In this Part:

Australian court means a federal court or a court of a State or Territory.

civil proceedings means any proceedings before an Australian court, other than criminal proceedings.

Commonwealth entity means:

(a) the Commonwealth; or

(b) an authority of the Commonwealth; or

(c) a corporation in which the Commonwealth, or an authority of the Commonwealth, has a controlling interest.

Commonwealth place means a place referred to in paragraph 52(i) of the Constitution, other than the seat of government.

court includes any tribunal, authority, person or body that has power to require the production of documents or answering of questions, but does not include a Royal Commission, the Parliament or either House of the Parliament.

crew member, in relation to CVR information, means any person who had operational duties on board the aircraft at any time during the recording period of the CVR.

criminal proceedings means criminal proceedings before an Australian court.

CVR or ***cockpit voice recording*** has the meaning given by section 32AO.

CVR information means:

(a) a CVR or any part of a CVR; or

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(b) a copy or transcript of the whole or any part of a CVR; or
(c) any information obtained from a CVR or any part of a CVR.

damages proceedings means civil proceedings for damages in respect of personal injury, death or damage to property.

disclose:
(a) in relation to information, includes divulge or communicate the information in any way; and
(b) in relation to information contained in a document or other article, also includes produce the document or other article, or make it available, for inspection.

operational duties means duties or functions in connection with the operation or safety of the aircraft.

Royal Commission means a Commission that has been commissioned by the Governor-General to conduct an inquiry, and includes any member of such a Commission.

32AO Definition of *CVR* or *cockpit voice recording*

(1) A recording is a ***CVR*** (or ***cockpit voice recording***) for the purposes of this Part if:
(a) the recording consists of (or consists mainly of) sounds or images, or sounds and images, of persons on the flight deck of an aircraft; and
(b) the recording was made in order to comply with a law of the Commonwealth; and
(c) either of the following applies:
(i) any part of the recording was made while the aircraft was on a constitutional journey, or was made incidentally to such a journey;
(ii) at the time when the recording was made, the aircraft was owned or operated by a constitutional corporation or Commonwealth entity; and
(d) the recording is not an on-board recording for the purposes of the *Transport Safety Investigation Act 2003*.

(2) In this section:

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constitutional journey means:

(a) a journey in the course of trade or commerce with other countries or among the States; or

(b) a journey within a Territory, or to or from a Territory; or

(c) a journey within a Commonwealth place, or to or from a Commonwealth place.

32AP Copying or disclosing CVR information

(1) A person commits an offence if:

(a) the person makes a copy of information; and

(b) the information is CVR information.

Penalty: Imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person discloses information to any person or to a court; and

(b) the information is CVR information.

Penalty: Imprisonment for 2 years.

(3) Subsection (1) or (2) does not apply to:

(aa) copying or disclosure that is necessary for the purposes of checking whether equipment used to make a cockpit voice recording is functioning and reliable, provided the conditions set out in subsection (3A) are met; or

(a) copying or disclosure for the purposes of an investigation under the *Transport Safety Investigation Act 2003*; or

(b) copying or disclosure for the purposes of the investigation of any offence against a law of the Commonwealth, a State or a Territory; or

(c) disclosure of CVR information to a court in criminal proceedings against a person who is not a crew member; or

(d) disclosure of CVR information to a court in criminal proceedings against a person who is a crew member for an offence against a law of the Commonwealth, a State or a Territory punishable by a maximum penalty of imprisonment for life or more than 2 years, where:

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(i) the offence does not arise as a result of an act done or omitted to be done in good faith in the performance of the person's duties as a crew member; and

(ii) the court makes a public interest order under subsection (4) in relation to the CVR information; or

(e) disclosure to a court in damages proceedings where the court makes a public interest order under subsection (4) in relation to the CVR information.

Note: A defendant bears an evidential burden in relation to a matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

(3A) The conditions that must be met for the purposes of paragraph (3)(aa) are:

(a) the person who copies or discloses the CVR information for the purposes of checking the equipment is authorised to do so under the regulations; and

(b) that person honestly and reasonably believes on the information available to him or her that:

(i) the cockpit voice recording does not relate to a reportable matter (as defined for the purposes of the *Transport Safety Investigation Act 2003*); and

(ii) the cockpit voice recording does not relate to an offence under the law of the Commonwealth, or of a State or Territory; and

(iii) the crew members in relation to the CVR information were notified in writing, before the cockpit voice recording was made, of the intention to copy or disclose the CVR information for the purposes of checking whether the equipment used to make the recording is functioning and reliable.

(4) If the court is satisfied that, in the circumstances of the case, the public interest in the proper determination of a material question of fact outweighs:

(a) the public interest in protecting the privacy of members of crews of aircraft; and

(b) any adverse domestic and international impact that the disclosure of the information might have on any future

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investigation under the *Transport Safety Investigation Act 2003*;

then the court may order such disclosure.

(5) The court may direct that CVR information, or any information obtained from the CVR information, must not:

(a) be published or communicated to any person; or

(b) be published or communicated except in such manner, and to such persons, as the court specifies.

(6) If a person is prohibited by this section from disclosing CVR information, then:

(a) the person cannot be required by a court to disclose the information; and

(b) any information disclosed by the person in contravention of this section is not admissible in any civil or criminal proceedings (other than proceedings against the person under this section).

32AQ CVR information no ground for disciplinary action

A person is not entitled to take any disciplinary action against a crew member on the basis of CVR information.

32AR Admissibility of CVR information in criminal proceedings against crew members

CVR information, and any information or thing obtained as a direct or indirect result of the use of CVR information, is not admissible in evidence in criminal proceedings against a crew member, except where:

(a) the CVR information has been disclosed in the proceedings because of the operation of paragraph 32AP(3)(d); or

(b) the criminal proceedings are for an offence against this Part.

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32AS Admissibility of CVR information in civil proceedings

(1) CVR information is not admissible in evidence in civil proceedings unless the court makes a public interest order under subsection (3) in relation to the CVR information.

(2) A party to damages proceedings may, at any time before the determination of the proceedings, apply to the court in which the proceedings have been instituted for an order that CVR information be admissible in evidence in the proceedings.

(3) If such an application is made, the court must examine the CVR information and if the court is satisfied that:

(a) a material question of fact in the proceedings will not be able to be properly determined from other evidence available to the court; and

(b) the CVR information or part of the CVR information, if admitted in evidence in the proceedings, will assist in the proper determination of that material question of fact; and

(c) in the circumstances of the case, the public interest in the proper determination of that material question of fact outweighs:

(i) the public interest in protecting the privacy of members of crews of aircraft; and

(ii) any adverse domestic and international impact that the disclosure of the information might have on any future investigation under the *Transport Safety Investigation Act 2003*;

then the court may order that the CVR information, or that part of the CVR information, be admissible in evidence in the proceedings.

32AT Examination by a court of CVR information under subsection 32AS(3)

(1) This section applies if a court examines CVR information under subsection 32AS(3).

(2) The only persons who may be present at the examination are:

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(a) the person or persons constituting the court, other than the members of the jury (if any); and
(b) the legal representatives of the parties to the proceedings; and
(c) such other persons (if any) as the court directs.

(3) The court may direct that the CVR information, or any information obtained from the CVR information, must not:
(a) be published or communicated to any person; or
(b) be published or communicated except in such manner, and to such persons, as the court specifies.

32AU Where a court makes an order under subsection 32AS(3)

(1) This section applies if CVR information is admitted as evidence under subsection 32AS(3).

(2) In relation to proceedings against a crew member, the CVR information is not evidence for the purpose of the determination of the liability in the proceedings of the crew member.

(3) In relation to any proceedings, the court may direct that the CVR information or any information obtained from the CVR information, must not:
(a) be published or communicated to any person; or
(b) be published or communicated except in such manner, and to such persons, as the court specifies.

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Part IV—Drug and alcohol management plans and testing

Division 1—Definitions

33 Definitions

(1) In this Part:

body sample means any of the following:

(a) any human biological fluid;

(b) any human biological tissue (whether alive or not);

(c) any human breath.

drug or alcohol test means:

(a) a test of a body sample of a person to determine the presence (if any), but not the level, of alcohol or a testable drug in the sample; or

(b) a test of a body sample of a person to determine the presence (if any), and the level, of alcohol or a testable drug in the sample.

positive test result, in relation to a drug or alcohol test of a body sample, means a finding by the person or body who was authorised under the regulations to conduct the test that the test reveals:

(a) the presence of alcohol or a testable drug in the sample; and

(b) if the test determined the level of alcohol or testable drug in the sample and a permitted level for alcohol or that drug is specified in the regulations—that the permitted level has been exceeded.

safety-sensitive aviation activities means activities that impact directly or indirectly on the safety of:

(a) civil air operations in Australian territory; or

(b) the operation of Australian aircraft outside Australian territory.

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testable drug means a drug specified in an instrument under subsection (2).

(2) The Minister may, by legislative instrument, specify a drug for the purposes of the definition of ***testable drug*** in subsection (1).

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Division 2—Regulations

34 General regulation-making power

Drug and alcohol management plans

(1) The regulations may make provision for and in relation to the development, implementation and enforcement of drug and alcohol management plans covering persons who perform, or are available to perform, safety-sensitive aviation activities.

Drug or alcohol tests

(2) The regulations may make provision for and in relation to drug or alcohol tests in respect of persons who perform, or are available to perform, safety-sensitive aviation activities.

Limitation

(3) Regulations must not be made for the purposes of this section unless the performance of the safety-sensitive aviation activities concerned could be adversely affected by the use of alcohol or a testable drug by persons who perform those activities.

35 Drug and alcohol management plans

Regulations made for the purposes of subsection 34(1) may make provision for and in relation to any one or more of the following:

(a) the persons required to develop a drug and alcohol management plan;
(b) the persons to be covered by such plans;
(c) the content of such plans (including requirements for drug and alcohol education, for drug or alcohol tests in accordance with a specified standard, and for drug and alcohol management, treatment, counselling and rehabilitation, of persons covered by such plans);
(d) the submission of such plans to CASA for approval;
(e) the assessment and approval by CASA of such plans;

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(f) the period such plans are to be in force;
(g) the amendment of such plans;
(h) the records to be maintained by persons required to develop such plans;
(i) the obtaining of information or records from persons required to develop such plans.

36 Drug or alcohol tests

(1) Regulations made for the purposes of subsection 34(2) may make provision for and in relation to any one or more of the following:
(a) the persons who may be required to provide a body sample for a drug or alcohol test;
(b) the persons who may require the persons covered by paragraph (a) to provide a body sample for a drug or alcohol test;
(c) the conduct of random drug or alcohol tests and the other circumstances in which drug or alcohol tests may be conducted;
(d) the provision of body samples for drug or alcohol tests (including the persons or bodies authorised to take body samples);
(e) the persons or bodies authorised to conduct drug or alcohol tests;
(f) if a drug or alcohol test of a body sample of a person reveals the presence of alcohol or a testable drug in the sample but not the level of alcohol or the testable drug—the conduct of a further drug or alcohol test of the same body sample, or another body sample of the person, to determine the presence (if any), and the level, of alcohol or a testable drug in that sample;
(g) the manner of conducting drug or alcohol tests;
(h) the devices used in conducting drug or alcohol tests, including the calibration, inspection and testing of those devices;
(i) the procedure for the handling and analysis of body samples taken in connection with drug or alcohol tests;

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(j) the notification of test results to the person tested and to CASA;

(k) the other persons to whom test results may be notified;

(l) the use and disclosure of test results;

(m) the giving of test results in certificates or other documents and the evidentiary effect of such certificates or other documents;

(n) a person ceasing to perform safety-sensitive aviation activities if a drug or alcohol test in respect of the person returns a positive test result and the conditions the person must satisfy before resuming such activities;

(o) a person ceasing to perform safety-sensitive aviation activities if the person refuses to provide a body sample for a drug or alcohol test when required to do so in accordance with the regulations and the conditions the person must satisfy before resuming such activities.

(2) For the purposes of paragraph (1)(d), the regulations may provide that a person or body is authorised to take body samples if the person or body:

(a) has been accredited by a specified person or body; or

(b) has been approved by CASA to take body samples for the purposes of this Part; or

(c) is included in a class of persons or bodies approved by CASA to take body samples for the purposes of this Part.

(3) For the purposes of paragraph (1)(e), the regulations may provide that a person or body is authorised to conduct drug or alcohol tests if the person or body:

(a) has been accredited by a specified person or body; or

(b) has been approved by CASA to conduct drug or alcohol tests for the purposes of this Part; or

(c) is included in a class of persons or bodies approved by CASA to conduct drug or alcohol tests for the purposes of this Part.

Admissibility of test results etc. in legal proceedings

(4) The following:

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(a) a certificate or other document recording the results of a drug or alcohol test conducted in respect of a person;

(b) any other information, answer to a question or document relevant to conducting such a test;

are not admissible in evidence against the person in any proceedings other than:

(c) proceedings under this Act or the regulations; or

(d) proceedings prescribed by the regulations for the purposes of this paragraph.

37 Conferral of administrative powers

(1) Regulations made for the purposes of subsection 34(1) or (2) may make provision with respect to a matter by conferring on a person a power to make a decision of an administrative character.

(2) If regulations made for the purposes of subsection 34(1) or (2) confer on a person a power to make a decision of an administrative character, the regulations may also make provision for and in relation to the person delegating that power to another person.

38 Conferral of power to make legislative instruments

(1) Regulations made for the purposes of subsection 34(1) or (2) may empower CASA to make legislative instruments.

(2) Such an instrument must not prescribe a penalty.

39 General regulation-making power not limited

Sections 35 to 38 do not, by implication, limit section 34.

Note 1: Paragraph 98(3)(m) allows regulations to be made providing for the review of decisions under the regulations.

Note 2: Paragraphs 98(3)(p) and (q) allow regulations to be made providing for penalties for contraventions of the regulations.

Note 3: Subsection 98(3A) allows regulations to apply, adopt or incorporate any matter contained in a written instrument or other document as in force at a particular time or from time to time.

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Part V—Corporate plan

44 Corporate plan

(1) A corporate plan prepared by the Board under section 35 of the *Public Governance, Performance and Accountability Act 2013* must be given to the Minister for the Minister's approval.

(2) The plan must include details of the following matters:
  (a) analysis of risk factors likely to affect safety in the aviation industry;
  (b) human resource strategies and industrial relations strategies;
  (c) any other matters required by the Minister.

(3) In preparing the plan, the Board must take account of notices given under section 12A.

45 Minister's response to corporate plan

(1) The Minister must respond to a corporate plan within 60 days of being given the plan.

(2) The Minister's response may include a direction to the Board to vary the plan.

(3) A direction under subsection (2) must be in writing and must set out its reasons.

(4) If directing a variation of the corporate plan, the Minister must consider:
  (a) the objectives and policies of the Commonwealth Government; and
  (b) the objects of this Act; and
  (c) any other considerations the Minister thinks appropriate.

(5) If the Minister's response includes a direction to vary the corporate plan, the Board must prepare a revised plan and give it to the

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Minister for the Minister's approval within 28 days of being given the response.

(6) The Minister must cause a copy of the corporate plan to be laid before each House of Parliament:

(a) within 15 sitting days after the Minister responded to the plan, if the Minister's response did not include a direction to vary the plan; or

(b) within 15 sitting days after the Minister received a revised plan, if the Minister's response included a direction to vary the plan.

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Part VI—Finance

46 CASA to be paid money appropriated by Parliament

(1) There is payable to CASA such money as is appropriated by the Parliament for the purposes of CASA.

(2) The Finance Minister may give directions as to the amounts in which, and the times at which, the money is to be paid to CASA.

46A Payment of amounts of levy to CASA

(1) The Commonwealth must pay to CASA amounts equal to amounts of unmanned aircraft levy received by CASA on behalf of the Commonwealth.

(2) If an amount of the levy is refunded, CASA must pay to the Commonwealth an amount equal to the refund.

(3) The Minister may, on behalf of the Commonwealth, set off an amount payable by CASA under subsection (2) against an amount that is payable to CASA under subsection (1).

(4) Amounts payable under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

47 Application and investment of money

(1) CASA's money may only be applied:

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by CASA in, or in connection with, the performance of its functions or the exercise of its powers; and

(b) in payment of any remuneration or allowances payable under this Act.

(2) Subsection (1) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of CASA.

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49 Extra matters to be included in annual report

Each annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include the following:

(a) particulars of each direction given to the Board by the Minister under section 12 of this Act during the period;

(b) in relation to notices given to the Board by the Minister under section 12A:

(i) particulars of each notice given during the period; and

(ii) a summary of action taken in the period by CASA, or by the Board, because of notice given to the Board in that period or any other period;

(c) particulars of each direction given to CASA by the Minister under section 12B during the period.

50 Taxation

CASA is not subject to taxation under any law of a State or Territory.

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Part VII—Board of CASA

Division 1—Establishment and functions

51 Establishment

The Board of CASA is established by this section.

52 Membership

(1) The Board consists of:
  (a) the Director; and
  (b) up to 6 Board members (including the Chair and Deputy Chair).

Note: As a member of the governing body, the Director is a member of the accountable authority of a Commonwealth entity for the purposes of the *Public Governance, Performance and Accountability Act 2013*: see the definition of ***accountable authority*** in section 12 of that Act.

(2) The performance of a function or the exercise of a power of the Board is not affected by a vacancy in the membership of the Board.

53 Functions

(1) The functions of the Board are to:
  (a) decide the objectives, strategies and policies to be followed by CASA; and
  (b) ensure that CASA performs its functions in a proper, efficient and effective manner; and
  (c) ensure that CASA complies with directions given by the Minister under section 12B.

(2) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(3) All acts and things done in the name of, or on behalf of, CASA by the Board are taken to have been done by CASA.

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Division 2—Appointment etc. of Board members

54 Appointment

(1) A Board member is to be appointed by the Minister by written instrument, on a part-time basis.

(2) The Minister must appoint one Board member to be the Chair and another Board member to be the Deputy Chair.

(3) When appointing Board members, the Minister must ensure an appropriate balance of professional expertise, but need not ensure that particular sectors of the civil aviation industry are represented.

(4) A person's appointment as a Board member is not invalid because of a defect or irregularity in connection with the person's appointment.

55 Term of appointment

A Board member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: A Board member is eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

56 Remuneration and allowances

(1) A Board member is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination of that remuneration is in operation, the Board member is to be paid such remuneration as is prescribed.

(2) A Board member is to be paid the allowances that are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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57 Leave of absence

(1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.

(2) The Chair may grant leave of absence to another Board member on the terms and conditions that the Chair determines.

58 Outside employment

A Board member must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of his or her duties.

59 Resignation

(1) A Board member may resign by giving to the Minister a signed notice of resignation.

(2) The Chair may resign his or her appointment as the Chair without resigning his or her appointment as a Board member.

(3) The Deputy Chair may resign his or her appointment as the Deputy Chair without resigning his or her appointment as a Board member.

(4) The resignation takes effect on the day on which it is received by the Minister or, if a later day is specified in the resignation, on that later day.

60 Termination of appointment

(1) The Minister may terminate the appointment of a Board member for misbehaviour or physical or mental incapacity.

(2) The Minister may terminate the appointment of a Board member if:

(a) the Board member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

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(iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

(b) the Board member:

(i) engages in paid employment that the Minister thinks is in conflict with the proper performance of the member's duties; or

(ii) is absent, except on leave of absence granted under section 57, from 3 consecutive meetings of the Board; or

(c) the Minister thinks that the performance of the Board member has been unsatisfactory for a significant period of time.

Note: The appointment of a Board member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

(3) If the Minister is of the opinion that the performance of Board members or the performance of CASA has been unsatisfactory for a significant period of time, the Minister may terminate the appointment of all Board members or particular Board members.

(4) If the Minister is of the opinion that:

(a) CASA has failed to comply with section 12B; or

(b) the Board members have failed to comply with section 19 of the *Public Governance, Performance and Accountability Act 2013*;

the Minister may terminate the appointment of all Board members or particular Board members.

61 Other terms and conditions

A Board member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

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62 Acting Chair

The Minister may appoint a person to act as the Chair if the Deputy Chair is unable to act as the Chair:

(a) during a vacancy in the office of the Chair, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Chair:

(i) is absent from duty or from Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

63 Acting Board members

The Minister may appoint a person to act as a Board member (other than the Chair):

(a) during a vacancy in the office of a Board member (other than the Chair), whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when a Board member (other than the Chair):

(i) is absent from duty or from Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

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Division 3—Board procedures

Subdivision A—Meetings

64 Times and places of meetings

(1) The Board must hold such meetings as are necessary for the efficient performance of its functions.

(2) Subject to subsections (3) and (4), meetings are to be held at such times and places as the Board decides.

(3) The Chair may call a meeting at any time.

(4) The Chair must call a meeting if requested to do so in writing by at least 3 other Board members.

(5) For the purpose of subsection (4), ***Board member*** includes the Director.

65 Presiding at meetings

(1) The Chair presides at all meetings at which he or she is present.

(2) If the Chair is not present at a meeting, the Deputy Chair presides.

(3) If neither the Chair nor the Deputy Chair is present at a meeting, the members present must appoint one of themselves to preside.

66 Quorum

(1) At a meeting of the Board, a quorum is constituted by 4 Board members.

(2) However, if:

(a) a Board member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Board with respect to a particular matter; and

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(b) when the Board member leaves the meeting concerned there is no longer a quorum present;

the remaining Board members at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

(3) For the purpose of this section, ***Board member*** includes the Director.

67 Voting at meetings etc.

(1) At a meeting of the Board, a question is decided by a majority of the votes of the Board members present and voting.

(2) The person presiding at a meeting has a deliberative vote and, if necessary, also a casting vote.

(3) For the purpose of subsection (1), ***Board member*** includes the Director.

68 Conduct of meetings

The Board may, subject to this Subdivision, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

69 Minutes

The Board must keep minutes of its meetings.

Subdivision B—Decisions without meetings

70 Decisions without meetings

(1) A decision is taken to have been made at a meeting of the Board if:

(a) without meeting, a majority of Board members indicate agreement with the proposed decision in accordance with the method determined by the Board under subsection (2); and

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(b) all Board members were informed of the proposed decision, or reasonable efforts were made to inform all Board members of the proposed decision.

(2) Subsection (1) applies only if the Board:
(a) has determined that it applies; and
(b) has determined the method by which Board members are to indicate agreement with proposed decisions.

(3) Paragraph (1)(a) does not apply to a Board member who is prevented by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* from deliberating on the proposed decision.

(4) For the purpose of this section, ***Board member*** includes the Director.

71 Record of decisions

The Board must keep a record of decisions made in accordance with section 70.

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Part VIIA—The Director and staff of CASA

Division 1—Appointing the Director

72 Director

There is to be a Director of Aviation Safety.

73 Duties

(1) The Director is to manage CASA subject to the directions of, and in accordance with policies determined by, the Board.

(2) All acts and things done in the name of, or on behalf of, CASA by the Director are taken to have been done by CASA.

74 Appointment

(1) The Director is to be appointed by the Board by written instrument, on a full-time basis.

Note: The Director may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

(2) Before appointing the Director, the Board must consult the Minister.

(3) A Board member is not eligible for appointment as the Director.

(4) The appointment of a person as Director is not invalid because of a defect or irregularity in connection with the person's appointment.

75 Term of appointment

The Director holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

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76 Remuneration and allowances

(1) The Director is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Director is to be paid the remuneration that is determined by the Board in writing.

(2) The Director is to be paid the allowances that are determined by the Board in writing.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

77 Leave of absence

(1) The Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2) The Board may grant to the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Board determines in writing.

78 Outside employment

The Director must not engage in paid employment outside the duties of his or her office except with the approval of the Board.

79 Other terms and conditions

The Director holds office on such terms and conditions in relation to matters not provided for by this Act as are determined by the Board in writing.

80 Resignation

(1) The Director may resign by giving to the Board a signed notice of resignation.

(2) The resignation takes effect on the day on which it is received by the Board or, if a later day is specified in the resignation, on that later day.

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81 Termination of appointment

The Board may, after consulting the Minister, terminate the appointment of the Director:

(a) for misbehaviour or physical or mental incapacity; or

(b) if the Director:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

(c) if the Director is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or

(d) if the Director engages, except with the Board's approval, in paid employment outside the duties of his or her office; or

(e) if the Board is satisfied that the Director's performance has been unsatisfactory.

Note: The appointment of the Director may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

82 Acting Director

The Board may appoint a person to act as Director:

(a) during a vacancy in the office of Director, (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Director:

(i) is absent from duty or from Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

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Division 2—Staff of CASA

83 Staff of CASA

(1) CASA may employ such persons as it considers necessary for the performance of its functions and the exercise of its powers.

(2) An employee is to be employed on the terms and conditions that the Director determines in writing.

84 Consultants

CASA may engage consultants to assist in the performance of its functions.

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Part VIII—Miscellaneous

94 Delegation by the Director

(1) The Director may, in writing, delegate all or any of CASA's powers under this Act, the regulations, or an instrument made under this Act or the regulations, to an officer.

(2) The Director may, in writing, delegate to an officer, if the officer holds, or performs the duties of, an office that is equivalent to a position occupied by an SES employee or acting SES employee, all or any of the following powers:

(a) the Director's power under subsection 83(2);

(b) the Director's powers under the regulations;

(c) the Director's powers under an instrument made under this Act or the regulations.

95 Delegation by Board

(1) The Board may delegate, in writing, all or any of its powers under this Act to:

(a) a Board member; or

(b) the Director; or

(c) an officer.

(2) In exercising any powers under the delegation, the Board member, Director or officer, as the case may be, must comply with any directions of the Board.

95A Delegation by Secretary of the Department

(1) The Secretary of the Department may delegate, in writing, his or her power under paragraph 28B(1)(b) or 28BAA(2)(b) to an SES employee or acting SES employee in the Department.

(2) In exercising powers under the delegation, the SES employee or acting SES employee, as the case may be, must comply with any directions of the Secretary of the Department.

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95B Delegation by Minister

(1) The Minister may, in writing, delegate the Minister's power under subsection 46A(3) to:

(a) the Secretary of the Department; or

(b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(2) In exercising a power under the delegation, the delegate must comply with any written directions of the Minister.

96 Tabling of directions, notices etc. of the Minister

Where the Minister gives a direction under section 12, 12B or 45 or a notice under section 12A, the Minister shall cause a copy of the direction or notice to be laid before each House of the Parliament within 15 sitting days of that House after the giving of the direction or the notice.

97 Payment of prescribed fees

(1) If a prescribed fee is payable in relation to the doing of any thing under this Act, that thing is not required to be done until the fee is paid.

(2) Payment of a prescribed fee by cheque is taken not to have been made until the cheque is honoured on presentation.

97AA Prescribed fees payable to CASA

(1) A fee prescribed by regulations made under a provision of this Act is payable to CASA.

(2) An unpaid fee is a debt due to CASA and recoverable by CASA in a court of competent jurisdiction.

(3) The regulations may make provision for the collection and recovery of any unpaid fees. In particular, the regulations may:

(a) prescribe the time when fees are due for payment; and

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(b) prescribe penalties for late payment of fees.

(4) A penalty prescribed by the regulations must not exceed a penalty equivalent to 1.5% of the unpaid amount of the fee for each month or part of a month during which the fee is unpaid, calculated from the date on which the fee is due and payable, and compounded.

97AB Charging of fees by external service providers

(1) An external service provider may charge a person such fee as is agreed between the external service provider and the person for any service provided by the external service provider under this Act, the regulations or the Civil Aviation Orders.

(2) The fee is payable to the external service provider.

(3) The fee must not be such as to amount to taxation.

(4) If the fee is unpaid, it is a debt due to the external service provider and is recoverable in a court of competent jurisdiction.

(5) In this section:

external service provider means a person who is the holder of a delegation under this Act or the regulations, or who is an authorised person within the meaning of the regulations, other than a person in any of the following capacities:

(b) an officer;

(c) a person who provides services to CASA under a contract with CASA;

(d) a person who, under a contract with CASA, provides services to the public on CASA's behalf;

(e) an employee of a person referred to in paragraph (c) or (d).

provide a service includes deal with an application or request or do anything.

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97A Conduct by directors, employees and agents

(1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and

(b) that the director, employee or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act or the regulations, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

(3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and

(b) that the employee or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a body corporate by an employee or agent of the person within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) Where:

(a) a person other than a body corporate is convicted of an offence; and

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(b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

(8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

(9) A reference in this section to an offence against this Act includes a reference to:

(a) an offence created by the regulations; and

(b) an offence created by section 6 of the *Crimes Act 1914*, being an offence that relates to an offence against this Act or the regulations; and

(c) an offence created by Part 2.4 of the *Criminal Code* being an offence that relates to this Act or the regulations.

98 Regulations etc.

(1) The Governor-General may make regulations, not inconsistent with this Act:

(a) prescribing matters required or permitted by this Act to be prescribed;

(b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act;

(c) for the purpose of carrying out and giving effect to the provisions of the Chicago Convention relating to safety;

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(d) in relation to safety of air navigation within a Territory or to or from a Territory;

(e) in relation to safety of air navigation, being regulations with respect to trade and commerce with other countries and among the States; and

(f) in relation to safety of air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.

(2) The regulations may apply in relation to state aircraft.

(3) Without limiting the generality of subsections (1) and (2), those subsections include the power to make regulations for or in relation to the following:

(aa) the design and manufacture of aircraft;

(a) the registration, marking and airworthiness of aircraft;

(b) the manner of applying for AOCs, including the information that may be required, and the conditions to be satisfied, for the issue of AOCs;

(ba) the manner of applying for permissions under Part III, including the information that may be required, and the conditions to be satisfied, for the granting of permissions;

(bb) requiring specified persons to provide CASA with, or to ensure that CASA is provided with, specified information relating to the entering into, modification, cancellation, non-renewal or expiry of acceptable contracts of insurance or adequate financial arrangements in relation to specified passenger-carrying operations (within the meaning of Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959*), to the extent that the insurance or arrangements are required under this Act;

(c) requiring persons performing specified functions in relation to the operation or maintenance of aircraft and aerodromes to be the holders of licences, permits or certificates of specified kinds, and providing for the grant, issue, cancellation, suspension or variation of such licences, permits and certificates;

(d) the planning, construction, establishment, operation and use of aerodromes, including the licensing of aerodromes;

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(e) the planning, construction, establishment, maintenance, operation and use of air route and airway facilities, including the obtaining of meteorological information;

(f) hygiene, sanitation and public health at aerodromes;

(g) the prohibition of the construction of buildings, structures or objects, the restriction of the dimensions of buildings, structures or objects, and the removal in whole or in part or the marking or lighting of buildings, structures or objects (including trees or other natural obstacles) that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome;

(h) empowering CASA, or an officer authorised by CASA, to give or issue directions or instructions to all or any of the persons holding licences, permits or certificates under this Act or the regulations, being directions or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft, and providing for the manner in which such directions and instructions are to be notified;

(j) the formal proof and authentication of instruments made or issued under this Act or the regulations;

(k) the powers (including powers of arrest) that may be exercised by members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or of its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations;

(ka) requiring specified persons to prepare or alter flight manuals, operations manuals, procedures manuals, maintenance manuals, systems of maintenance and other specified manuals and documents relating to the safe operation of aircraft;

(kb) the approval by CASA of such manuals, systems and documents and of alterations of them;

(kc) empowering CASA to prepare and alter such manuals, systems and documents;

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(kd) requiring specified persons to comply with such manuals, systems and documents as in force at a particular time or from time to time;

(m) the review of decisions made under the regulations;

(p) the imposition of penalties, not exceeding a fine of 50 penalty units, for a contravention of a provision of the regulations or a direction, instruction or condition issued, given, made or imposed under, or in force by virtue of, the regulations;

(q) enabling a person who is alleged to have contravened a specified provision of the regulations to pay to CASA, as an alternative to prosecution, a specified penalty, not exceeding an amount equal to one-fifth of the maximum penalty prescribed for contravening that provision;

(r) standards relating to the establishment and use of airspace;

(ra) formulating a scheme in relation to security status checking;

(s) the planning, construction, establishment, maintenance, operation and use of:

(i) services and facilities of the kind covered by paragraph 8(1)(a) of the *Air Services Act 1995*; and

(iii) services of the kind referred to in paragraph 6(1)(b) of the *Australian Maritime Safety Authority Act 1990* to the extent that those services use aircraft;

and any construction associated with those facilities or services;

(t) the personnel engaged in anything referred to in paragraph (s);

(u) prescribing fees (either by specifying amounts or by prescribing a method of calculation) in relation to services, applications or requests, or the doing of anything, under this Act, the regulations or the Civil Aviation Orders, other than services provided by, applications or requests dealt with in any way by, or anything done by, an external service provider (within the meaning of section 97AB);

(v) prescribing fees (either by specifying amounts or by prescribing a method of calculation) in relation to services, applications or requests, or the doing of anything by CASA under the *Aviation Transport Security Act 2004*;

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(w) the circumstances in which unmanned aircraft levy is payable and the collection of unmanned aircraft levy.

(3AA) Despite the ANZA mutual recognition agreements, the regulations cannot allow for the mutual recognition of ANZA safety certifications (other than AOCs) between Australia and New Zealand. For this purpose, an ***ANZA safety certification*** is:

(a) a civil aviation authorisation; or

(b) an aviation document, within the meaning of the Civil Aviation Act 1990 of New Zealand.

(3AB) Subsection (3AA) does not prevent the making of regulations for purposes connected with the *Trans-Tasman Mutual Recognition Act 1997*.

(3A) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in a written instrument or other document, as in force at a particular time or from time to time, even if the written instrument or other document does not yet exist when the regulation is made.

For this purpose, ***modifications*** includes omissions, additions and substitutions.

(3B) Nothing in this Act (including, in particular, subsection 9(1), subsection 13(4) and section 94) is to be taken to prevent regulations being made which provide for the delegation of:

(a) a function conferred on CASA under subsection 9(1); or

(b) a power of CASA for or in connection with the performance of that function;

to a person who is not an officer.

(4) Where the regulations provide for the removal, marking or lighting of anything referred to in paragraph (3)(g), the regulations shall also provide for the payment of compensation to any person who suffers loss or damage or incurs expense in or as a direct result of the removal, marking or lighting.

(4A) CASA may issue Civil Aviation Orders, not inconsistent with this Act or the regulations, and not prescribing any pecuniary penalty,

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with respect to any matter in relation to which regulations may be made for the purposes of section 23, 23B or 28BA.

(4B) An order issued under subsection (4A) is a legislative instrument.

Note: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the order (see regulations made for the purposes of paragraph 54(2)(b) of that Act).

(5) The regulations may provide that CASA may issue a Civil Aviation Order containing a direction, instruction, notification, permission, approval or authority.

(5AAA) A Civil Aviation Order issued under a regulation made under subsection (5) is a legislative instrument.

Note: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the Order (see regulations made for the purposes of paragraph 54(2)(b) of that Act).

(5A) The regulations may empower CASA to issue instruments in relation to the following:

(a) matters affecting the safe navigation and operation, or the maintenance, of aircraft;

(b) the airworthiness of, or design standards for, aircraft.

An instrument must not prescribe a penalty.

(5AA) An instrument issued under paragraph (5A)(a) is a legislative instrument if the instrument is expressed to apply in relation to:

(a) a class of persons; or

(b) a class of aircraft; or

(c) a class of aeronautical product.

Note: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the instrument (see regulations made for the purposes of paragraph 54(2)(b) of that Act).

(5AB) An instrument issued under paragraph (5A)(a) is not a legislative instrument if the instrument is expressed to apply in relation to:

(a) a particular person; or

(b) a particular aircraft; or

(c) a particular aeronautical product.

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(5B) An instrument issued under a regulation made under paragraph (5A)(b) is a legislative instrument if the instrument is, or relates to:

(a) an airworthiness directive; or

(b) an airworthiness standard; or

(c) a design standard.

Note: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the instrument (see regulations made for the purposes of paragraph 54(2)(b) of that Act).

(5BA) However, an instrument issued under a regulation made under paragraph (5A)(b) is not a legislative instrument if the instrument is expressed to apply in relation to:

(a) a particular person; or

(b) a particular aircraft; or

(c) a particular aeronautical product.

(5C) Subsection (5A) is not taken to affect CASA's power to issue directions or instructions under paragraph 98(3)(h).

(5D) Despite section 14 of the *Legislation Act 2003*, a legislative instrument made under this Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing:

(a) as in force or existing at a particular time; or

(b) as in force or existing from time to time;

even if the other instrument or writing does not yet exist when the legislative instrument is made.

(6) The preceding provisions of this section (including provisions that do not contain references to the States or to a Territory) have effect as if the Northern Territory were a State.

(6A) The regulations may contain provisions relating to medical standards that are inconsistent with the *Sex Discrimination Act 1984* if the inconsistency is necessary for the safety of air navigation.

Note: See also Part 2 of Schedule 1 to the *Civil Aviation Amendment Act 2005*.

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(6B) The regulations may contain provisions that are inconsistent with the *Disability Discrimination Act 1992* if the inconsistency is necessary for the safety of air navigation.

Note: See also Part 2 of Schedule 1 to the *Civil Aviation Amendment Act 2005*.

(6C) CASA must consult the Australian Human Rights Commission about any proposal that regulations be made containing provisions that are inconsistent as mentioned in subsection (6A) or (6B). However, a failure to consult the Commission does not affect the validity of any regulations so made.

(7) A law of a Territory (not being a law of the Commonwealth) does not have effect to the extent to which it is inconsistent with a provision of the regulations having effect in that Territory, but such a law shall not be taken to be inconsistent with such a provision to the extent that it is capable of operating concurrently with that provision.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled

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law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s)/sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Civil Aviation Act 1988	63, 1988	15 June 1988	s 17–32, 98 and 99–103: 1 July 1988 (s 2(2) and gaz 1988, No S189) Remainder: 15 June 1988 (s 2(1))	
Commonwealth Authorities Legislation (Pay-roll Tax) Amendment Act 1988	55, 1988	15 June 1988	Sch: 1 July 1988 (s 2)	—
Transport Legislation Amendment Act 1989	6, 1989	16 Mar 1989	Sch 2: 15 June 1988 (s 2(3))	—
Lands Acquisition (Repeal and Consequential Provisions) Act 1989	21, 1989	20 Apr 1989	Sch 2: 9 June 1989 (s 2)	—
Civil Aviation Amendment Act 1990	25, 1990	24 May 1990	s 1, 2, 4, 5, 8, 9, 11, 12, 32, 47, 48 and 50: 24 May 1990 (s 2(4)) s 3(a): 1 July 1988 (s 2(3)) s 10: 24 Nov 1990 (s 2(5)) s 25: 1 July 1991 (s 2(6)) Remainder: 20 June 1990 (s 2(1) and gaz 1990, No S154)	s 9(2), 11(2), 16(2), 18(2), 40, 41(2), 42(2), (3) and 44(2)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Transport and Communications Legislation Amendment Act 1990	11, 1991	21 Jan 1991	Sch: 20 June 1990 (s 2(13)(b))	—
Transport and Communications Legislation Amendment Act 1990	11, 1991	21 Jan 1991	s 10, 11, 13–15 and 19: 21 Jan 1991 (s 2(1)) s 12: 15 June 1988 (s 2(4)) s 16: 24 Nov 1990 (s 2(5)) s 17: never commenced (s 2(7)) s 18: 20 June 1990 (s 2(8))	—
Transport Legislation Amendment Act 1991	101, 1991	27 June 1991	s 3 and 10–16: 27 June 1991 (s 2(1))	s 3, 15(2) and 16
Transport and Communications Legislation Amendment Act 1991	173, 1991	25 Nov 1991	s 10, 11(2), 12–15, 18 and 19: 25 Nov 1991 (s 2(1)) s 11(1) and 17: 15 June 1988 (s 2(3)) s 16: 1 July 1991 (s 2(4)) s 20: 1 July 1988 (s 2(5))	—
Transport and Communications Legislation Amendment Act (No. 2) 1992	71, 1992	26 June 1992	s 13–17: 26 June 1992 (s 2(1)) s 18: 1 July 1991 (s 2(2))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Qantas Sale Act 1992	196, 1992	21 Dec 1992	Sch (Pt 1): 10 Mar 1993 (s 2(2), (3)(a) and gaz 1993, No GN17) Sch (Pt 5): 30 Aug 1995 (s 2(2), (3)(c) and gaz 1995, No S324)	—
as amended by				
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	Sch (item 19): 30 Aug 1995 (s 2(9))	—
Transport and Communications Legislation Amendment Act (No. 3) 1992	216, 1992	24 Dec 1992	s 21: 24 Dec 1992 (s 2(1)) s 22: 15 June 1988 (s 2(2)) s 23: 1 July 1988 (s 2(3))	—
Transport and Communications Legislation Amendment Act (No. 2) 1993	5, 1994	18 Jan 1994	s 4, 5 and Sch (items 19, 24, 26–34, 36–40, 42): 18 Jan 1994 (s 2(1)) Sch (items 20–23, 25): 2 Oct 1997 (s 2(3) and gaz 1997, No S387) Sch (item 35): 15 Feb 1994 (s 2(2)) Sch (item 41): 20 June 1990 (s 2(5))	s 4 and 5

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Civil Aviation Legislation Amendment Act 1995	82, 1995	30 June 1995	s 7–22 and Sch 1 (items 1–14, 16–152): 6 July 1995 (s 2(1)(a) and gaz 1995, No S270) Sch 1 (item 15): 2 Oct 1997 (s 2(4)) Sch 2: 1 Jan 1998 (s 2(2))	s 7–22
as amended by				
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 3 (items 4, 6–8): 30 June 1995 (s 2(3)(d))	—
Taxation Laws Amendment Act (No. 1) 1998	16, 1998	16 Apr 1998	Sch 10 (items 65, 66): 16 Apr 1998 (s 2(1))	Sch 10 (item 66)
Competition Policy Reform Act 1995	88, 1995	20 July 1995	Sch 3: never commenced (s 2(2))	—
as amended by				
Civil Aviation Legislation Amendment Act 1998	1, 1998	24 Mar 1998	Sch 4: 6 Nov 1995 (s 2(4))	—
Transport Legislation Amendment Act (No. 3) 1995	174, 1995	16 Dec 1995	Sch 3 (item 1): 16 Dec 1995 (s 2(1))	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (item 28): 2 Oct 1997 (s 2(2)) Sch 2 (items 29, 30): 6 July 1995 (s 2(2))	—
Civil Aviation Amendment Act 1997	14, 1997	20 Mar 1997	20 Mar 1997 (s 2)	—
Transport Legislation Amendment (Search and Rescue Service) Act 1997	130, 1997	17 Sept 1997	Sch 3: 1 Nov 1997 (s 2(1) and gaz 1997, No S438)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (item 621): 1 Jan 1998 (s 2(2))	—
Civil Aviation Legislation Amendment Act 1998	1, 1998	24 Mar 1998	Sch 2 (items 1, 3–11): 24 Mar 1998 (s 2(1)) Sch 2 (item 2): 6 July 1995 (s 2(2))	—
as amended by				
Statute Law Revision Act 2002	63, 2002	3 July 2002	Sch 2 (item 3): 24 Mar 1998 (s 2(1) item 32)	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 292): 5 Dec 1999 (s 2(1), (2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (item 69): 13 Mar 2000 (s 2(2)(c) and gaz 2000, No S114)	—
Civil Aviation Amendment Act 2000	8, 2000	7 Mar 2000	Sch 1 (items 2, 6, 12, 13, 16–18, 20–22, 24–26): 7 Sept 2000 (s 2(3)) Sch 1 (item 28): 15 June 1988 (s 2(4)) Sch 1 (item 29): 6 July 1995 (s 2(5)) Remainder: 7 Mar 2000 (s 2(1))	s 4
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 129, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001	143, 2001	1 Oct 2001	s 4 and Sch 3 (items 39–49): 2 Oct 2001 (s 2)	s 4
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2002	8, 2002	4 Apr 2002	Sch 1 (items 76–81): 5 Apr 2002 (s 2)	—
Transport Safety Investigation (Consequential Amendments) Act 2003	19, 2003	11 Apr 2003	Sch 1 (items 4A, 5, 5A): 1 July 2003 (s 2(1) item 2)	—
Civil Aviation Legislation Amendment Act 2003	83, 2003	6 Sept 2003	Sch 1 (items 1–3, 8–18): 6 Sept 2004 (s 2(1) items 2–4, 6) Sch 1 (items 4–7, 19–23): 6 Sept 2003 (s 2(1) items 5, 7)	—
Civil Aviation Amendment Act 2003	105, 2003	21 Oct 2003	s 4 and Sch 1 (items 1, 3, 6–8, 10–13, 18–48): 21 Oct 2003 (s 2(1) items 1, 2, 4, 6, 8, 10) Sch 1 (items 2, 4, 5, 9, 14–17): 20 Feb 2004 (s 2(1) items 3, 5, 7, 9)	s 4
Aviation Security Amendment Act 2004	149, 2004	14 Dec 2004	Sch 1 (items 7–10): 10 Mar 2005 (s 2(1) item 2)	—
Civil Aviation Amendment Act 2005	86, 2005	6 July 2005	Sch 1 (items 1, 4–6) and Sch 2: 6 July 2005 (s 2)	Sch 1 (items 4–6)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Act 2006	102, 2006	16 Sept 2006	Sch 1 (items 1–38): 30 Mar 2007 (s 2(1) items 2–6)	—
Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006	109, 2006	27 Sept 2006	Sch 2 (items 17–22): 27 Sept 2006 (s 2(1) item 3)	—
Airspace (Consequentials and Other Measures) Act 2007	39, 2007	30 Mar 2007	Sch 1: 1 July 2007 (s 2(1) item 2) Sch 2 (items 4, 5): 30 Mar 2007 (s 2(1) item 3)	—
Aviation Legislation Amendment (2007 Measures No. 1) Act 2007	131, 2007	20 Aug 2007	Sch 1 (items 23–25): 21 Aug 2007 (s 2)	—
Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Measures) Act 2008	79, 2008	12 July 2008	Sch 1 (items 14, 15): 24 Jan 2009 (s 2(1) item 2)	—
Aviation Legislation Amendment (2008 Measures No. 1) Act 2008	86, 2008	20 Sept 2008	Sch 1 (items 8–10): 20 Sept 2008 (s 2)	—
Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008	87, 2008	20 Sept 2008	Sch 1 (item 25) and Sch 2 (items 1–28, 48, 49(1)–(6), 50(1), 51, 53): 20 Mar 2009 (s 2(1) items 2–4)	Sch 2 (items 48, 49(1)–(6), 50(1), 53)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Civil Aviation Amendment Act 2009	19, 2009	26 Mar 2009	Sch 1 (items 1–25) and Sch 3 (items 1–6): 1 July 2009 (s 2(1) items 2, 6) Sch 2 and Sch 3 (items 7–29): 27 Mar 2009 (s 2(1) items 3–5, 7)	Sch 1 (item 25), Sch 2 (item 28) and Sch 3 (items 28, 29)
Transport Safety Investigation Amendment Act 2009	20, 2009	26 Mar 2009	Sch 1 (item 70): 1 July 2009 (s 2(1) item 4)	—
Aviation Legislation Amendment (2008 Measures No. 2) Act 2009	26, 2009	26 Mar 2009	s 4 and Sch 1 (item 26): 26 Mar 2009 (s 2(1) items 1, 5) Sch 1 (items 10, 11): 1 July 2009 (s 2(1) item 3)	s 4 and Sch 1 (item 26)
as amended by				
Freedom of Information Amendment (Reform) Act 2010	51, 2010	31 May 2010	Sch 5 (items 9, 10): 1 Nov 2010 (s 2(1) item 7)	—
Customs Legislation Amendment (Name Change) Act 2009	33, 2009	22 May 2009	Sch 2 (item 14): 23 May 2009 (s 2)	—
Disability Discrimination and Other Human Rights Legislation Amendment Act 2009	70, 2009	8 July 2009	Sch 3 (item 15): 5 Aug 2009 (s 2(1) item 7)	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 1 (item 6) and Sch 5 (item 137(a)): 1 Mar 2010 (s 2(1) items 2, 38)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 46, 47): 19 Apr 2011 (s 2(1) item 13)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 349–359) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
International Interests in Mobile Equipment (Cape Town Convention) (Consequential Amendments) Act 2013	92, 2013	28 June 2013	Sch 1 (item 3): 1 Sept 2015 (s 2(1) item 2)	—
Civil Aviation Amendment (CASA Board) Act 2014	27, 2014	9 Apr 2014	9 Apr 2014 (s 2)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 4 (item 24): 24 June 2014 (s 2(1) item 9)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 8 (items 23–39) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 55–60): 25 Mar 2015 (s 2(1) item 10)	—
Customs and Other Legislation Amendment (Australian Border Force) Act 2015	41, 2015	20 May 2015	Sch 5 (items 22, 23) and Sch 9: 1 July 2015 (s 2(1) items 2, 7)	Sch 5 (item 23) and Sch 9
as amended by				
Australian Border Force Amendment (Protected Information) Act 2017	115, 2017	30 Oct 2017	Sch 1 (item 26): 1 July 2015 (s 2(1) item 2)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (item 92): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
as amended by				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 108–119): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 53–55): 10 Mar 2016 (s 2(1) item 6)	—
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 3 (item 6): 21 Oct 2016 (s 2(1) item 1)	—
Statute Law Revision (Spring 2016) Act 2016	67, 2016	20 Oct 2016	Sch 1 (items 11, 12): 17 Nov 2016 (s 2(1) item 2)	—
Civil Aviation Amendment Act 2019	99, 2019	6 Nov 2019	7 Nov 2019 (s 2(1) item 1)	—
Civil Aviation Amendment (Unmanned Aircraft Levy Collection and Payment) Act 2020	143, 2020	17 Dec 2020	18 Dec 2020 (s 2(1) item 1)	—

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Endnote 4—Amendment history

Provision affected	How affected
Title	am No 11, 1991; No 82, 1995
Part I	
s 3	am No 6, 1989; No 25, 1990; No 11, 1991; No 101, 1991; No 173, 1991; No 196, 1992 (as am by No 168, 1994); No 5, 1994; No 82, 1995; No 14, 1997; No 130, 1997; No 8, 2000; No 83, 2003; No 105, 2003; No 102, 2006; No 39, 2007; No 87, 2008; No 19, 2009; No 33, 2009; No 8, 2010; No 5, 2011; No 62, 2014; No 41, 2015; No 126, 2015; No 143, 2020
s 3AA	ad No 102, 2006
s 3A	ad No 82, 1995
s 4	am No 19, 2003
s 4A	ad No 5, 1994
	am No 82, 1995; No 43, 1996; No 61, 2016
s 5	am No 82, 1995; No 59, 2015
s 7	am No 5, 1994; No 82, 1995; No 86, 2005; No 102, 2006
s 7A	ad No 143, 2001
Part II	
Part II heading	rs No 82, 1995
s 8	am No 82, 1995; No 152, 1997; No 62, 2014
s 9	am No 11, 1991; No 173, 1991
	rs No 82, 1995
	am No 19, 2003; No 83, 2003; No 149, 2004; No 86, 2005; No 102, 2006; No 39, 2007; No 131, 2007; No 87, 2008; No 20, 2009; No 92, 2013
s 9AA	ad No 173, 1991
	rep No 82, 1995
s 9A	ad No 11, 1991
	rs No 82, 1995
	am No 99, 2019
s 10	am No 25, 1990
	rep No 82, 1995
s 10A	ad No 5, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 82, 1995
s 11	am No 82, 1995
s 11A	ad No 25, 1990
	rep No 82, 1995
	ad No 39, 2007
s 12	am No 11, 1991; No 82, 1995 (as am by No 152, 1997); No 105, 2003; No 19, 2009; No 62, 2014
s 12A	ad No 82, 1995
	am No 105, 2003; No 19, 2009
s 12B	ad No 82, 1995
s 12C	ad No 105, 2003
	rep No 19, 2009
s 12D	ad No 105, 2003
	rep No 19, 2009
s 13	am No 25, 1990; No 82, 1995
s 14	rs No 25, 1990
	rep No 82, 1995
s 15	rs No 25, 1990
	rep No 82, 1995
s 16	am No 82, 1995
Part III	
Division 1	
Division 1 heading	ad No 82, 1995
s 17	rep No 82, 1995
s 18	rs No 82, 1995
	am No 1, 1998
	rep No 87, 2008
s 19	am No 5, 1994; No 82, 1995; No 143, 2001
s 20AA	ad No 173, 1991
	am No 71, 1992; No 8, 2000; No 8, 2002; No 83, 2003
s 20AB	ad No 173, 1991
	am No 8, 2000; No 83, 2003
s 20AC	ad No 173, 1991

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Provision affected	How affected
	am No 8, 2000
s 20	am No 82, 1995
s 20A	ad No 25, 1990
	am No 82, 1995
	rs No 143, 2001
s 21	am No 25, 1990; No 82, 1995; No 143, 2001
s 22	am No 25, 1990
s 23	am No 25, 1990; No 82, 1995; No 143, 2001; No 8, 2002; No 86, 2008; No 19, 2009
s 23A	ad No 25, 1990
	rs No 11, 1991
	am No 5, 1994; No 137, 2000
s 23B	ad No 25, 1990
	am No 5, 1994
s 24	am No 25, 1990; No 8, 2002; No 83, 2003; No 131, 2007
s 25	am No 82, 1995; No 86, 2005; No 87, 2008
s 26	am No 82, 1995; No 102, 2006; No 87, 2008; No 19, 2009; No 67, 2016
Division 1A	
Division 1A	ad No 102, 2006
s 26A	ad No 102, 2006
	am No 102, 2006
s 26B	ad No 102, 2006
s 26C	ad No 102, 2006
s 26D	ad No 102, 2006
s 26E	ad No 102, 2006
Division 2	
Division 2 heading	ad No 82, 1995
Subdivision A	
Subdivision A heading	ad No 82, 1995
s 27	am No 25, 1990; No 5, 1994; No 82, 1995; No 8, 2000; No 102, 2006
Subdivision B	
Subdivision B	ad No 82, 1995
s 27AA	ad No 82, 1995

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Provision affected	How affected
s 27AB	ad No 82, 1995
	am No 8, 2000
s 27AC	ad No 82, 1995
	am No 83, 2003; No 87, 2008
s 27AD	ad No 82, 1995
s 27AE	ad No 82, 1995
	am No 8, 2000; No 102, 2006; No 19, 2009
s 27AF	ad No 82, 1995
	am No 87, 2008
Subdivision C	
Subdivision C heading	ad No 82, 1995
	rs No 86, 2005
s 27A	ad No 5, 1994
	am No 82, 1995; No 8, 2000; No 87, 2008; No 19, 2009
Subdivision D	
Subdivision D heading	ad No 82, 1995
s 28	rs No 5, 1994; No 82, 1995
	am No 1, 1998; No 8, 2000; No 83, 2003; No 102, 2006; No 87, 2008; No 19, 2009
s 28A	ad No 5, 1994
	am No 82, 1995; No 83, 2003
s 28AA	ad No 19, 2009
s 28B	ad No 102, 2006
Subdivision E	
Subdivision E	ad No 82, 1995
s 28BA	ad No 82, 1995
	am No 1, 1998; No 105, 2003; No 86, 2005; No 102, 2006; No 87, 2008
s 28BAA	ad No 86, 2005
	am No 102, 2006
s 28BB	ad No 82, 1995
s 28BC	ad No 82, 1995
	am No 1, 1998; No 8, 2000; No 79, 2008; No 87, 2008
s 28BD	ad No 82, 1995

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Provision affected	How affected
	am No 102, 2006
s 28BE	ad No 82, 1995
	am No 5, 2015
s 28BF	ad No 82, 1995
s 28BG	ad No 82, 1995
s 28BH	ad No 82, 1995
s 28BI	ad No 1, 1998 (as am by No 63, 2002)
	rs No 87, 2008
Subdivision F	
Subdivision F	ad No 102, 2006
s 28C	ad No 102, 2006
	am No 31, 2014; No 4, 2016
s 28D	ad No 102, 2006
s 28E	ad No 102, 2006
s 28F	ad No 102, 2006
s 28G	ad No 102, 2006
Division 3	
Division 3 heading	ad No 82, 1995
s 29	am No 25, 1990
	rs No 143, 2001
s 30A	ad No 173, 1991
	am No 5, 1994; No 82, 1995
s 30B	ad No 173, 1991
	am No 82, 1995
s 30C	ad No 173, 1991
	am No 82, 1995
Division 3A	
Division 3A	ad No 105, 2003
Subdivision A	
s 30DA	ad No 105, 2003
Subdivision B	
s 30DB	ad No 105, 2003

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Endnote 4—Amendment history

Provision affected	How affected
s 30DC	ad No 105, 2003
s 30DD	ad No 105, 2003
Subdivision C	
s 30DE	ad No 105, 2003
s 30DF	ad No 105, 2003
Subdivision D	
s 30DG	ad No 105, 2003
s 30DH	ad No 105, 2003
s 30DI	ad No 105, 2003
s 30DJ	ad No 105, 2003
Division 3B	
Division 3B	ad No 105, 2003
s 30DK	ad No 105, 2003
	am No 19, 2009; No 8, 2010
Division 3C	
Division 3C	ad No 105, 2003
Subdivision A	
s 30DL	ad No 105, 2003
s 30DM	ad No 105, 2003
s 30DN	ad No 105, 2003
Subdivision B	
s 30DO	ad No 105, 2003
	am No 19, 2009
s 30DP	ad No 105, 2003
s 30DQ	ad No 105, 2003
	am No 19, 2009
s 30DR	ad No 105, 2003
Division 3D	
Division 3D	ad No 105, 2003
Subdivision A	
s 30DS	ad No 105, 2003
s 30DT	ad No 105, 2003

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Provision affected	How affected
s 30DU	ad No 105, 2003
s 30DV	ad No 105, 2003
Subdivision B	
s 30DW	ad No 105, 2003
s 30DX	ad No 105, 2003
	am No 19, 2009
Subdivision C	
s 30DY	ad No 105, 2003
	am No 19, 2009
s 30DZ	ad No 105, 2003
	am No 19, 2009
s 30EA	ad No 105, 2003
s 30EB	ad No 105, 2003
s 30EC	ad No 105, 2003
	am No 19, 2009
s 30ED	ad No 105, 2003
s 30EE	ad No 105, 2003
	am No 19, 2009
Subdivision D	
s 30EF	ad No 105, 2003
Subdivision E	
s 30EG	ad No 105, 2003
s 30EH	ad No 105, 2003
s 30EI	ad No 105, 2003
	am No 19, 2009
s 30EJ	ad No 105, 2003
Division 4	
Division 4 heading	ad No 82, 1995
s 31	am No 105, 2003
s 31A	ad No 105, 2003
	am No 19, 2009
s 31B	ad No 105, 2003

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Endnote 4—Amendment history

Provision affected	How affected
s 31C	ad No 105, 2003
	rs No 19, 2009
s 31D	ad No 105, 2003
s 32	am No 25, 1990; No 82, 1995; No 105, 2003
Part IIIA	
Part IIIA	ad No 101, 1991
Division 1	
Division 1 heading	ad No 19, 2009
s 32AA	ad No 101, 1991
	am No 82, 1995; No 19, 2009
s 32AB	ad No 101, 1991
	am No 5, 1994; No 82, 1995; No 143, 2001; No 19, 2009
Division 2	
Division 2 heading	ad No 19, 2009
Subdivision A	
Subdivision A heading	ad No 19, 2009
s 32AC	ad No 101, 1991
	am No 102, 2006
	rs No 19, 2009
s 32ACA	ad No 19, 2009
s 32ACB	ad No 19, 2009
Subdivision B	
Subdivision B heading	ad No 19, 2009
s 32AD	ad No 101, 1991
	am No 102, 2006; No 19, 2009
s 32AE	ad No 101, 1991
	rep No 19, 2009
s 32AF	ad No 101, 1991
	am No 71, 1992; No 19, 2009
s 32AG	ad No 101, 1991
s 32AH	ad No 101, 1991
	am No 82, 1995

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Provision affected	How affected
	rs No 19, 2009
Subdivision C	
Subdivision C heading	ad No 19, 2009
s 32AHA	ad No 19, 2009
s 32AHB	ad No 19, 2009
s 32AHC	ad No 19, 2009
s 32AHD	ad No 19, 2009
s 32AHE	ad No 19, 2009
s 32AHF	ad No 19, 2009
s 32AHG	ad No 19, 2009
s 32AHH	ad No 19, 2009
s 32AHI	ad No 19, 2009
s 32AHJ	ad No 19, 2009
s 32AHK	ad No 19, 2009
s 32AHL	ad No 19, 2009
s 32AHM	ad No 19, 2009
s 32AHN	ad No 19, 2009
s 32AHA	ad No 8, 2000
	am No 83, 2003; No 19, 2009
s 32AHO (prev s 32AHA)	renum No 19, 2009
	am No 67, 2016
s 32AJ	ad No 101, 1991
	am No 5, 1994; No 8, 2002
s 32AK	ad No 101, 1991
	am No 5, 1994; No 143, 2001
s 32AL	ad No 82, 1995
	rep No 174, 1995
	ad No 8, 2000
	am No 83, 2003
s 32AM	ad No 8, 2000
Division 3	
Division 3	ad No 19, 2009

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Endnote 4—Amendment history

Provision affected	How affected
s 32AMA	ad No 19, 2009
s 32AMB	ad No 19, 2009
s 32AMC	ad No 19, 2009
s 32AMD	ad No 19, 2009
s 32AME	ad No 19, 2009
Division 4	
Division 4	ad No 19, 2009
s 32AMF	ad No 19, 2009
s 32AMG	ad No 19, 2009
Part IIIB	
Part IIIB	ad No 19, 2003
s 32AN	ad No 19, 2003
	am No 87, 2008
s 32AO	ad No 19, 2003
s 32AP	ad No 19, 2003
	am No 26, 2009; No 4, 2016
s 32AQ	ad No 19, 2003
s 32AR	ad No 19, 2003
s 32AS	ad No 19, 2003
s 32AT	ad No 19, 2003
s 32AU	ad No 19, 2003
Part IV	
Part IV heading	am No 25, 1990; No 82, 1995
	rep No 105, 2003
	ad No 131, 2007
Part IV	rep No 105, 2003
	ad No 131, 2007
Division 1	
s 32A	ad No 25, 1990
	rs No 82, 1995
	rep No 105, 2003
s 32B	ad No 25, 1990

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Provision affected	How affected
	am No 82, 1995
	rep No 105, 2003
s 33	am No 25, 1990
	rs No 82, 1995
	am No 14, 1997
	rep No 105, 2003
	ad No 131, 2007
Division 2	
s 34	am No 25, 1990; No 82, 1995
	rep No 105, 2003
	ad No 131, 2007
s 35	am No 25, 1990; No 82, 1995
	rep No 105, 2003
	ad No 131, 2007
s 36	rep No 105, 2003
	ad No 131, 2007
s 37	am No 25, 1990
	rs No 101, 1991
	am No 146, 1999
	rep No 105, 2003
	ad No 131, 2007
s 38	am No 82, 1995; No 43, 1996; No 14, 1997
	rep No 105, 2003
	ad No 131, 2007
s 39	am No 25, 1990; No 82, 1995; No 14, 1997
	rep No 105, 2003
	ad No 131, 2007
s 39A	ad No 25, 1990
	rep No 105, 2003
s 39B	ad No 25, 1990
	rep No 105, 2003
s 40	am No 25, 1990

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 82, 1995
s 41	am No 82, 1995
	rep No 105, 2003
s 42	am No 25, 1990; No 101, 1991; No 82, 1995 (as am by No 152, 1997); No 156, 1999
	rep No 105, 2003
Part V	
Part V	rs No 82, 1995
s 43	am No 25, 1990
	rep No 82, 1995
s 44	am No 25, 1990
	rs No 82, 1995
	am No 105, 2003; No 19, 2009
	rs No 62, 2014
s 45	am No 25, 1990
	rs No 82, 1995
	am No 43, 1996; No 105, 2003; No 19, 2009
Part VI	
Part VI	rs No 82, 1995
s 46	am No 25, 1990
	rs No 82, 1995
	am No 5, 2011
s 46A	ad No 143, 2020
s 47	am No 25, 1990
	rs No 82, 1995
	am No 82, 1995 (as am by No 152, 1997); No 62, 2014
s 48	am No 71, 1992
	rs No 82, 1995
	rep No 82, 1995
s 48A	ad No 25, 1990
	rep No 82, 1995
s 49	rs No 82, 1995
	am No 82, 1995 (as am by No 152, 1997); No 105, 2003; No 19, 2009

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Provision affected	How affected
	rs No 62, 2014
s 50	rs No 82, 1995
Part VII	
Part VII heading	am No 82, 1995
	rs No 19, 2009
Part VII	rs No 19, 2009
Division 1	
s 51	rep No 82, 1995
	ad No 19, 2009
s 52	rep No 82, 1995
	ad No 19, 2009
	am No 27, 2014; No 62, 2014
s 53	rep No 82, 1995
	ad No 19, 2009
Division 2	
s 54	rep No 82, 1995
	ad No 19, 2009
s 54A	ad No 25, 1990
	rep No 82, 1995
s 55	am No 55, 1988; No 25, 1990; No 173, 1991
	rep No 82, 1995
	ad No 19, 2009
	am No 46, 2011
s 56	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
s 57	rep No 82, 1995
	ad No 19, 2009
s 58	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
s 59	rep No 82, 1995

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Endnote 4—Amendment history

Provision affected	How affected
	ad No 19, 2009
s 60	rep No 82, 1995
	ad No 19, 2009
	am No 62, 2014
s 61	rep No 25, 1990
	ad No 19, 2009
s 62	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
	am No 46, 2011
s 62A	ad No 173, 1991
	rep No 82, 1995
s 63	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
	am No 46, 2011
Division 3	
Subdivision A	
s 64	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
	am No 27, 2014
s 65	am No 5, 1994
	rep No 82, 1995
	ad No 19, 2009
s 66	am No 25, 1990; No 11, 1991; No 216, 1992; No 5, 1994
	rep No 82, 1995
	ad No 19, 2009
	am No 27, 2014; No 62, 2014
s 67	rep No 82, 1995
	ad No 19, 2009
s 68	rep No 82, 1995

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Provision affected	How affected
	ad No 19, 2009
s 69	am No 173, 1991
	rep No 82, 1995
	ad No 19, 2009
Subdivision B	
s 70	rep No 82, 1995
	ad No 19, 2009
	am No 62, 2014
s 71	rep No 82, 1995
	ad No 19, 2009
Part VIIA	
Part VIIA	ad No 19, 2009
Division 1	
s 72	rep No 82, 1995
	ad No 19, 2009
s 73	rep No 82, 1995
	ad No 19, 2009
s 74	rep No 82, 1995
	ad No 19, 2009
	am No 46, 2011
s 75	am No 71, 1992
	rep No 82, 1995
	ad No 19, 2009
s 76	rep No 82, 1995
	ad No 19, 2009
s 77	rep No 82, 1995
	ad No 19, 2009
s 78	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
s 78A	ad No 173, 1991
	rep No 82, 1995

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Endnote 4—Amendment history

Provision affected	How affected
s 79	rep No 82, 1995
	ad No 19, 2009
s 80	am No 25, 1990
	rep No 82, 1995
	ad No 19, 2009
s 81	rep No 82, 1995
	ad No 19, 2009
	am No 62, 2014
s 82	rep No 82, 1995
	ad No 19, 2009
	am No 46, 2011
Division 2	
s 83	rep No 82, 1995
	ad No 19, 2009
Division 3	ad No 71, 1992
	rep No 82, 1995
s 83A	ad No 71, 1992
	rep No 82, 1995
s 83B	ad No 71, 1992
	rep No 82, 1995
s 83C	ad No 71, 1992
	rep No 82, 1995
s 83D	ad No 71, 1992
	rep No 82, 1995
s 83E	ad No 71, 1992
	rep No 82, 1995
s 84	am No 25, 1990
	rs No 82, 1995
	am No 105, 2003
	rs No 19, 2009
s 84A	ad No 25, 1990
	am No 82, 1995; No 105, 2003

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Provision affected	How affected
	rep No 19, 2009
s 84B	ad No 105, 2003
	rep No 19, 2009
s 84C	ad No 105, 2003
	rep No 19, 2009
s 85	am No 25, 1990; No 82, 1995; No 105, 2003
	rep No 19, 2009
s 86	rs No 25, 1990; No 82, 1995
	am No 105, 2003
	rep No 19, 2009
s 87	am No 25, 1990; No 82, 1995; No 105, 2003
	rep No 19, 2009
s 88	am No 25, 1990; No 82, 1995; No 105, 2003
	rep No 19, 2009
s 89	rs No 25, 1990
	am No 82, 1995; No 105, 2003
	rep No 19, 2009
s 90	am No 25, 1990; No 82, 1995; No 105, 2003
	rep No 19, 2009
s 91	rs No 25, 1990
	am No 82, 1995; No 105, 2003
	rep No 19, 2009
s 92	am No 82, 1995
	rep No 19, 2009
Part VIII	
s 93	am No 25, 1990
	rep No 82, 1995
s 94	rs No 25, 1990
	am No 82, 1995
	rs No 105, 2003
	am No 19, 2009
s 94A	ad No 25, 1990

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Endnote 4—Amendment history

Provision affected	How affected
	rs No 105, 2003
	rep No 19, 2009
s 95	rep No 82, 1995
	ad No 19, 2009
s 95A	ad No 19, 2009
s 95B	ad No 143, 2020
s 96	rs No 82, 1995
	am No 105, 2003; No 19, 2009
s 97	am No 21, 1989
	rs No 82, 1995
s 97AA	ad No 8, 2000
s 97AB	ad No 8, 2000
	am No 105, 2003
s 97A	ad No 25, 1990
	am No 143, 2001; No 19, 2009; No 5, 2015
s 98	am No 25, 1990; No 11, 1991; No 101, 1991; No 173, 1991; No 216, 1992; No 5, 1994; No 82, 1995; No 130, 1997; No 8, 2000; No 105, 2003; No 149, 2004; No 86, 2005; No 102, 2006; No 109, 2006; No 39, 2007; No 87, 2008; No 19, 2009; No 70, 2009; No 126, 2015; No 143, 2020
Part IX	rep No 82, 1995
s 99	rep No 82, 1995
Part X	rep No 82, 1995
s 100	rep No 82, 1995
s 101	rep No 82, 1995
s 102	rep No 82, 1995
s 103	rep No 82, 1995
Schedule	am No 6, 1989
	rep No 82, 1995

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