Civil Aviation Safety Amendment Regulations 2004 (No. 2)\footnote{Statutory Rules 2004 No. 2\textsuperscript{2}}

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the \textit{Civil Aviation Act 1988}.

Dated 21 JUL 2004 2004

PM Jeffery
Governor-General

By His Excellency's Command

JOHN ANDERSON
Minister for Transport and Regional Services
1 Name of Regulations
These Regulations are the Civil Aviation Safety Amendment Regulations 2004 (No. 2).

2 Commencement
These Regulations commence on the date of their notification in the Gazette.

3 Amendment of Civil Aviation Safety Regulations 1998
Schedule 1 amends the Civil Aviation Safety Regulations 1998.

Schedule 1 Amendments
(regulation 3)

[1] Subregulation 21.200 (1)

omit
CASA

insert
Subject to subregulation (1A), CASA


insert

(1A) CASA or an authorised person must not issue a special flight permit for an aircraft if:
(a) the aircraft is covered by an AD; and
(b) the AD includes a statement to the effect that a special flight permit must not be issued for an aircraft covered by the AD.
[3] Subregulation 39.001 (3)

substitute

(3) Subject to subregulation (4), the airworthiness directive may require a person to comply with either or both of the following:

(a) a directive (a foreign directive) mentioned in the airworthiness directive that:
   (i) is issued by the NAA of a foreign country; and
   (ii) is of the same nature as an airworthiness directive;
(b) an instruction, direction or requirement that:
   (i) is issued by the manufacturer of aircraft or aeronautical products of the kind to which the airworthiness directive relates; and
   (ii) is mentioned in the airworthiness directive.


omit

foreign directive

insert

foreign directive, or an instruction, direction or requirement mentioned in paragraph (3) (b),

[5] Regulation 39.003

substitute

39.003 Australian aircraft covered by AD etc not to be operated

(1) A person must not operate an Australian aircraft that is covered by an AD (other than an aircraft to which subregulation (4) applies), or that is fitted with an aeronautical product covered by an AD (other than an aircraft to which subregulation (5) applies):

(a) in breach of any requirement of the AD that affects the operating limitations of the aircraft; or

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(b) while any other requirement of the AD has not been complied with.

Penalty: 50 penalty units.

Note For Australian aircraft see subsection 3 (1) of the Act; for AD and aeronautical product see the Dictionary.

(2) The registration holder of an Australian aircraft that is covered by an AD (other than an aircraft to which subregulation (4) applies), or that is fitted with an aeronautical product covered by an AD (other than an aircraft to which subregulation (5) applies), must not permit a person to operate the aircraft:

(a) in breach of any requirement of the AD that affects the operating limitations of the aircraft; or

(b) while any other requirement of the AD has not been complied with.

Penalty: 50 penalty units.

Note For Australian aircraft see subsection 3 (1) of the Act; for AD and aeronautical product see the Dictionary.

(3) An offence against subregulation (1) is an offence of strict liability.

(4) This subregulation applies to an aircraft covered by an AD if:

(a) the AD does not contain a statement to the effect that a special flight permit must not be issued for an aircraft covered by the AD; and

(b) the aircraft is authorised to operate under a special flight permit that is in force.

(5) This subregulation applies to an aircraft that is fitted with an aeronautical product covered by an AD if:

(a) the AD does not contain a statement to the effect that a special flight permit must not be issued for an aircraft fitted with an aeronautical product covered by the AD; and

(b) the aircraft is authorised to operate under a special flight permit that is in force.
[6] **Subregulation 39.004 (1)**

*omit*

Subject to subregulation (2).

[7] **Subregulation 39.004 (2)**

*substitute*

(2) In making its decision, CASA must:

(a) take into account any reasons given by the applicant in the applicant’s application for the exclusion of the aircraft or aeronautical product from the operation of the AD; and

(b) regard the preservation of a level of aviation safety that is at least acceptable as paramount.

[8] **Dictionary, Part 1**

*insert the following definition in the appropriate alphabetic position (determined on a letter-by-letter basis):*


[9] **Dictionary, Part 2, after clause 10**

*insert*

12 **Extended meaning of NAA**

A reference in a provision of these Regulations, in relation to a function or task, to an *NAA* for a country other than Australia is a reference to EASA if that agency carries out, on behalf of the country, that function or task.
Notes

1. These Regulations amend Statutory Rules 1998 No. 237, as amended by 1999 Nos. 166 (as amended by 1999 No. 262) and 262; 2000 Nos. 7, 204 (item [7] of Schedule 2 was disallowed by the Senate on 8 November 2000) and 227; 2001 Nos. 34, 242 and 349 (as amended by 2002 No. 79); 2002 Nos. 167 (as amended by 2003 No. 58), 266, 268, 320, 321, 349 and 350; 2003 Nos. 58, 75, 189, 232, 240, 297 and 365; 2004 No. 4.