Civil Aviation Regulations 1988

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This compilation is in 5 volumes

Volume 1:	**regulations 1–60**
Volume 2:	regulations 5.01–5.147
Volume 3:	regulations 77–351
Volume 4:	Schedules
Volume 5:	Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Civil Aviation Regulations 1988* that shows the text of the law as amended and in force on 28 January 2017 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary 1

1 Name of Regulations 1
2 Interpretation 1
2AA Meaning of *ANZA mutual recognition agreements* (Act s 3) 25
2A Approved maintenance data 26
2B Powers to issue directions etc 27
2C How to read CASR 27
3 Application of regulations 28

Part 2—Administration and organisation 29

4 CASA 29
5 Civil Aviation Orders 29
6 Authorised persons 30
6A Identity cards 30

Part 4—Airworthiness requirements 31

Division 2—Foreign operators 31

29 Damage etc to aircraft of a Contracting State 31

Division 3—Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities 33

29A Interpretation 33
30 Certificates of approval 34
30AA Provision of training and assessment in maintenance of aircraft etc. 39
30A Changes to certificates of approval 39
32 Period during which certificates of approval remain in force 39
33 Testing of competency of holder of licence or authority 39
33B Airworthiness authorities 40
33C Application for aircraft welding authority 41
33D Grant of aircraft welding authority 41
33E Recognised authorities 42
33F Duration of aircraft welding authority 42
33G Renewal of aircraft welding authority 43
33H Changes to aircraft welding authority 43
33I Conditions of aircraft welding authority 44

Division 4—Miscellaneous 46

37 Permissible unserviceabilities 46

Authorised Version F2017C00094 registered 01/02/2017

Part 4A—Maintenance 46

Division 1—Maintenance directions by CASA 46

38 Maintenance directions 46

Division 2—Maintenance for which holder of certificate of registration responsible 48

Subdivision 1—Class A aircraft 48

39 Maintenance required by approved system of maintenance 48

40 Defective or inappropriate systems of maintenance 48

Subdivision 2—Class B aircraft 49

41 Maintenance schedule and maintenance instructions 49

42 Defective or inappropriate maintenance schedule 49

42A Maintenance schedule: manufacturer's maintenance schedule 50

42B Maintenance schedule: CASA maintenance schedule 52

42C Maintenance schedule: approved system of maintenance 52

42CA Maintenance schedule—primary, intermediate, restricted or limited category aircraft 53

42CB Maintenance—experimental aircraft 53

42D Can there be more than one maintenance schedule? 53

42E Elections 54

42F Effect of change of holder of certificate of registration 54

Subdivision 3—Miscellaneous 54

42G Flight control system: additional requirements 54

42H Exemptions and variations 56

Division 3—Approved systems of maintenance 57

42J System of maintenance: request for approval 57

42K System of maintenance: submission to CASA 57

42L System of maintenance: matters to be included 57

42M System of maintenance: approval 58

42N When approval is effective 59

42P Request for approval of changes 60

42Q CASA may direct changes 60

42R Approval of changes 60

42S When approval of a change is effective 62

42T All changes must be approved 62

Division 4—How maintenance is to be carried out 63

42U Modifications and repairs: approved designs 63

42V Maintenance: approved maintenance data 63

42W Installation and use of aircraft components in maintenance—Australian aircraft in Australian territory 64

Authorised Version F2017C00094 registered 01/02/2017

42WA Requirements for authorised release certificate 67
42X Use of aircraft materials in maintenance—Australian aircraft in Australian territory 68
42Y Time-lifed aircraft components—exemption from supply under cover of document requirements 70
42Z Removable items of radiocommunications equipment in VFR aircraft—exemption from certification requirements 70
42ZA Use of aircraft components, aircraft materials etc in maintenance—Australian aircraft outside Australian territory 71
42ZB Exemptions and variations 71

Division 5—Who may carry out maintenance 72
42ZC Maintenance on Australian aircraft in Australian territory 72
42ZD Maintenance on Australian aircraft outside Australian territory 76

Division 6—Certification of completion of maintenance 78

Subdivision 1—Maintenance in Australian territory 78
42ZE Certification of completion of maintenance on aircraft in Australian territory 78
42ZF Request for approval of system of certification 78
42ZG Approval of system of certification 78
42ZH When approval is effective 79
42ZJ Changes to an approved system of certification 79
42ZK Approval of changes 80
42ZL When approval of a change is effective 81
42ZM All changes must be approved 81

Subdivision 2—Maintenance outside Australian territory 81
42ZN Certification of maintenance outside Australian territory 81

Subdivision 3—Miscellaneous 82
42ZP Certification not to be made 82

Division 7—Exemptions from, and variations of, requirements 83
42ZQ Requirements to which Division applies 83
42ZR Application for exemption from, or variation of, requirements 84
42ZS Granting of exemptions and approval of variations 84
42ZT When grant or approval is effective 85
42ZU Effect of grant of exemption or approval of variation 86

Division 8—Maintenance control manual and maintenance controller 87
42ZV Maintenance controllers 87
42ZW Approval of maintenance controllers 87

Authorised Version F2017C00094 registered 01/02/2017

42ZX Suspension or cancellation of approvals 88
42ZY Maintenance control manuals 89
42ZZ Maintenance control manuals: amendments 90
42ZZA Inspection of maintenance control manuals 90

Division 9—Maintenance releases 91

43 Maintenance releases in respect of Australian aircraft 91
43A Maintenance release to be available for inspection 94
43B Time-in-service to be recorded on maintenance release 95
44 Conditions with respect to maintenance releases 95
45 Suspension or cancellation of maintenance release 96
46 Information to be passed to other persons 96
47 Maintenance release to cease to be in force 96
48 Maintenance release to recommence to be in force 98
49 Permissible unserviceabilities to be endorsed on maintenance releases 100
50 Defects and major damage to be endorsed on maintenance release 101

Division 10—Aircraft log books 103

50A Aircraft log book 103
50B Alternative to aircraft log book or section of aircraft log book 103
50C Directions relating to aircraft maintenance records 104
50D Inspection of records 105

Division 11—Miscellaneous 106

50E Inconsistent requirements—resolution of inconsistencies 106
50F Notice of maintenance to be given 107
50G Copying or disclosing CVR information 107

Part 4B—Defect reporting 108

51 Reporting of defects in Australian aircraft—general 108
51A Reporting of defects in Australian aircraft: major defects 109
51B Defects discovered in complying with directions by CASA 110
52 Defects discovered in aircraft components 110
52A How must reports to Authority be made? 111
52B Keeping of defective aircraft and aircraft components 112
53 Investigation of defects of Australian aircraft 113

Part 4C—Flight manuals 114

54 Registered operators to maintain aircraft flight manuals 114

Part 4D—Removal or alteration of data plates etc. 115

56 Definitions for this Part 115

Authorised Version F2017C00094 registered 01/02/2017

57 Removal or alteration of manufacturer's data plate 115
58 Removal or alteration of identification from heater assembly of manned balloon or propeller 116
59 Transfer of manufacturer's data plate to another aircraft etc prohibited 116
60 Removal of manufacturer's data plates 117

Authorised Version F2017C00094 registered 01/02/2017

Authorised Version F2017C00094 registered 01/02/2017

Part 1—Preliminary

1 Name of Regulations

These Regulations are the *Civil Aviation Regulations 1988*.

2 Interpretation

(1) In these Regulations, unless the contrary intention appears:

adopted in pursuance of the Convention means adopted by the International Civil Aviation Organization in pursuance of Article 37 of the Convention.

aerodrome control service means an air traffic control service for aerodrome traffic.

aerodrome meteorological minima means the minimum heights of cloud base and minimum values of visibility which are determined in pursuance of regulation 257 for the purpose of determining whether an aerodrome may be used for take-off or landing.

aerodrome reference point, in relation to an aerodrome, means the geographical location of the aerodrome:

(a) determined in accordance with 'Manual of Standards Part 139—Aerodromes'; or

(b) specified by a Part 141 operator in its operations manual, or a Part 142 operator in its exposition.

aerodrome traffic means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome.

aerodyne means an aircraft whose support in flight is derived dynamically from the reaction on surfaces in motion relative to the air.

Aeronautical Information Publications or ***AIP*** has the meaning given by regulation 4.12 of the *Air Services Regulations 1995*.

Authorised Version F2017C00094 registered 01/02/2017

aeronautical mobile radio service means a radio service between aircraft radio stations and land stations and between two or more aircraft radio stations.

aeroplane means a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight, but does not include a power-assisted sailplane.

agricultural operations means the broadcasting of chemicals, seeds, fertilizers and other substances from aircraft for agricultural purposes, including purposes of pest and disease control.

airborne weather radar system means a radar system installed in an aircraft for the purpose of detecting potentially hazardous weather conditions in the flight path of the aircraft.

aircraft component means:

(a) any part or equipment for an aircraft that, when fitted to, or provided in an aircraft may, if it is not sound or functioning correctly, affect the safety of the aircraft, its occupants or its cargo or cause the aircraft to become a danger to person or property; or

(b) flotation equipment, evacuation equipment, ration packs, portable breathing apparatus, fire-fighting equipment, or any other equipment or apparatus, fitted to, or provided in, an aircraft for use in an emergency;

but does not include any part, equipment or apparatus for an aircraft in respect of which a direction is in force under subregulation (2).

aircraft log book means a log book kept for the purposes of subregulation 50A(1).

aircraft maintenance record means:

(a) an aircraft log book; or

(b) an approved alternative maintenance record.

aircraft material means a material (including a fluid) for use in the manufacture, maintenance, servicing or operation of an aircraft or

Authorised Version F2017C00094 registered 01/02/2017

of an aircraft component, but does not include an aircraft component.

aircraft welding authority means an authority granted under regulation 33D.

airline means the operator of a regular public transport service.

air traffic means aircraft:

(a) in flight; or

(b) operating on the manoeuvring area of an aerodrome.

air traffic control means:

(a) AA in its capacity as a provider of air traffic control services; or

(b) the Defence Force in its capacity as a provider of air traffic control services; or

(c) a person who provides an air traffic control service in cooperation with AA in accordance with paragraph 11(3)(b) of the *Air Services Act 1995* or by arrangement with AA in accordance with paragraph 11(3)(c) of that Act.

air traffic control clearance means an authorisation given by a person performing duty in air traffic control for an aircraft to proceed under conditions specified in the authorisation.

air traffic control instructions means directions given by a person performing duty in air traffic control for an aircraft to conduct its flight in the manner specified in the directions.

air traffic controller licence means a licence granted under regulation 102.

air traffic control service means a service provided for the purpose of:

(a) preventing collisions:

(i) between aircraft; and

(ii) on the manoeuvring area between aircraft and obstructions; and

(b) expediting and maintaining an orderly flow of air traffic.

Authorised Version F2017C00094 registered 01/02/2017

Note: The definition is essentially that in Annex 11, *Air Traffic Services*, to the Chicago Convention.

airworthiness authority means an authority under regulation 33B.

alternate aerodrome means an aerodrome specified in the flight plan to which a flight may proceed when it becomes inadvisable to land at the aerodrome of intended landing.

altitude means the vertical distance of a level or a point, or an object considered as a point, measured from mean sea level.

approach control service means an air traffic control service for arriving or departing flights of aircraft.

approved alternative maintenance record means a record kept for the purposes of subregulation 50B(3) or (4).

approved maintenance data, in relation to an aircraft, aircraft component or aircraft material, has the meaning given by regulation 2A.

approved system of certification of completion of maintenance means a system of certification of completion of maintenance for which an approval under regulation 42ZG is in force.

approved system of maintenance, for an Australian aircraft, means a system of maintenance for the aircraft that has been approved under regulation 42M, including any changes to the program that have been approved under regulation 42R.

apron means that part of an aerodrome to be used:

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

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

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

area control service means an air traffic control service for flights of aircraft in control areas.

Authorised Version F2017C00094 registered 01/02/2017

authorised means authorised by CASA or by a person, or a person included in a class of persons, appointed by CASA to give the authority concerned.

authorised person, for the purposes of a provision of CAR in which that expression occurs, means:

(a) a person appointed under regulation 6 to be an authorised person for the purposes of that first-mentioned provision; or

(b) a person included in a class of persons appointed under regulation 6 to be authorised persons for the purposes of that first-mentioned provision.

aviation authority means:

(a) in relation to Australia—CASA; and

(b) in relation to any other country—the authority that has responsibility for regulating the airworthiness standards of civil aircraft in the country.

car, in relation to a lighter-than-air aircraft, means ***basket*** whenever, in the case of any particular type of such aircraft, a basket is a constructional feature of that type.

cargo means things other than passengers carried in aircraft.

CASA maintenance schedule means the schedule of maintenance set out in Schedule 5.

CASA system of certification of completion of maintenance means the system of certification of completion of maintenance set out in Schedule 6.

CASR means the *Civil Aviation Safety Regulations 1998*.

ceiling means the height above the ground or water of the base of the lowest layer of cloud below twenty thousand feet covering more than one-half of the sky.

centre of gravity, in relation to an aircraft at any time, means the centre of gravity of the aircraft at that time estimated in accordance with the method set out in a direction in force under subregulation 235(1).

Authorised Version F2017C00094 registered 01/02/2017

certificate of airworthiness means a certificate of airworthiness issued under regulation 21.176 of CASR.

certificate of approval means a certificate of approval in force under regulation 30.

certificate of type approval means a certificate of type approval continued in force under regulation 313 or a type certificate issued under regulation 21.013A or 21.029 of CASR.

channel means the part of a water aerodrome that is navigable and cleared for the safety of aircraft taking-off or landing in a given direction.

Civil Aviation Orders means orders issued by CASA under regulation 5.

class A aircraft means an Australian aircraft, other than a balloon, that satisfies either or both of the following paragraphs:

(a) the aircraft is certificated as a transport category aircraft;

(b) the aircraft is being used, or is to be used, by the holder of an Air Operator's Certificate which authorises the use of that aircraft for the commercial purpose referred to in paragraph 206(1)(c).

Note: Subregulation 2(2C) sets out how an aircraft is certificated as a transport category aircraft.

class B aircraft means an Australian aircraft that is not a class A aircraft.

class of airspace means a class of airspace determined under paragraph 5(1)(d) of the *Airspace Regulations 2007*.

commercial operations means civil air operations other than private operations.

Commonwealth aircraft means an aircraft, other than a military aircraft, that is in the possession or under the control of the Commonwealth or an authority of the Commonwealth or is being used wholly or principally for a purpose of the Commonwealth.

constable has the same meaning as in the *Crimes Act 1914*.

Authorised Version F2017C00094 registered 01/02/2017

control area means airspace to which a determination under paragraph 5(1)(c) of the *Airspace Regulations 2007* applies.

controlled aerodrome means an aerodrome to which a determination under paragraph 5(1)(e) of the *Airspace Regulations 2007* applies.

controlled airspace means a control area or a control zone.

control zone means airspace to which a determination under paragraph 5(1)(b) of the *Airspace Regulations 2007* applies.

crew member means a person assigned by an operator for duty on an aircraft during flight time, and any reference to ***crew*** has a corresponding meaning.

cruising level, in relation to an aircraft in flight, means the height above ground or water, or above an atmospheric datum, at which the aircraft flies when it is not climbing or descending.

current flight plan means the flight plan, with any changes brought about by subsequent air traffic control clearances and air traffic control instructions.

daily inspection, in relation to an aircraft, means:

(a) if the aircraft is maintained in accordance with the CASA maintenance schedule—the inspection referred to in Part 1 of the schedule; and

(b) if the aircraft is not maintained in accordance with the CASA maintenance schedule—the inspection required to be carried out under:

(i) the manufacturer's maintenance schedule; or

(ii) the aircraft's approved system of maintenance;

before the start of flying operations on each day that the aircraft is to be flown.

danger area means an area declared under regulation 6 of the *Airspace Regulations 2007* to be a danger area.

dangerous lights means any lights which may endanger the safety of aircraft, whether by reason of glare, or by causing confusion

with or preventing clear visual reception of aeronautical lights or signals.

dual flying means flying in an aircraft fitted with fully functioning dual controls for the purpose of receiving flying training from a person who is authorised by these Regulations to give the training.

elevation means the vertical distance of a point or a level on or affixed to the surface of the earth, measured from mean sea level.

examination means an examination by way of a test of theoretical knowledge or a practical test of knowledge and skill.

expected approach time means the time at which it is expected that an arriving aircraft will be cleared to commence approach for a landing.

experimental aircraft means an aircraft for which a special certificate of airworthiness is in force under regulation 21.195A of CASR.

FAA means the Federal Aviation Administration of the United States of America.

facilities, in relation to an air route or airway, has the same meaning as in subregulation 1.03(1) of the Air Services Regulations.

Federal airport has the same meaning as in the *Federal Airports Corporation Act 1986*.

flight control system, in relation to an aircraft, includes:

(a) the aircraft's main control surfaces and associated operating mechanisms and control systems; and

(b) the aircraft's lift and drag devices and associated operating mechanisms and control systems; and

(c) the aircraft's trim and artificial feel systems and associated operating mechanisms and control systems; and

(d) the aircraft's flight control lock system and associated operating mechanisms and control systems; and

(e) the aircraft's yaw system and associated operating mechanisms and control systems; and

Authorised Version F2017C00094 registered 01/02/2017

(f) if the aircraft is a rotorcraft—the aircraft's pitch control systems; and

(g) if the aircraft is an airship—the aircraft's ballonet system and associated operating mechanisms and control systems.

flight information area means airspace to which a determination under subparagraph (5)(1)(a)(i) of the *Airspace Regulations 2007* applies.

flight information service means a service provided by air traffic control or Flight Service for the purpose of giving advice and information for the safe and efficient conduct of flights.

flight level 290, in relation to a flight of an aircraft, means the height at which the aircraft's altimeter, if it were adjusted to a reading on the subscale of 1013.2 hectopascals, would show a height of 29 000 feet.

flight plan means specified information, provided to air traffic control, relative to the intended flight of an aircraft.

Flight Service means flight advisory services provided by AA.

Note: For definitions of ***flight simulator*** and ***flight training device***, see the CASR Dictionary.

flight visibility means the average range of visibility forward from the cockpit of an aircraft in flight.

flying training means any training given during flight time in an aircraft for the purpose of increasing a person's skill in flying the aircraft.

foreign aircraft means an aircraft registered:

(a) in a Contracting State or in a foreign country other than a Contracting State; or

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

grant, in relation to a licence or certificate, means grant of the licence or certificate, either by way of initial issue or by renewal from time to time.

Authorised Version F2017C00094 registered 01/02/2017

gross weight, in relation to an aircraft at any time, means the weight of the aircraft, together with the weight of all persons and goods (including fuel) on board the aircraft, at that time, estimated in accordance with the method set out in a direction in force under subregulation 235(1).

ground radar, in relation to a secondary surveillance radar transponder, means an installation on the ground which:

(a) emits radio signals; and

(b) may, in response to its signal, receive data signals from a secondary surveillance radar transponder; and

(c) may direct the data signals to an air traffic control radar display.

group A ultralight means an aircraft that is classified by Recreational Aviation Australia Incorporated as a group A ultralight.

gyroplane means a heavier-than-air aircraft:

(a) that is supported in flight by the reaction of the air on rotors that are not power-driven but rotate when the aircraft is moving because of the action of the air; and

(b) that has a power-driven propulsion system that is independent of the rotors.

hazardous weather conditions means:

(a) a thunderstorm; or

(b) wind shear; or

(c) any other similar meteorological activity;

that may endanger the safety of aircraft or aircraft operations.

heading means the direction in which the longitudinal axis of an aircraft is pointed, usually expressed in degrees from North (true, magnetic or compass).

heavier-than-air aircraft is the generic term for aircraft deriving their lift in flight chiefly from aerodynamic forces.

helicopter means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more normally power-driven rotors on substantially vertical axes.

Authorised Version F2017C00094 registered 01/02/2017

horizontal plane in relation to an aeroplane, means the plane containing the longitudinal axis and perpendicular to the plane of symmetry of the aeroplane.

ICAO Doc. 9574-AN/934 means Doc. 9574-AN/934 (Manual on Implementation of a 300 m (1 000 ft) Vertical Separation Minimum Between FL 290 and FL 410 Inclusive) approved and published by decision of the Council of the International Civil Aviation Organisation, as in force from time to time.

I.F.R. is the symbol used to designate the Instrument Flight Rules prescribed in Part 12.

I.F.R. flight means a flight conducted in accordance with the Instrument Flight Rules prescribed in Part 12.

I.F.R. operation means an operation conducted in accordance with the Instrument Flight Rules prescribed in Part 12.

I.M.C. is the symbol used to designate meteorological conditions other than those designated by the symbol ***V.M.C.***

international air service means an air service which passes through the airspace over the territory of more than one country.

international operating agency means an international operating agency referred to in Article 77 of the Convention.

international registration plan means a plan for the registration by an international organisation of aircraft operated, or to be operated, by an international operating agency, being a plan approved by the Council by a determination made in pursuance of Article 77 of the Convention.

International Telecommunications Convention means:

(a) the International Telecommunications Convention signed at Buenos Aires on 22 December 1952; and

(b) the Radio Regulations annexed to that Convention.

jet-propelled aircraft includes an aircraft that is propelled by one or more engines of the following kinds, namely, turbofan engines, turbojet engines, unducted fan engines or rocket engines, but does

Authorised Version F2017C00094 registered 01/02/2017

not include an aircraft that is propelled solely by conventional propeller engines.

joint registration plan means a plan for joint registration by Contracting States constituting an international operating agency of aircraft operated, or to be operated, by the agency, being a plan approved by the Council by a determination made in pursuance of Article 77 of the Convention.

landing area means the part of the manoeuvring area primarily intended for landing or take-off of aircraft.

landing strip means a rectangular portion of the landing area, specially prepared for the take-off and landing of aircraft in a particular direction.

land station means a radio station, not capable of being moved, which performs a mobile service.

licensed means licensed under these Regulations.

lighter-than-air aircraft is the generic term for aircraft supported chiefly by their buoyancy in the air.

long-range radio navigation system means a navigation system which:

(a) is carried on, or installed in, an aircraft; and

(b) is used to determine the position of the aircraft by simultaneously interpreting radio signals transmitted by a network of ground-based or satellite-based radio transmitters.

maintenance controller means a person:

(a) appointed under regulation 42ZV; and

(b) whose appointment:

(i) is approved under regulation 42ZW; and

(ii) is not suspended or cancelled under regulation 42ZX.

maintenance control manual means a maintenance control manual mentioned in regulation 42ZY.

maintenance instruction means an instruction that is issued by:

Authorised Version F2017C00094 registered 01/02/2017

(a) CASA or an authorised person in writing under regulation 38; or
(b) the manufacturer of an aircraft, aircraft component or aircraft material; or
(c) the designer of a modification or repair of an aircraft or aircraft component;

but does not include an instruction issued by a manufacturer or designer if it is clear from the terms of the instruction that the manufacturer or designer regards compliance with the instruction as optional.

maintenance release means a maintenance release in force under regulation 43.

maintenance schedule, in relation to a class B aircraft, means the maintenance schedule referred to in regulation 42A, 42B, 42C or 42CA that applies to the aircraft.

major damage, in relation to an aircraft, means damage of such a kind that it may affect the safety of the aircraft or cause the aircraft to become a danger to person or property.

manned balloon means a balloon that is:
(a) capable of carrying one or more persons; and
(b) equipped with controls that enable control of the altitude of the balloon.

manual welding means welding carried out and controlled completely by hand.

manufacturer's maintenance schedule, in relation to an aircraft, means a schedule issued by the manufacturer of the aircraft that sets out what maintenance should be carried out on the aircraft and when it should be carried out.

maximum landing weight, in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum landing weight.

Authorised Version F2017C00094 registered 01/02/2017

maximum take-off weight, in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum take-off weight.

meteorological information means all classes of meteorological reports, analyses, forecasts, warnings, advices and revisions or amendments thereto which may be required in connection with the operation of air routes.

meteorological minima means the minimum values of meteorological elements as determined by CASA in respect of specified types of flight operation.

meteorological observation means the qualitative or quantitative evaluation by instrumental or visual means of one or more meteorological elements at a place at a given time.

meteorological observer means a person authorised by the Director of Meteorology to make or record meteorological observations or a person approved by CASA for that purpose.

meteorological report means a statement, presented in plain language or in code, either orally, in written form or by telecommunication, of past or present meteorological conditions at ground level or in the free air as observed from a given place.

mile means an International Nautical Mile, being 1,852 metres.

military aerodrome means an aerodrome under the control of any part of the Defence Force.

military aircraft means aircraft of any part of the Defence Force (including any aircraft that is being constructed for any part of the Defence Force), other than any aircraft that is registered under these Regulations as an Australian aircraft.

moored, in relation to lighter-than-air aircraft, means the aircraft:

(a) is tethered; and

(b) is not occupied by any person.

Authorised Version F2017C00094 registered 01/02/2017

movement area means that part of an aerodrome to be used for the surface movement of aircraft, including manoeuvring areas and aprons.

navigation system, in relation to an aircraft, means a system by which the aircraft can be navigated.

night flight means flight during night.

non-controlled aerodrome means an aerodrome at which an air traffic control service is not operating.

Note: A non-controlled aerodrome is also known as a non-towered aerodrome.

Notices to Airmen or ***NOTAMS*** has the meaning given by regulation 4.12 of the Air Services Regulations.

operating crew means any person who:

(a) is on board an aircraft with the consent of the operator of the aircraft; and

(b) has duties in relation to the flying or safety of the aircraft.

Note: This definition includes persons:

(a) who are conducting flight tests; or

(b) who are conducting surveillance to ensure that the flight is conducted in accordance with these Regulations; or

(c) who are in the aircraft for the purpose of:

(i) receiving flying training; or

(ii) practising for the issue of a flight crew licence.

operational information service means a service for the provision of advice and information to assist in the safe and efficient conduct of flights, including the provision of advice and information at the request of a pilot in command of an aircraft.

permissible unserviceability, for an aircraft, means:

(a) a defect in the aircraft approved by CASA as a permissible unserviceability under regulation 37; or

(b) a defect in the aircraft approved by CASA, an authorised person or an approved design organisation as a permissible unserviceability under regulation 21.007 of CASR.

Authorised Version F2017C00094 registered 01/02/2017

position report means a message, in a specified form, containing information on the position and progress of an aircraft.

positive position fix, in relation to an aircraft in flight, is the point on the surface of the earth vertically below the aircraft as established by:

(a) in the case of a V.F.R. flight:
  (i) visual observation; or
  (ii) use of a radio navigation system or systems; or
  (iii) use of an approved self-contained navigation system; or
  (iv) use of an approved long-range radio navigation system; and

(b) in the case of an I.F.R. flight:
  (i) use of a radio navigation system or systems; or
  (ii) use of an approved self-contained navigation system; or
  (iii) use of an approved long-range radio navigation system.

power-assisted sailplane means an aircraft that The Gliding Federation of Australia Incorporated has registered as a power-assisted sailplane.

prohibited area means an area declared under regulation 6 of the *Airspace Regulations 2007* to be a prohibited area.

provisionally certificated aircraft means an aircraft for which a provisional certificate of airworthiness is in force.

publications means Aeronautical Information Publications or Visual Flight Guides published by the Aeronautical Information Service, and includes any amendments of those publications published by that Service from time to time.

public transport service means a service for the carriage of persons or cargo for hire or reward.

radiocommunication system means equipment that is capable of maintaining two-way voice communication through the aeronautical mobile radio service.

radio navigation aid means an installation on the ground that emits radio signals on specified frequencies.

Authorised Version F2017C00094 registered 01/02/2017

radio navigation system means equipment carried on, or installed in, an aircraft for the purpose of navigating the aircraft by reference to the signals emitted by a radio navigation aid.

radiotelephonic language means:

(a) the words and phrases that CASA has directed under regulation 82A must be used in communicating by radiotelephone; and

(b) the voice techniques commonly applied to radiotelephonic communication;

with, or in relation to, an aircraft.

Regional Air Navigation Agreement means a Regional Air Navigation Agreement approved by decision of the Council of the International Civil Aviation Organisation.

regular aerodrome means an aerodrome which is listed in the flight plan as an aerodrome of intended landing.

relevant airworthiness standards means:

(a) for an aircraft that conforms to a type certificate issued, or taken to have been issued, under regulation 21.013A or 21.029 of CASR—the airworthiness standards included in the type certification basis for the aircraft; or

(b) for an aircraft for which a type acceptance certificate has been issued, or is taken to have been issued, under regulation 21.029A of CASR—the airworthiness standards that the aircraft had to meet for the issue of the foreign type certificate that was the basis for issuing the type acceptance certificate.

Note: For ***type certification basis*** and ***foreign type certificate*** see the Dictionary at the end of CASR.

reporting point means a specified geographical location in relation to which the position of an aircraft can be reported.

restricted area means an area declared under regulation 6 of the *Airspace Regulations 2007* to be a restricted area.

Authorised Version F2017C00094 registered 01/02/2017

rotorcraft means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more rotors on substantially vertical axes.

route sector means a route, or portion of a route, flown without an intermediate landing.

route segment means a route, or portion of a route, usually flown without an intermediate stop.

RVSM airspace means any of the following:

(a) the airspace, at or above flight level 290, identified in AIP to be airspace where a vertical separation minimum of 1 000 feet applies;

(b) the airspace, at or above flight level 290, designated, or otherwise recognised, by the competent authority of a foreign country to be airspace where a vertical separation minimum of 1 000 feet applies;

(c) airspace, at or above flight level 290, where a vertical separation of 1 000 feet applies under the terms of a Regional Air Navigation Agreement.

RVSM airworthiness approval has the meaning given by regulation 181C.

RVSM airworthiness approved aircraft means:

(a) an Australian aircraft for which an RVSM airworthiness approval is in force; or

(b) a foreign aircraft for which an RVSM foreign airworthiness approval is in force.

RVSM foreign airworthiness approval has the meaning given by regulation 181D.

RVSM operational approval has the meaning given by regulation 181E.

secondary surveillance radar transponder means equipment that:

(a) is carried on, or installed in, an aircraft; and

Authorised Version F2017C00094 registered 01/02/2017

(b) can respond to radio signals transmitted to the aircraft by ground radar and relay information about the aircraft's operations including the following:

(i) the identity of the aircraft;

(ii) the position of the aircraft;

(iii) the altitude of the aircraft.

self-contained navigation system means a navigation system which:

(a) is carried on, or installed in, an aircraft; and

(b) determines the position of the aircraft without reference to externally generated radio signals.

servicing, in relation to an aircraft, means preparing the aircraft for flight, and includes providing the aircraft with fuel and other fluids that are necessary for its operation, but does not include any work that is maintenance.

signal area means a selected part of an aerodrome used for the display of ground signals so that they will be visible to aircraft in the air.

State includes the Northern Territory.

synthetic flight trainer means a flight simulator, a flight training device, or a synthetic trainer.

Note 1: For definitions of ***flight simulator*** and ***flight training device***, see the CASR Dictionary.

Note 2: Standards for flight simulators and flight training devices are set out in the document called 'Manual of Standards (MOS) – Part 60' published by CASA.

Note 3: Standards for synthetic trainers are set out in the document called 'FSD-2 Operational Standards and Requirements – Approved Synthetic Trainers' published by CASA.

synthetic trainer means a ground training device, other than a flight simulator or a flight training device, that simulates or represents flight conditions, aircraft characteristics and a cockpit environment.

Authorised Version F2017C00094 registered 01/02/2017

taxi speed means the speed at which an aeroplane manoeuvres on the surface of an aerodrome under its own power when it is neither taking-off nor landing.

Territory does not include the Northern Territory.

the Convention means the Chicago Convention.

the Director of Meteorology means the Director of Meteorology under the *Meteorology Act 1955*.

these Regulations includes CASR.

time-lifed aircraft component means an aircraft component (including an engine or propeller) that:

(a) the manufacturer of the component; or

(b) if the component has been modified—the designer of the modification; or

(c) CASA;

has instructed must be retired or overhauled or removed from an aircraft within a particular period.

track means the projection on the earth's surface of the path of an aircraft, the direction of which at any point is usually expressed in degrees from North (true or magnetic).

traffic advisory service means a service provided by air traffic control for the purpose of giving traffic information and advice, except traffic avoidance advice, to help a pilot avoid a collision.

traffic avoidance advice means advice provided by air traffic control specifying manoeuvres to help a pilot avoid a collision.

traffic information means information issued by air traffic control or Flight Service to alert the pilot of an aircraft to other aircraft that may be close to the position, or the intended route, of his or her aircraft, so as to help the pilot avoid a collision.

traffic pattern means the path over the ground of aircraft in flight in the vicinity of an aerodrome during the execution of take-offs and landings and their paths when manoeuvring on the manoeuvring area.

Authorised Version F2017C00094 registered 01/02/2017

unlawful interference with aviation has the same meaning as in section 3AE of the *Air Navigation Act 1920*.

vertical plane, in relation to an aeroplane, means a plane perpendicular to the horizontal plane.

V.F.R. is the symbol used to designate the Visual Flight Rules prescribed in Part 12.

V.F.R. flight means a flight conducted in accordance with Visual Flight Rules prescribed in Part 12.

V.F.R. operation means an operation conducted under Visual Flight Rules prescribed in Part 12.

visibility means the ability, as determined by atmospheric conditions and expressed in units of distance, to see and identify prominent unlighted objects by day and prominent lighted objects by night.

V.M.C. is the symbol used to denote meteorological conditions in which the flight visibility and distances from cloud during a flight are equal to, or greater than, the applicable distances determined by the Authority under subregulation 172(2).

(2) The Authority may direct that any part, equipment or apparatus for an aircraft shall, for the purposes of these Regulations, be deemed not to be an aircraft component.

(2A) A reference in these Regulations to maintenance on an aircraft includes a reference to maintenance on aircraft components and aircraft materials.

(2B) A reference in these Regulations to an aircraft component, or aircraft material, included in an aircraft includes a reference to an aircraft component or aircraft material that is usually included in the aircraft but that has been temporarily removed from the aircraft for any purpose (including for the purpose of having maintenance carried out).

(2C) For the purposes of these Regulations, an aircraft is certificated as a transport category aircraft if:

Authorised Version F2017C00094 registered 01/02/2017

(a) there is a certificate of airworthiness in force in relation to the aircraft; and

(b) the certificate includes a statement to the effect that the certificate is issued in the transport category.

(2D) For the purposes of CAR, the categories of maintenance are as follows:

(a) maintenance on aircraft airframes;

(b) maintenance on aircraft engines;

(c) maintenance on aircraft radio systems;

(d) maintenance on aircraft electrical systems;

(e) maintenance on aircraft instruments.

(3) In Division 2 of Part 11 and in Parts 12 and 13, unless the contrary intention appears:

landing includes alighting on the water and ***to land*** has a corresponding meaning.

rule means a rule prescribed by a regulation contained in that Division or those Parts and ***the rules*** has a corresponding meaning.

visible, in relation to lights, means visible on a dark night with a clear atmosphere.

(4) For the purposes of Division 2 of Part 11 and Parts 12 and 13, an aircraft shall be deemed to be:

(a) ***on the surface of the water*** when any part of the aircraft is in contact with the water;

(b) ***making way*** if, being under way in the air or on the surface of the water, it has a velocity relative to the air or the water, as the case may be;

(c) ***under command*** when it is able to manoeuvre as required by the rules contained in the provisions of Division 2 of Part 11 and in the provisions of Parts 12 and 13 or by the International Regulations for Preventing Collisions at Sea as set forth in Schedule 3 to the *Navigation Act 1920*;

(d) ***under way*** if, being in the air or on the surface of the water, it is not aground or moored to the ground or to any fixed object on the land or in the water.

Authorised Version F2017C00094 registered 01/02/2017

(5) Where any rule contained in the provisions of Division 2 of Part 11 or in the provisions of Parts 12 and 13 contains a provision similar to that of a rule contained in the Rules of the Air adopted in pursuance of the Convention, but a distance which in the last-mentioned rule is expressed by kilometres, metres or centimetres (as the case may be) is in the first-mentioned rule expressed in miles, feet or inches, an aircraft which, in respect of that distance, complies with the last-mentioned rule shall also be deemed to comply with the first-mentioned rule.

(6) For the purposes of these Regulations, an aircraft shall be classified in accordance with the type of operations in which it is being employed at any time, as follows:

(a) when an aircraft is being employed in aerial work operations, it shall be classified as an aerial work aircraft;

(b) when an aircraft is being employed in charter operations, it shall be classified as a charter aircraft;

(c) when an aircraft is being employed in regular public transport operations, it shall be classified as a regular public transport aircraft;

(d) when an aircraft is being employed in private operations, it shall be classified as a private aircraft.

(7) For the purposes of these Regulations:

(a) an aircraft that is flying or operating for a commercial purpose referred to in paragraph 206(1)(a) shall be taken to be employed in aerial work operations;

(b) an aircraft that is flying or operating for a commercial purpose referred to in paragraph 206(1)(b) shall be taken to be employed in charter operations;

(c) an aircraft that is flying or operating for the commercial purpose referred to in paragraph 206(1)(c) shall be taken to be employed in regular public transport operations; and

(d) an aircraft that is flying or operating for the purpose of, or in the course of:

(i) the personal transportation of the owner of the aircraft;

(ii) aerial spotting where no remuneration is received by the pilot or the owner of the aircraft or by any person or organisation on whose behalf the spotting is conducted;

Authorised Version F2017C00094 registered 01/02/2017

(iii) agricultural operations on land owned and occupied by the owner of the aircraft;

(iv) aerial photography where no remuneration is received by the pilot or the owner of the aircraft or by any person or organisation on whose behalf the photography is conducted;

(v) the carriage of persons or the carriage of goods without a charge for the carriage being made other than the carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft;

(va) the carriage of persons in accordance with subregulation (7A);

(vi) the carriage of goods otherwise than for the purposes of trade;

(vii) flight training, other than the following:

(A) Part 141 flight training (within the meaning of regulation 141.015 of CASR);

(B) Part 142 flight training (within the meaning of regulation 142.015 of CASR);

(C) balloon flying training (within the meaning of subregulation 5.01(1)) for the grant of a balloon flight crew licence or rating; or

(viii) any other activity of a kind substantially similar to any of those specified in subparagraphs (i) to (vi) (inclusive);

shall be taken to be employed in private operations.

(7A) An aircraft that carries persons on a flight, otherwise than in accordance with a fixed schedule between terminals, is employed in a private operation if:

(a) public notice of the flight has not been given by any form of public advertisement or announcement; and

(b) the number of persons on the flight, including the operating crew, does not exceed 6; and

(c) no payment is made for the services of the operating crew; and

Authorised Version F2017C00094 registered 01/02/2017

(d) the persons on the flight, including the operating crew, share equally in the costs of the flight; and

(e) no payment is required for a person on the flight other than a payment under paragraph (d).

(7B) For these Regulations, an unmanned aircraft that is operating in accordance with Part 101 of CASR, or an approval granted by CASA under that Part, is employed in an aerial work operation.

(8) For the purposes of these Regulations, civil air operations are divided into the classes of operations referred to in subregulation (7).

(9) Any reference in these Regulations to the owner of an aircraft must, where under a contract of hire or charter agreement the control, maintenance and operation of the aircraft is vested in the hirer, be read as a reference to the hirer.

(10) A reference in these Regulations to height shall be read as a reference to:

(a) the vertical distance of a level or a point, or if an object is specified, that object considered as a point, measured from the datum specified in connection with the reference, or where no datum is specified, measured from the ground or water; or

(b) the vertical dimension of an object;

as the case requires.

(11) For the purposes of these Regulations, any reference to endorsement in a licence or other document shall be read as a reference to endorsement on the document, and matter shall be deemed to be endorsed on a document if it is written on any part of the document.

2AA Meaning of *ANZA mutual recognition agreements* (Act s 3)

The arrangements, identified for the purposes of the definition of ***ANZA mutual recognition agreements*** in section 3 of the Act, are:

(a) the arrangement set out in the document entitled 'Arrangement between the Australian and New Zealand Governments on Mutual Recognition of Aviation-Related

Authorised Version F2017C00094 registered 01/02/2017

Certification', signed at Wellington on 13 February 2007; and

(b) the arrangement set out in the document entitled 'Operational Arrangement between the Civil Aviation Safety Authority of Australia and the Civil Aviation Authority of New Zealand in relation to mutual recognition of Air Operator Certificates', signed on 16 March 2007.

2A Approved maintenance data

(1) Subject to subregulation (3), the approved maintenance data for an aircraft, aircraft component or aircraft material consists of the requirements, specifications and instructions that are:

(a) contained in the maintenance data set out in subregulation (2); and

(b) applicable to the maintenance of the aircraft, aircraft component or aircraft material, as the case requires.

(2) For the purposes of paragraph (1)(a), the maintenance data are:

(a) requirements in:

(i) regulations 42U, 42W, 42X, 42Y, 42Z and 42ZA or in instruments made under those regulations; and

(ii) directions (however described) made under an airworthiness directive or under regulation 25, 38 or 44;

being requirements that specify how maintenance on aircraft, aircraft components or aircraft materials is to be carried out; and

(b) specifications of how maintenance on an aircraft, aircraft component or aircraft material is to be carried out, in documents or designs approved under another provision of these Regulations; and

(c) instructions, issued by the manufacturers of aircraft, aircraft components or aircraft materials, that specify how maintenance on the aircraft, components or materials is to be carried out; and

(d) instructions, issued by the designers of modifications of aircraft or aircraft components, that specify how maintenance on the aircraft or components is to be carried out; and

Authorised Version F2017C00094 registered 01/02/2017

(e) any other instructions, approved by CASA under subregulation (4) for the purposes of this paragraph, relating to how maintenance on aircraft, aircraft components or aircraft materials is to be carried out.

(3) CASA may, for the purpose of ensuring the safety of air navigation, declare in writing that an instruction mentioned in paragraph (2)(c) or (d) that CASA thinks is deficient is not included in the approved maintenance data for an aircraft, aircraft component or aircraft material.

(4) CASA may, for the purposes of paragraph (2)(e), approve instructions relating to how maintenance on aircraft, aircraft components or aircraft material is to be carried out.

2B Powers to issue directions etc

(1) If:

(a) a provision of these Regulations refers to a prescribed act done by CASA or an authorised person; and

(b) there is no provision of the Act or these Regulations expressly authorising CASA or an authorised person to do the act;

the provision mentioned in paragraph (a) is taken to authorise CASA or an authorised person, as the case may be, to do the act.

(2) For the purposes of this regulation, CASA or an authorised person is taken to do a prescribed act if CASA or the authorised person issues, gives or grants a direction, instruction, notification, exemption, permission, approval or authority, or does any other act or thing.

2C How to read CASR

(1) CASR is to be read with, and as if it formed part of, CAR.

(2) However, if there is any inconsistency between CAR and CASR, CASR prevails to the extent of the inconsistency.

Authorised Version F2017C00094 registered 01/02/2017

3 Application of regulations

(1) Subject to these Regulations, these Regulations apply to and in relation to:

(a) international air navigation within Australian territory;

(b) air navigation in relation to trade and commerce with other countries and among the States;

(c) air navigation within the Territories;

(d) air navigation to or from the Territories;

(e) air navigation in which a Commonwealth aircraft is engaged;

(f) air navigation in controlled air space that is of a kind not specified in paragraph (a), (b), (c), (d) or (e) but directly affects, or may endanger, the safety of persons or aircraft engaged in:

(i) air navigation of a kind specified in paragraph (a), (b), (d) or (e); or

(ii) air navigation in which a military aircraft is engaged; and

(g) all air navigation within Australian territory of a kind not specified in paragraph (a), (b), (c), (d) or (e).

(2) Except where otherwise prescribed, the provisions of these Regulations shall apply to and in relation to Australian aircraft engaged in air navigation outside Australian territory.

(3) When an Australian aircraft is flying over the high seas, the provisions of Annex 2 to the Convention shall apply to and in relation to that aircraft and that flight in substitution for the corresponding provisions of these Regulations relating to the flight and manoeuvre of aircraft.

(4) CASA shall notify in Aeronautical Information Publications any differences between the provisions of these Regulations relating to the flight and manoeuvre of aircraft and the provisions of Annex 2 to the Convention.

(5) Subject to these Regulations, these Regulations do not apply to or in relation to state aircraft or to military aerodromes.

Authorised Version F2017C00094 registered 01/02/2017

(6) Notwithstanding the provisions of subregulation (5), the provisions of these Regulations relating to flight and manoeuvre of aircraft and the licensing of personnel apply to and in relation to a flight by an Australian military aircraft where the aircraft is flown by a person other than a member of the Defence Force.

Part 2—Administration and organisation

4 CASA

(1) CASA shall, subject to the directions of the Minister, be charged with the administration of these Regulations, and shall exercise and perform the powers and functions conferred on CASA by these Regulations.

(2) CASA shall maintain close liaison with the Department of Defence in matters of common interest.

5 Civil Aviation Orders

(1) This regulation applies if CASA is empowered or required under these Regulations:

(a) to issue a direction, instruction or notification; or

(b) to give a permission, approval or authority.

(1A) CASA may, unless the contrary intention appears in the regulation conferring the power or function or imposing the obligation or duty, issue the direction, instruction or notification or give the permission, approval or authority in Civil Aviation Orders or otherwise in writing.

(2) Expressions used in Civil Aviation Orders shall, unless the contrary intention appears, have the same meanings as in these Regulations.

(3) If a direction, instruction or notification relating to a person is issued in Civil Aviation Orders, the direction, instruction or notification, as the case may be, is taken to have been served on the person on the date on which the making of the Order is registered on the Federal Register of Legislation.

Authorised Version F2017C00094 registered 01/02/2017

6 Authorised persons

(1) CASA may, in writing:

(a) appoint a person to be an authorised person for the purposes of a provision of these Regulations in which the expression 'authorised person' occurs; or

(b) appoint persons included in a class of persons to be authorised persons for the purposes of a provision of these Regulations in which the expression 'authorised person' occurs.

(2) An appointment under subregulation (1) may be made subject to such conditions as are specified in the instrument of appointment.

6A Identity cards

(1) CASA must issue an identity card to an authorised person:

(a) appointed under regulation 6 for the purposes of any 1 or more of the following provisions:

(i) subregulation 30(4);

(ii) subregulation 33(2);

(iii) regulation 43A;

(iv) regulation 50D;

(v) regulation 53;

(viii) regulation 227;

(ix) regulation 290;

(x) regulation 302;

(xi) regulation 310B; or

(b) acting under regulation 305.

(2) An identity card must:

(a) bear a recent photograph of the person; and

(b) identify whichever of the provisions referred to in subregulation (1) is relevant; and

(c) be in a form approved, in writing, by CASA.

(3) If a person issued with an identity card stops being an authorised person for the purposes of all or any provision identified in it, the

Authorised Version F2017C00094 registered 01/02/2017

person must return the card to CASA within 7 days of the person stopping being an authorised person.

Penalty: 1 penalty unit.

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

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

(3B) It is a defence to a prosecution under subregulation (3) if the defendant returned the identity card to CASA as soon as practicable.

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

(4) If a person returns an identity card because he or she has stopped being an authorised person for the purposes of only some of the provisions identified in it, CASA must, as soon as practicable, issue to the person a new identity card under subregulation (1) identifying the provisions for the purposes of which the person is still appointed as an authorised person.

Part 4—Airworthiness requirements

Division 2—Foreign operators

29 Damage etc to aircraft of a Contracting State

(1) Where an aircraft possessing the nationality of a Contracting State is in Australian territory and is found to have suffered major damage or to have developed a major defect, CASA may direct that the aircraft shall not fly.

(2) Where CASA gives a direction under this regulation, CASA shall furnish to the appropriate authority of the Contracting State a notification of the action taken by CASA and a report of the damage or defect, as the case may be.

(3) CASA may, unless CASA considers that it would be detrimental to the safety of air navigation to do so, revoke a direction given under

Authorised Version F2017C00094 registered 01/02/2017

this regulation if the appropriate authority of the Contracting State notifies CASA that the appropriate authority:

(a) has revoked any suspension of the certificate of airworthiness of the aircraft to which the direction relates that the appropriate authority had imposed;

(b) considers that the damage or defect by reason of which the direction was given is not of such a nature as to prevent the aircraft from fulfilling the minimum requirements of safety adopted in pursuance of the Convention; or

(c) considers that, in the circumstances of the case, the aircraft to which the direction relates should be permitted to fly without passengers to a place at which the necessary repairs or modifications can be made.

(4) In revoking a direction under this regulation, CASA may give a further direction imposing such conditions on the operation of the aircraft as are notified to CASA by the appropriate authority referred to in subregulation (3).

(5) A direction given under this regulation does not have effect in relation to a person until it has been served:

(a) on the person; or

(b) if the direction cannot be served on the person—by affixing the direction to the aircraft to which it relates.

(6) A person must not fly an aircraft in contravention of a direction, or any condition imposed by a direction, given under this regulation.

Penalty: 50 penalty units.

(7) An offence against subregulation (6) is an offence of strict liability.

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

Authorised Version F2017C00094 registered 01/02/2017

Division 3—Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities

29A Interpretation

(1) In this Division:

aircraft welding examination means a welding examination:

(a) based on examination materials published by CASA in a document called 'Aircraft Welding Examinations' as in force from time to time; and

(b) conducted by CASA or an authorised person.

welding training means practical and theoretical training that:

(a) is based on Australian Standard AS 1796 as in force from time to time; and

(b) is conducted by an organisation that carries out training in welding.

(2) For the purposes of this Division, the types of manual welding are as follows:

(a) type 1—gas welding;

(b) type 2—braze welding;

(c) type 3—manual metal arc welding;

(d) type 4—gas tungsten arc welding;

(e) type 5—gas metal arc welding;

(f) type 6—plasma arc welding.

(3) For the purposes of this Division, the parent metal groups are as follows:

(a) group 1—aluminium alloys;

(b) group 2—magnesium alloys;

(c) group 3—carbon steel and low alloy steels;

(d) group 4—corrosion and heat resisting steels;

(e) group 5—nickel alloys;

(f) group 6—copper-based alloys;

Authorised Version F2017C00094 registered 01/02/2017

(g) group 7—titanium alloys.

30 Certificates of approval

(1) Subject to subregulation (1A), a person engaged, or intending to engage, in any stage of distribution or maintenance of aircraft, aircraft components or aircraft materials may apply to CASA for a certificate of approval in respect of those activities.

(1A) A person may make an application under subregulation (1) in relation to the maintenance of an aircraft or an aeronautical product only if Part 42 of CASR does not apply to the aircraft or aeronautical product.

(2) An application must be in writing and must:

(a) set out the following:

(i) a statement of the activities to be covered by the certificate, including any training or assessment in the maintenance of aircraft, aircraft components or aircraft materials that the applicant intends to conduct;

(ii) the address of the main place (if any) at which the applicant proposes to carry out those activities;

(iii) the number of appropriately qualified or experienced persons employed by the applicant who will be involved in carrying out those activities; and

(b) have with it evidence of:

(i) the relevant qualifications and experience of the applicant and the applicant's employees; and

(ii) the facilities and equipment available to the applicant for the carrying out of the activities; and

(iii) the arrangements made to ensure the applicant has, and will continue to receive, information necessary for the carrying out of those activities; and

(iv) a system of quality control that satisfies the requirements of subregulation (2D); and

(c) if maintenance of class A aircraft is an activity to be covered by the certificate—have with it a copy of the procedures manual, in which the system of quality control procedures

Authorised Version F2017C00094 registered 01/02/2017

must be set out, that the applicant proposes to use if the certificate of approval is granted.

(2A) CASA must grant the applicant a certificate of approval covering the activities to which the application relates if CASA is satisfied that the applicant is able to carry out the activities in a satisfactory manner.

(2B) In deciding whether it is satisfied as mentioned in subregulation (2A), CASA must have regard to:

(a) the relevant qualifications and experience of the applicant and the applicant's employees; and

(b) the facilities and equipment available to the applicant for the carrying out of those activities; and

(c) the arrangements made to ensure the applicant has, and will continue to receive, the information necessary for the carrying out of those activities; and

(d) the applicant's system of quality control; and

(e) if the applicant is required by paragraph (2)(c) to have a procedures manual—the applicant's procedures manual.

(2C) A certificate of approval is subject to:

(a) a condition that each activity the certificate covers must only be carried out at a place where the facilities and equipment necessary for the proper carrying out of the activity are available to the holder of the certificate;

(b) a condition that the activities the certificate covers must be carried out in accordance with a system of quality control that satisfies the requirements of subregulation (2D); and

(c) if the certificate covers some or all of the following activities:

(vii) the maintenance of aircraft;

(viii) the maintenance of aircraft components;

(ix) the maintenance of aircraft materials;

a condition that each of those activities that is covered by the certificate must be carried out under the control of a person appointed by the applicant to control the activities; and

(ca) if the certificate covers training or assessment in the maintenance of aircraft, aircraft components or aircraft materials—a condition that the holder of the certificate must

Authorised Version F2017C00094 registered 01/02/2017

comply with the requirements (if any) prescribed by legislative instrument issued by CASA under regulation 30AA that apply to the holder; and

(d) a condition that the holder of the certificate of approval must ensure that each person employed by, or working under an arrangement with, the holder receives adequate training in:

(i) the work performed by the person for the purposes of the activities covered by the certificate; and

(ii) the use of any equipment used in connection with that work.

(2D) A system of quality control must be in writing and must contain the following:

(a) the procedures to be followed in connection with the carrying out of the activities covered by the certificate that, in particular, includes procedures for:

(i) the control of the work carried out under the certificate; and

(ii) the maintenance, control and calibration of equipment; and

(iii) the control of stores;

(b) a statement:

(i) that sets out the places at which the activities covered by the certificate are, or will be, carried out and which activities are, or will be, carried out at each place; and

(ii) that identifies any mobile facilities available to the certificate of approval holder for the carrying out of the activities covered by the certificate and which activities are, or will be, carried out using each mobile facility;

(c) in relation to each activity covered by the certificate that is required, by paragraph (2C)(c), to be carried out under the control of a person—the name of the position occupied by the person who controls the carrying out of the activity;

(d) a description of the applicant's organisational structure, the responsibilities of employees within the structure and the procedures to be followed by the employees in undertaking the activities covered by the certificate;

Authorised Version F2017C00094 registered 01/02/2017

(e) a description of the resources for implementing quality management;

(f) a description of the audit system applying to the system of quality control;

(g) if the quality control system is set out in a procedures manual required under paragraph (2)(c)—a statement of the procedures to be followed in relation to the amendment of the procedures manual.

Note: Australian Standards AS3900 to AS3904 provide guidance for the content of a system of quality control.

(3) CASA may, for the purpose of ensuring the safety of air navigation, include in a certificate of approval granted under this regulation an endorsement that the certificate is granted subject to a condition set out in the endorsement, in a document issued with the certificate of approval or in a specified Part or Section of Civil Aviation Orders.

(3A) A person must not contravene a condition to which a certificate of approval is subject.

Penalty: 25 penalty units.

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

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

(3C) It is a defence to a prosecution under subregulation (3A) if the defendant had a reasonable excuse.

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

(4) An authorised person may, at any time, for the purpose of ascertaining whether the activities to which a certificate of approval relates are being carried on in a satisfactory manner:

(a) inspect any aircraft, aircraft component or aircraft material;

(b) inspect any process or systems carried on by, any records maintained by or any documents in the possession of, the holder of the certificate of approval in connection with the activities to which the certificate of approval relates;

Authorised Version F2017C00094 registered 01/02/2017

(c) conduct any tests that the authorised person considers necessary; and

(d) require the holder of the certificate of approval to furnish to the authorised person such evidence as the authorised person requires:

(i) of the qualifications and competence of the holder or of the qualifications and competence of the employees of the holder; or

(ii) of the facilities at the disposal of the holder.

(4A) The holder of a certificate of approval must give to an authorised person the evidence required under paragraph (4)(d).

Penalty: 5 penalty units.

(4B) An offence against subregulation (4A) is an offence of strict liability.

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

(5) An authorised person must produce his or her identity card for inspection while acting as an authorised person if asked to do so by:

(a) the holder of the certificate of approval; or

(b) a person:

(i) who has control over any subject matter or thing specified in subregulation (4); or

(ii) who apparently has control over any subject matter or thing specified in subregulation (4).

(6) Where an authorised person:

(a) is acting as an authorised person; and

(b) under subregulation (4), seeks to carry out an inspection, conduct a test or require evidence to be furnished or is carrying out an inspection, conducting a test or requiring evidence to be furnished; and

(c) fails to produce his or her identity card for inspection when asked to do so;

that person:

Authorised Version F2017C00094 registered 01/02/2017

(d) is not authorised to carry out the inspection, conduct the test or require evidence to be furnished; and

(e) if that person is carrying out one of those activities, must cease that activity immediately.

30AA Provision of training and assessment in maintenance of aircraft etc.

For subsection 98(5A) of the Act, CASA may issue a legislative instrument prescribing requirements for the provision of training and assessment in the maintenance of aircraft, aircraft components or aircraft materials by holders of certificates of approval under regulation 30.

30A Changes to certificates of approval

(1) The holder of a certificate of approval may, in writing, request CASA to approve a proposed change to any of the particulars specified in the certificate, including the activities covered by the certificate.

(2) The request must have with it a copy of the proposed change.

(3) CASA must approve the change if CASA is satisfied that, if the certificate of approval is changed in the manner proposed, the holder of the certificate will carry out the activities covered by the certificate in a satisfactory manner.

(4) In deciding whether it is satisfied as mentioned in subregulation (3), CASA must have regard to the matters referred to in subregulation 30(2B).

32 Period during which certificates of approval remain in force

CASA may specify in a certificate of approval the period during which the certificate is to remain in force.

33 Testing of competency of holder of licence or authority

(1) CASA may, at any time, require the holder of an airworthiness authority or an aircraft welding authority to undergo an

Authorised Version F2017C00094 registered 01/02/2017

examination designed to test his or her competency as such a holder.

(2) An authorised person may, at any time, inspect an aircraft or aircraft component for the purpose of ascertaining the competence and diligence of the holder of an airworthiness authority or an aircraft welding authority.

33B Airworthiness authorities

(1) CASA may, in writing and in accordance with the Civil Aviation Orders, issue authorities of the following kinds:

(a) authorities to carry out maintenance on aircraft;

(d) authorities to conduct non-destructive testing of aircraft and aircraft components;

(e) authorities to weigh aircraft and determine the centre of gravity of each aircraft for the purpose of determining requirements to control the centre of gravity during operation.

(2) An airworthiness authority may be issued subject to conditions specified in the airworthiness authority, in Civil Aviation Orders or in both.

(3) If an airworthiness authority is issued subject to a condition in Civil Aviation Orders CASA must, in writing, notify the holder of the authority of the relevant Part or section of the Civil Aviation Orders in which the condition is specified.

(4) A person must not contravene a condition to which an airworthiness authority is subject.

Penalty: 50 penalty units.

(5) An offence against subregulation (4) is an offence of strict liability.

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

(6) It is a defence to a prosecution under subregulation (4) if the defendant had a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (6) (see subsection 13.3(3) of the *Criminal Code*).

Authorised Version F2017C00094 registered 01/02/2017

33C Application for aircraft welding authority

(1) A person may apply to CASA for an aircraft welding authority to carry out manual welding of a type, and on a parent metal group, mentioned in regulation 29A.

(2) An application must identify the type of manual welding and the parent metal group to which the application relates.

33D Grant of aircraft welding authority

(1) CASA may grant an application for an aircraft welding authority if, and only if, satisfied that:

(a) the applicant:

(i) has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation; and

(ii) has successfully completed welding training in the type of manual welding on the parent metal group to which the application relates; or

(b) the applicant holds a current qualification, issued by the Defence Force or a recognised authority, authorising the applicant to carry out manual welding for aeronautical purposes.

(2) Subject to this regulation, if an application is made for more than 1 type of manual welding and parent metal group, CASA may grant the application in respect of some of the types of manual welding and parent metal groups and refuse it in respect of others.

(3) CASA must not grant an application if satisfied, on reasonable grounds, that the applicant has knowingly or recklessly made a statement that is false or misleading in a material particular in relation to the application.

(5) CASA must not grant an aircraft welding authority except under this regulation.

(6) If CASA grants an aircraft welding authority, it must:

(a) note the relevant type of manual welding and parent metal group on the authority; and

Authorised Version F2017C00094 registered 01/02/2017

(b) specify in the authority a period not longer than 2 years for which the authority is to remain in force.

(7) In this regulation:

recognised authority means an authority declared to be a recognised authority under regulation 33E.

33E Recognised authorities

(1) For the purposes of regulation 33D, CASA may, in writing, declare an authority of a foreign country which issues qualifications for aeronautical purposes to be a recognised authority.

(2) A declaration must be published in the *Gazette* within 21 days after it is made.

33F Duration of aircraft welding authority

(1) Unless sooner suspended or cancelled, an aircraft welding authority remains in force:

(a) for the period specified in it; or

(b) if it has been renewed—until the end of the last period of renewal.

(2) If an aircraft welding authority is cancelled, its holder must return it to CASA within 7 days after the cancellation.

Penalty: 5 penalty units.

(3) An offence against subregulation (2) is an offence of strict liability.

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

(4) It is a defence to a prosecution under subregulation (2) if the defendant returned the aircraft welding authority to CASA as soon as practicable.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3(3) of the *Criminal Code*).

Authorised Version F2017C00094 registered 01/02/2017

33G Renewal of aircraft welding authority

(1) The holder of an aircraft welding authority may apply to CASA for renewal of the authority within 3 months before the authority stops being in force.

(2) An application must have with it the aircraft welding authority.

(3) CASA may renew an aircraft welding authority for a period not longer than 2 years if, and only if, satisfied that the applicant has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation.

(4) CASA must not grant an application for renewal if satisfied, on reasonable grounds, that the applicant has knowingly or recklessly made a false or misleading statement in relation to the application.

(6) CASA must not renew an aircraft welding authority except under this regulation.

(7) If CASA renews an aircraft welding authority:
  (a) it must note on the authority the period of the renewal; and
  (b) return the authority to the holder as soon as practicable after the renewal.

(8) If an application is not decided before the aircraft welding authority to which it relates would, but for this subregulation, stop being in force, the authority is taken to be in force until the day the application is decided.

33H Changes to aircraft welding authority

(1) The holder of an aircraft welding authority may request CASA to approve a proposed change to any of the particulars set out in the authority.

(2) A request must:
  (a) be in the approved form; and
  (b) have with it the aircraft welding authority.

Authorised Version F2017C00094 registered 01/02/2017

(3) Subject to subregulation (4), CASA may approve the change if satisfied that the change will not have an adverse effect on the safety of air navigation.

(4) If the change involves adding a type of manual welding or parent metal group, CASA may approve the change if, and only if, satisfied that the holder:

(a) has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation; and

(b) has successfully completed welding training in the type of manual welding on the parent metal group to which the request relates.

(5) CASA must not approve a request for a change if satisfied, on reasonable grounds, that the holder has knowingly or recklessly made a false or misleading statement in relation to the request.

(7) CASA must not approve a change except under this regulation.

(8) If CASA approves a change to an aircraft welding authority, it must note the change on the authority.

(9) CASA must return an aircraft welding authority to its holder as soon as practicable after a request to approve a change is decided.

33I Conditions of aircraft welding authority

(1) An aircraft welding authority is subject to any conditions that CASA considers necessary to impose in the interests of the safety of air navigation.

(2) A condition must be set out in the aircraft welding authority.

(3) The holder of an aircraft welding authority must not contravene a condition set out in the authority.

Penalty: 50 penalty units.

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

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

Authorised Version F2017C00094 registered 01/02/2017

(5) It is a defence to a prosecution under subregulation (3) if the defendant had a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (5) (see subsection 13.3(3) of the *Criminal Code*).

Authorised Version F2017C00094 registered 01/02/2017

Division 4—Miscellaneous

37 Permissible unserviceabilities

(1) CASA may, for the purposes of these Regulations, approve a defect in, an Australian aircraft, or any aircraft included in a class of aircraft, as a permissible unserviceability in relation to the aircraft or to Australian aircraft included in the class of aircraft, as the case may be.

(2) CASA may, for the purpose of ensuring the safety of air navigation, direct that the use of an Australian aircraft with a permissible unserviceability is subject to such conditions as are set out in the direction.

(2A) A person must comply with a condition set out in a direction.

Penalty: 50 penalty units.

(2B) An offence against subregulation (2A) is an offence of strict liability.

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

(3) A direction given under subregulation (2) does not have effect in relation to a person until it has been served on the person.

Part 4A—Maintenance

Division 1—Maintenance directions by CASA

38 Maintenance directions

(1) CASA may give directions relating to the maintenance of Australian aircraft for the purpose of ensuring the safety of air navigation.

(2) A direction is not binding on a person unless it has been served on the person.

Authorised Version F2017C00094 registered 01/02/2017

(3) A person must not contravene a direction that is binding on the person.

Penalty: 50 penalty units.

(4) If a direction relating to an aircraft is binding on the holder of the certificate of registration for the aircraft, the holder must take reasonable steps to ensure the direction is brought to the attention of any person who is likely to fly, or issue a maintenance release for, the aircraft.

Penalty: 50 penalty units.

(5) An offence against subregulation (3) or (4) is an offence of strict liability.

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

Authorised Version F2017C00094 registered 01/02/2017

Division 2—Maintenance for which holder of certificate of registration responsible

Subdivision 1—Class A aircraft

39 Maintenance required by approved system of maintenance

(1) The holder of the certificate of registration for a class A aircraft must ensure that all maintenance required to be carried out on the aircraft (including any aircraft components from time to time included in or fitted to the aircraft) by the aircraft's approved system of maintenance is carried out when required by that system.

Penalty: 50 penalty units.

(2) A person must not use a class A aircraft in an operation if there is not an approved system of maintenance for the aircraft that includes provision for the maintenance of all aircraft components from time to time included in, or fitted to, the aircraft.

Penalty: 50 penalty units.

Note: A system of maintenance is approved under regulation 42M.

(3) An offence against subregulation (1) or (2) is an offence of strict liability.

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

40 Defective or inappropriate systems of maintenance

If the approved system of maintenance for a class A aircraft is:

(a) no longer appropriate; or

(b) defective;

within 7 days of becoming aware of the inappropriate aspect or the defect, the holder of the certificate of registration for the aircraft must make a request under regulation 42P for CASA or an authorised person to approve changes to the system to ensure that it is appropriate and not defective.

Penalty: 25 penalty units.

Authorised Version F2017C00094 registered 01/02/2017

Subdivision 2—Class B aircraft

41 Maintenance schedule and maintenance instructions

(1) The holder of the certificate of registration for a class B aircraft must ensure that all maintenance required to be carried out on the aircraft (including any aircraft components from time to time included in or fitted to the aircraft) by the aircraft's maintenance schedule is carried out when required by that schedule.

Penalty: 50 penalty units.

(2) A person must not use a class B aircraft in an operation if there is not a maintenance schedule for the aircraft that includes provision for the maintenance of all aircraft components from time to time included in, or fitted to, the aircraft.

Penalty: 50 penalty units.

(3) An offence against subregulation (1) or (2) is an offence of strict liability.

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

42 Defective or inappropriate maintenance schedule

If the maintenance schedule for a class B aircraft is defective or no longer appropriate, the holder of the certificate of registration for the aircraft, within 7 days after becoming aware of the defect, or that the schedule is inappropriate, must report the situation to CASA and take one of the following actions to ensure that the aircraft has a maintenance schedule that is appropriate and not defective:

(a) if the aircraft's maintenance schedule is the manufacturer's maintenance schedule:

(i) elect to use the CASA maintenance schedule as the aircraft's maintenance schedule; or

(ii) under regulation 42J, request CASA or an authorised person to approve a system of maintenance for the aircraft;

Authorised Version F2017C00094 registered 01/02/2017

(b) if the aircraft's maintenance schedule is the CASA maintenance schedule:
  (i) elect to use the manufacturer's maintenance schedule as the maintenance schedule for the aircraft; or
  (ii) under regulation 42J, request CASA or an authorised person to approve a system of maintenance for the aircraft;
(c) if the aircraft's maintenance schedule is an approved system of maintenance:
  (i) under regulation 42P, request CASA to approve a proposed change to the system; or
  (ii) elect to use the manufacturer's maintenance schedule as the maintenance schedule for the aircraft; or
  (iii) elect to use the CASA maintenance schedule as the maintenance schedule for the aircraft.

Penalty: 25 penalty units.

42A Maintenance schedule: manufacturer's maintenance schedule

(1) Subject to subregulations (2), (3), (4) and (5), if:
  (a) the holder of the certificate of registration for a class B aircraft has elected to use a manufacturer's maintenance schedule for the aircraft's maintenance; and
  (b) the election is in force; and
  (c) use of the manufacturer's maintenance schedule for the aircraft's maintenance is not prohibited by a declaration under subregulation (6);

the aircraft's maintenance schedule is the manufacturer's maintenance schedule as in force from time to time.

(2) If CASA thinks that a manufacturer's maintenance schedule should not, alone, be used as an aircraft's maintenance schedule because the manufacturer's maintenance schedule is deficient in a particular respect, the following provisions have effect:
  (a) CASA may, for the purpose of remedying the deficiency, do either or both of the following:
    (i) give directions under subregulation 38(1) to be complied with in relation to aircraft in addition to the

Authorised Version F2017C00094 registered 01/02/2017

requirements of the manufacturer's maintenance schedule;

(ii) give directions under subregulation 38(1) requiring the holders of certificates of registration for aircraft to prepare documents to be complied with in relation to aircraft in addition to the requirements of the manufacturer's maintenance schedule;

(b) if an election to use the manufacturer's maintenance schedule as an aircraft's maintenance schedule is in force:

(i) any directions under subparagraph (a)(i) in force in relation to the manufacturer's maintenance schedule are to be taken to form part of the aircraft's maintenance schedule and the election has effect accordingly; and

(ii) any documents prepared because of a direction under subparagraph (a)(ii) in force in relation to the manufacturer's maintenance schedule are to be taken to form part of the aircraft's maintenance schedule and the election has effect accordingly.

(3) If:

(a) a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance; and

(b) either:

(i) the aircraft has been modified or repaired; or

(ii) an aircraft component included in, or fitted to, the aircraft has been modified or repaired;

all instructions for the continued airworthiness of the aircraft, or of the component, as the case requires, issued by the designer of the modification or repair are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.

(4) If a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance, all instructions issued by the manufacturers of aircraft components permanently, or from time to time, included in, or fitted to, the aircraft, being instructions for the continued airworthiness of the components, are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.

Authorised Version F2017C00094 registered 01/02/2017

(5) If:

(a) a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance; and

(b) the manufacturer's maintenance schedule does not include provisions equivalent to the sections of the CASA maintenance schedule that deal with the maintenance of electrical, instrument and radio systems;

those sections of the CASA maintenance schedule are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.

(6) CASA may, for the purpose of ensuring the safety of air navigation, declare in writing that a manufacturer's maintenance schedule that CASA thinks is inadequate must not be used as an aircraft's maintenance schedule.

42B Maintenance schedule: CASA maintenance schedule

(1) Subject to subregulation (2), if:

(a) the holder of the certificate of registration for a class B aircraft that is an aeroplane has elected to use the CASA maintenance schedule for the aircraft's maintenance; and

(b) the election is in force;

the aircraft's maintenance schedule is the CASA maintenance schedule.

(2) If:

(a) a person has elected to use the CASA maintenance schedule for an aircraft's maintenance; and

(b) a turbine engine is included in the aircraft;

all instructions issued by the manufacturer of the engine for the continued airworthiness of the engine are to be taken to form part of the CASA maintenance schedule and the election has effect accordingly.

42C Maintenance schedule: approved system of maintenance

If:

Authorised Version F2017C00094 registered 01/02/2017

(a) CASA or an authorised person has approved a system of maintenance for a class B aircraft under regulation 42M; and

(b) the approval is in force;

the aircraft's maintenance schedule is the approved system of maintenance.

42CA Maintenance schedule—primary, intermediate, restricted or limited category aircraft

(1) The maintenance schedule for a class B aircraft certificated under subpart 21.B or 21.H of Part 21 of CASR in the primary, intermediate, restricted or limited category (except an aircraft mentioned in subparagraph 21.189(1)(a)(ii) of CASR) is the approved maintenance schedule developed in consultation with CASA during the certification process.

(2) The maintenance schedule for an aircraft mentioned in subparagraph 21.189(1)(a)(ii) of CASR is the approved maintenance schedule developed, in consultation with CASA or a limited category organisation, by the applicant for the special certificate of airworthiness for the aircraft under regulation 21.189 of CASR.

(3) For this regulation, an aircraft is certificated in a particular category if it was manufactured in accordance with a type certificate in the category, or if a certificate of airworthiness in the category is in force for the aircraft.

42CB Maintenance—experimental aircraft

The holder of the certificate of registration for a class B aircraft that is an experimental aircraft must maintain the aircraft in accordance with any conditions to which the certificate is subject under regulation 21.195A of CASR.

42D Can there be more than one maintenance schedule?

If, apart from this regulation, there would be more than one maintenance schedule for an aircraft, the maintenance schedule for the aircraft is:

Authorised Version F2017C00094 registered 01/02/2017

(a) if:

(i) CASA has approved a system of maintenance for the aircraft under regulation 42M; and

(ii) the system was submitted for approval because of a direction by CASA; and

(iii) the approval is still in force;

that approved system of maintenance; and

(b) in any other case—the maintenance schedule that the holder of the certificate of registration for the aircraft has most recently elected to use, or that CASA has most recently approved, as the case may be.

42E Elections

(1) An election made for the purposes of subregulation 42A(1) or 42B(1) must be made by completing the appropriate approved form and giving it to CASA.

(2) An election stops being in force if the person who made it revokes it by written notice given to CASA.

42F Effect of change of holder of certificate of registration

If there is a change of holder of the certificate of registration for a class B aircraft, an election under subregulation 42A(1) or 42B(1) that was in force immediately before the change has effect (including for the purposes of subregulation 42E(2)) after the change as if it had been made by the new holder.

Subdivision 3—Miscellaneous

42G Flight control system: additional requirements

(1) This regulation sets out the additional requirements to be complied with if any part of the flight control system of an Australian aircraft is assembled, adjusted, repaired, modified or replaced in the course of carrying out maintenance on the aircraft.

(2) Subject to subregulation (4), the system must:

Authorised Version F2017C00094 registered 01/02/2017

(a) be inspected by the person who carried out the assembly, adjustment, repair, modification or replacement; and
(b) be independently inspected by another person who is an appropriate person within the meaning of subregulation (5).

(3) A person carrying out an inspection must:
(a) check that the assembly, adjustment, repair, modification or replacement was carried out in accordance with the aircraft's approved maintenance data; and
(b) check that the system functions correctly.

(4) In spite of subregulation (2), if:
(a) optional dual controls were connected or disconnected without using tools; and
(b) no other part of the flight control system was assembled, adjusted, repaired, modified or replaced;
the system does not have to be independently inspected.

(5) For the purposes of this regulation, a person is an appropriate person if:
(a) the person holds an aircraft maintenance engineer licence or an airworthiness authority covering maintenance of a type that includes the inspection; or
(b) the person is the holder of a pilot licence that is valid for the aircraft; or
(c) the person is the holder of a flight engineer licence that is valid for the aircraft; or
(d) the person is authorised by CASA or an authorised person under subregulation (6) to carry out the inspection and the inspection is carried out in accordance with any conditions subject to which the authorisation was given; or
(e) in relation to an independent inspection performed overseas—the person is a person referred to in paragraph 42ZN(a).

(6) CASA or an authorised person may, in writing, authorise a person for the purposes of paragraph (5)(d).

(7) An authorisation is subject to any conditions that:

Authorised Version F2017C00094 registered 01/02/2017

(a) CASA or the authorised person, as the case may be, considers are necessary in the interests of the safety of air navigation; and
(b) are included in the authorisation.

42H Exemptions and variations

This Division has effect subject to Division 7 ('Exemptions from, and variations of, requirements').

Authorised Version F2017C00094 registered 01/02/2017

Division 3—Approved systems of maintenance

42J System of maintenance: request for approval

(1) The holder of the certificate of registration for an Australian aircraft may, in writing, request CASA or an authorised person to approve a system of maintenance for the aircraft.

(2) The request must be accompanied by a copy of the system.

42K System of maintenance: submission to CASA

CASA may, under regulation 38, direct the holder of the certificate of registration for a class B aircraft:

(a) to develop a system of maintenance for the aircraft; and

(b) to submit the proposed system to CASA for approval.

42L System of maintenance: matters to be included

A system of maintenance for an aircraft must include:

(a) a schedule that:

(i) sets out the regular maintenance inspections, tests and checks to be carried out on the aircraft; and

(ii) sets out when those maintenance inspections, tests and checks are to be carried out; and

(iii) nominates one of the maintenance inspections referred to in subparagraph (i) as the inspection to be carried out for the purposes of determining whether a maintenance release should be issued for the aircraft; and

(b) a schedule that sets out the inspection to be carried out on the aircraft if it has been struck by lightning and when that inspection is to be carried out; and

(c) a schedule that sets out the inspection to be carried out on the aircraft if abnormal flight or ground loads have been imposed on the aircraft; and

(d) a schedule that sets out the time-lifed aircraft components included in the aircraft and when each of those components is to be retired, overhauled or removed; and

Authorised Version F2017C00094 registered 01/02/2017

(e) a schedule that sets out the procedures to be followed in carrying out the inspections, tests and checks required by the system of maintenance; and

(f) if permissible unserviceabilities have been approved for the aircraft under subregulation 37(1) in the form of a minimum equipment list—that list; and

(g) a statement that sets out:

(i) the name of the holder of the certificate of registration for the aircraft; and

(ii) the type, model and registration mark of the aircraft.

42M System of maintenance: approval

(1) If:

(a) CASA or an authorised person receives a request for approval of a system of maintenance; and

(b) CASA or the authorised person is satisfied that:

(i) the system includes the matters set out in regulation 42L; and

(ii) the system adequately provides for the continued airworthiness of the aircraft;

CASA or the authorised person must approve the system.

(2) If, because of a direction of a kind referred to in regulation 42K, the holder of the certificate of registration for an aircraft submits a system of maintenance to CASA, the following provisions have effect:

(a) if CASA is satisfied that:

(i) the system includes the matters set out in regulation 42L; and

(ii) the system satisfies the requirements of the direction; and

(iii) the system adequately provides for the continued airworthiness of the aircraft;

CASA must approve the system;

(b) if CASA is not satisfied as mentioned in paragraph (a), CASA may:

Authorised Version F2017C00094 registered 01/02/2017

(i) modify the system so that CASA is so satisfied and approve the modified system; or

(ii) refuse to approve the system.

(3) In deciding whether a system of maintenance adequately provides for the continued airworthiness of an aircraft, CASA or the authorised person must have regard to:

(a) if the system of maintenance relates to a class A aircraft—the manufacturer's maintenance schedule and any inspection programs or documents issued by the manufacturer; and

(b) if the system of maintenance relates to a class B aircraft—the manufacturer's maintenance schedule and the CASA maintenance schedule.

(4) CASA or the authorised person must, in writing, notify the holder of the certificate of registration for the aircraft concerned of CASA's, or the authorised person's, decision in relation to the system submitted.

(5) If CASA or the authorised person decides:

(a) not to approve the system of maintenance; or

(b) to modify the system of maintenance;

CASA or the authorised person must include in the notice required by subregulation (4) a statement of the reasons for that decision.

42N When approval is effective

(1) If CASA or an authorised person approves a system of maintenance, the approval has effect from when notice of the approval is given to the holder of the certificate of registration for the aircraft concerned.

(2) An approval of a system of maintenance approved because of a request under regulation 42J stops being in force if:

(a) CASA revokes the approval by written notice given to the holder of the certificate of registration for the aircraft concerned; or

(b) the holder of the certificate of registration for the aircraft concerned gives CASA or an authorised person written

Authorised Version F2017C00094 registered 01/02/2017

notice that the holder no longer wants the approved system to apply to the aircraft.

(3) An approval of a system of maintenance submitted because of a direction of a kind referred to in regulation 42K stops being in force if CASA revokes the approval by written notice given to the holder of the certificate of registration for the aircraft concerned.

(4) CASA must not revoke an approval of a system of maintenance unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

42P Request for approval of changes

(1) The holder of the certificate of registration for an aircraft for which there is an approved system of maintenance may, in writing, request CASA or an authorised person to approve a proposed change to the system.

(2) The request must be accompanied by a copy of the proposed change.

42Q CASA may direct changes

CASA may, under regulation 38, direct the holder of the certificate of registration for an aircraft for which there is an approved system of maintenance:

(a) to make:

(i) a specified change to the system; or

(ii) a change to the system that will correct a specified deficiency in the system; and

(b) to submit the proposed change to CASA or an authorised person for approval.

42R Approval of changes

(1) If:

(a) CASA or an authorised person receives a request for approval of a change to an approved system of maintenance; and

Authorised Version F2017C00094 registered 01/02/2017

(b) CASA or the authorised person is satisfied that the system, as proposed to be changed, would:

(i) include the matters set out in regulation 42L; and

(ii) adequately provide for the continued airworthiness of the aircraft;

CASA or the authorised person must approve the change.

(2) If, because of a direction of a kind referred to in regulation 42Q, the holder of the certificate of registration for an aircraft submits a proposed change to an approved system of maintenance to CASA, the following provisions have effect:

(a) if CASA is satisfied:

(i) if the direction was for a specified change to be made—the change has been made; and

(ii) if the direction was for a change to correct a specified deficiency in the system—the deficiency would be corrected by the change; and

(iii) that the system, as proposed to be amended, would:

(A) include the matters set out in regulation 42L; and

(B) adequately provide for the continued airworthiness of the aircraft;

CASA must approve the change;

(b) if CASA is not satisfied as mentioned in paragraph (a), CASA may:

(i) modify the change so that CASA is so satisfied and approve the modified change; or

(ii) refuse to approve the change.

(3) In deciding whether a system of maintenance as proposed to be changed would adequately provide for the continued airworthiness of an aircraft, CASA or the authorised person must have regard to:

(a) if the system of maintenance relates to a class A aircraft—the manufacturer's maintenance schedule and any inspection programs or documents issued by the manufacturer; and

(b) if the system of maintenance relates to a class B aircraft—the manufacturer's maintenance schedule and the CASA maintenance schedule.

Authorised Version F2017C00094 registered 01/02/2017

(4) CASA or the authorised person must, in writing, notify the holder of the certificate of registration for the aircraft concerned of CASA's, or the authorised person's, decision in relation to the change submitted.

(5) If CASA or the authorised person decides:
   (a) not to approve the change; or
   (b) to modify the change;

CASA or the authorised person must include in the notice required by subregulation (4) a statement of the reasons for that decision.

42S When approval of a change is effective

If CASA or an authorised person approves a change to an approved system of maintenance, the approval has effect from when notice of the approval is given to the holder of the certificate of registration for the aircraft concerned.

42T All changes must be approved

A purported change to an approved system of maintenance has no effect unless it has been approved under regulation 42R and that approval is in force.

Authorised Version F2017C00094 registered 01/02/2017

Division 4—How maintenance is to be carried out

42U Modifications and repairs: approved designs

(1) A person may modify or repair an Australian aircraft only if:

(a) the design of the modification or repair:

(i) has been approved under regulation 35, as in force before 27 June 2011; or

(ia) has been approved by a modification/repair design approval; or

(ib) has been approved by an approval mentioned in regulation 21.475 of CASR; or

(ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; or

(ii) has been specified by CASA in, or by means of, an airworthiness directive or a direction under regulation 44; or

(iii) is specified in the aircraft's approved maintenance data; and

(b) the modification or repair is in accordance with that design.

Penalty: 50 penalty units.

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

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

42V Maintenance: approved maintenance data

(1) A person carrying out maintenance on an Australian aircraft must ensure that the maintenance is carried out in accordance with the applicable provisions of the aircraft's approved maintenance data.

Penalty: 50 penalty units.

Note: Regulation 2A sets out what is approved maintenance data for an aircraft.

(2) Subregulation (1) has effect subject to the requirements of Division 5 ('Who may carry out maintenance').

Authorised Version F2017C00094 registered 01/02/2017

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

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

42W Installation and use of aircraft components in maintenance—Australian aircraft in Australian territory

(1) This regulation sets out requirements to be complied with in relation to the installation and use of aircraft components in carrying out maintenance on an Australian aircraft in Australian territory.

(2) Subject to subregulation (3), a person may replace an aircraft component in the aircraft with another aircraft component only if:

(a) the replacement component is serviceable; and

(b) the replacement component:

(i) is identical with the replaced component; or

(ii) has been approved under regulation 36, as in force before 27 June 2011, as a replacement for the replaced component; or

(iii) is approved for use as a replacement for the replaced component:

(A) by the manufacturer of the aircraft or the replaced component; or

(AA) in an Australian Parts Manufacturer Approval issued under regulation 21.303 of CASR; or

(B) in a Parts Manufacturers Approval issued by the Federal Aviation Administration of the United States of America; or

(BA) in a parts manufacturer approval issued by a national aviation authority to which subregulation (2A) applies; or

(C) by a modification/repair design approval; or

(D) by an approval mentioned in regulation 21.475 of CASR; or

(iv) is taken to have been approved for use as a replacement for the replaced component under regulation 21.465 or 21.470 of CASR; and

Authorised Version F2017C00094 registered 01/02/2017

(c) if the replacement component has been removed or salvaged from another aircraft and has not had maintenance carried out on it—the replacement component is not damaged and complies with its manufacturer's specifications.

Penalty: 50 penalty units.

(2A) For sub-subparagraph (2)(b)(iii)(BA), this subregulation applies to the national aviation authority of a Contracting State if:

(a) Australia has an agreement (however described) with the Contracting State for the acceptance of parts manufacturer approvals; or

(b) CASA has an agreement (however described) with the national aviation authority for the acceptance of parts manufacturer approvals.

(3) A person may replace an aircraft component in the aircraft with another aircraft component that does not satisfy the requirements of paragraphs (2)(a) and (c) if inclusion of the replacement component in the aircraft amounts to a permissible unserviceability in the aircraft that is approved under regulation 37.

(4) Subject to regulations 42Y and 42Z, a person must not install an aircraft component in an aircraft if each of the following requirements is not satisfied:

(a) if the component, or a component that it incorporates, was manufactured in the course of carrying out maintenance—the completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN;

(b) if the component, or another aircraft component that is incorporated in it, has had maintenance carried out on it—completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN;

(c) if the component, or another aircraft component that is incorporated in it, has been modified or repaired—the modification or repair was carried out in accordance with a design that:

(i) was approved under regulation 35, as in force before 27 June 2011; or

Authorised Version F2017C00094 registered 01/02/2017

(ia) was approved by a modification/repair design approval; or

(ib) was approved by an approval mentioned in regulation 21.475 of CASR; or

(ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; or

(ii) was specified by CASA in, or by means of, an airworthiness directive or a direction under regulation 44 or subregulation 21.176(2) of CASR; or

(iii) was specified in the component's, or the incorporated component's, approved maintenance data; or

(iv) if the modification or repair was carried out outside Australian territory—was approved or specified in a manner that is acceptable to CASA having regard to the safety of air navigation;

(d) if subregulation (5) applies to the component, and the component was supplied by another person—the supplier of the component supplied an authorised release certificate with it and for it;

(e) if the component includes a component to which subregulation (5) applies, and the included component was supplied by another person—the supplier of the included component supplied an authorised release certificate with it and for it.

Penalty: 50 penalty units.

Note: ***Authorised release certificate*** means a certificate that complies with regulation 42WA—see the Dictionary.

(5) This subregulation applies to:

(a) an aircraft component manufactured to approved data by a manufacturer that holds an approval from CASA or a national aviation authority to do so; or

(b) an aircraft component that has had maintenance carried out on it.

(6) An offence against subregulation (2) or (4) is an offence of strict liability.

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

Authorised Version F2017C00094 registered 01/02/2017

42WA Requirements for authorised release certificate

(1) The requirements for an authorised release certificate for an aircraft component are the following:

(a) it has a unique identifying number;

(b) it is issued by, or with the authority or approval of:

(i) if maintenance has been carried out on the relevant component—the national aviation authority of the country in which the most recent maintenance was carried out; or

(ii) if no maintenance has been carried out on the component—the national aviation authority of the country in which it was manufactured;

(c) it specifies the national aviation authority that issued it or that authorised its issue;

(d) it contains at least the following information about the component (or, if it applies to 2 or more components, about each of them):

(i) the full name and business address of the supplier of the component;

(ii) enough information to identify the contract, work order or invoice related to the supply of the component;

(iii) the component's name or description, and part number;

(iv) the types or models of aircraft, propeller or engine on which the component can be installed (if known to the body issuing the certificate);

(v) the serial number or batch number of the component;

(vi) the component's status (that is, whether it is manufactured or newly overhauled, or has been inspected, modified or repaired, or is a prototype) and a statement of any limitations that apply to it;

(e) if the certificate applies to 2 or more components, it gives an identifying number for each;

(f) if the certificate applies to 2 or more components that have the same part number, it states how many of them the certificate applies to;

(g) it quotes or identifies the authorisation under which it is issued;

Authorised Version F2017C00094 registered 01/02/2017

(h) the person who signed it is a proper person to do so, in accordance with subregulation (2), (3) or (4).

(2) A person is a proper person to sign an authorised release certificate for a component on which maintenance has been carried out in Australia if:

(a) he or she is permitted by regulation 42ZC to carry out the maintenance; and

(b) he or she is employed by, or is working under an arrangement with, the person who carried out the most recent such maintenance.

(3) A person is a proper person to sign an authorised release certificate for a component on which maintenance has been carried out in a country other than Australia if:

(a) he or she is permitted to carry out the maintenance by the national aviation authority of the country in which that maintenance was carried out; and

(b) he or she carried out the most recent such maintenance, or is employed by, or works under an arrangement with, the person who did so.

(4) A person is a proper person to sign an authorised release certificate for a component on which no maintenance has been carried out if he or she is the manufacturer of the component, or is employed by, or works under an arrangement with, its manufacturer.

Note: A document that complies with regulation 42WA is an authorised release certificate. Appendix 1 to Civil Aviation Order 100.16 gives a list of documents issued in foreign countries that, if completed correctly, will be authorised release certificates. Civil Aviation Advisory Publication 42W-1 sets out documents necessary for the supply of components, parts and material. Also, Civil Aviation Advisory Publication 42W-2 explains how to prepare a certificate. Both the Order and the Advisory Publications are available on CASA's website.

42X Use of aircraft materials in maintenance—Australian aircraft in Australian territory

(1) A person may use an aircraft material in an aircraft only if the person satisfies CASA or an authorised person that the material is

Authorised Version F2017C00094 registered 01/02/2017

suitable for use in the maintenance of the aircraft or the following requirements are satisfied:

(a) if:

(i) the material was supplied to the person by another person; and

(ii) the material is not a fuel or lubricant;

the material was supplied by the other person with a document that satisfies the requirements of subregulation (2);

(b) if the material has had maintenance carried out on it—completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN.

Penalty: 50 penalty units.

(2) A document accompanying the supply of an aircraft material must:

(a) contain:

(i) a statement that identifies the material and that includes (if applicable) the specification of the material; and

(ii) if maintenance has been carried out on the material—details of the maintenance carried out and the data used in carrying out the maintenance; and

(b) have been issued by, or with the authority or approval of:

(i) if maintenance has been carried out on the material—the aviation authority of the country in which the most recent maintenance was carried out; or

(ii) if no maintenance has been carried out on the material—the aviation authority of the country in which the material was manufactured; and

(c) be signed by:

(i) if maintenance has been carried out on the material in Australia—a person who is permitted by regulation 42ZC to carry out the maintenance and who is employed by, or is working under an arrangement with, the person who carried out the most recent maintenance; or

(ii) if maintenance has been carried out on the material in a country other than Australia—a person who is permitted

Authorised Version F2017C00094 registered 01/02/2017

to carry out the maintenance by the aviation authority of the country in which that maintenance was carried out and who is, is employed by, or is working under an arrangement with, the person who carried out the most recent maintenance; or

(iii) if no maintenance has been carried out on the material—a person who is, is employed by, or is working under an arrangement with, the person who manufactured the material; and

(d) set out the date on which the person signed the document.

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

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

42Y Time-lifed aircraft components—exemption from supply under cover of document requirements

If a person satisfies CASA or an authorised person that there is a complete record of the airworthiness history of a time-lifed aircraft component, the person may install the component in an aircraft even though the requirements of paragraphs 42W(4)(a) and (b) are not satisfied.

42Z Removable items of radiocommunications equipment in VFR aircraft—exemption from certification requirements

(1) This regulation applies to an aircraft:

(a) that has a flight manual; and

(b) that is not, in that manual, approved for use in IFR flight.

(2) Subject to subregulation (3), if:

(a) a removable item of radiocommunications equipment is installed in an aircraft; and

(b) that item is removed from the aircraft;

a person may re-install that item, or install another item of the same type, in the aircraft even though the requirements of paragraphs 42W(4)(c) and (d) are not satisfied.

Authorised Version F2017C00094 registered 01/02/2017

(3) If the person is not the holder of the certificate of registration for the aircraft, subregulation (2) does not apply unless the holder has approved the installation of the equipment.

42ZA Use of aircraft components, aircraft materials etc in maintenance—Australian aircraft outside Australian territory

(1) This regulation applies to the holder of the certificate of registration for, or the operator or pilot in command of, an Australian aircraft while the aircraft is outside Australian territory.

(2) A person to whom this regulation applies must not use, or permit the use of, an aircraft component, aircraft material or other thing in connection with the maintenance of the aircraft if:

(a) use of the component, material or thing would be an offence against these Regulations if the aircraft were in Australian territory; and

(b) CASA has not approved the use.

Penalty: 50 penalty units.

(3) An offence against subregulation (2) is an offence of strict liability.

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

42ZB Exemptions and variations

This Division has effect subject to Division 7 ('Exemptions from, and variations of, requirements').

Authorised Version F2017C00094 registered 01/02/2017

Division 5—Who may carry out maintenance

42ZC Maintenance on Australian aircraft in Australian territory

(1) The holder of the certificate of registration for, the operator of, and the pilot in command of, an Australian aircraft must not authorise or permit any maintenance to be carried out on the aircraft in Australian territory by a person if the person is not permitted by this regulation to carry out the maintenance.

Penalty: 50 penalty units.

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

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

(3) Subject to subregulation (5), a person may carry out maintenance on a class A aircraft in Australian territory if:

(a) the person:

(i) holds:

(A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or

(B) an airworthiness authority or an aircraft welding authority covering the maintenance; and

(ii) either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(b) the following requirements are satisfied:

(i) the person is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; and

(ii) the maintenance is carried out under the supervision of a person who holds an aircraft engineer licence that

Authorised Version F2017C00094 registered 01/02/2017

permits him or her to perform maintenance certification for the maintenance, and who either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(c) the person is a pilot of the aircraft and is authorised to carry out the maintenance by the aircraft's approved system of maintenance; or

(d) the person is authorised by CASA under subregulation (6), or an authorised person under subregulation (7), to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.

(4) Subject to subregulation (5), a person may carry out maintenance on a class B aircraft in Australian territory if:

(a) the person:

(i) holds:

(A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or

(B) an airworthiness authority or an aircraft welding authority covering the maintenance; and

(ii) either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(b) except where the maintenance is specified in Schedule 7, the person:

(i) holds:

Authorised Version F2017C00094 registered 01/02/2017

(A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or

(B) an airworthiness authority or an aircraft welding authority covering the maintenance; and

(ii) either:

(A) is not an employee; or

(B) is employed by a person mentioned in subparagraph (i); or

(c) the person carries out the maintenance under the supervision of a person who:

(i) holds an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; and

(ii) is permitted by paragraph (a) or (b) to carry out the maintenance; or

(d) the following requirements are satisfied:

(i) the person is the holder of a pilot licence that is valid for the aircraft;

(ii) the maintenance is specified in Part 1 of Schedule 8;

(iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or

(da) the following requirements are satisfied:

(i) the person is a category B1 licence holder or a category B2 licence holder;

(ii) the maintenance is specified in Part 1 of Schedule 8;

(iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or

(db) for an aircraft that is a balloon—the following requirements are satisfied:

(i) the person is the holder of a commercial pilot (balloon) licence or a private pilot certificate (balloons) that is valid for the balloon;

(ii) the maintenance is specified in Part 2 of Schedule 8;

Authorised Version F2017C00094 registered 01/02/2017

(iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or

(dc) the following requirements are satisfied:

(i) the aircraft is of a type that has been manufactured in accordance with the requirements of, and accepted for use by, an armed force;

(ii) the maintenance is carried out under the supervision of a person who holds an airworthiness authority covering the maintenance; or

(dd) the following requirements are satisfied:

(i) the aircraft is an amateur-built aircraft, kit-built aircraft or a light sport aircraft;

(ii) the person is included in a class of persons prescribed by legislative instrument issued by CASA for the purposes of this subparagraph;

(iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or

(e) the person is authorised by CASA under subregulation (6) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.

(5) In spite of subregulations (3) and (4), a person may carry out maintenance on an aircraft component, or an aircraft material, if:

(a) the person is employed by, or working under an arrangement with, the holder of a certificate of approval that covers the maintenance; and

(b) in the case of maintenance that is either:

(i) an inspection using a non-destructive testing method; or

(ii) manual welding;

the person is authorised by CASA under subregulation (6) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.

Authorised Version F2017C00094 registered 01/02/2017

(6) CASA may, in writing, authorise a person for the purposes of paragraph (3)(d) or (4)(e) or subregulation (5).

(7) An authorised person may, in writing, authorise a person for the purposes of paragraph (3)(d).

(8) An authorisation is subject to any conditions that:

(a) CASA or the authorised person, as the case may be, considers are necessary in the interests of the safety of air navigation; and

(b) are included in the authorisation.

(10) For the purposes of this regulation, an aircraft welding authority covers maintenance of a particular kind if the authority is issued for the type of manual welding and the parent metal group that is appropriate to that kind of maintenance.

42ZD Maintenance on Australian aircraft outside Australian territory

(1) The holder of the certificate of registration for, or the operator or pilot in command of, an Australian aircraft must not authorise or permit any maintenance to be carried out on the aircraft outside Australian territory by a person if the person is not permitted by this regulation to carry out maintenance.

Penalty: 25 penalty units.

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

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

(2) A person may carry out maintenance on an Australian aircraft outside Australian territory if:

(a) the person would be permitted by regulation 42ZC to carry out the maintenance if the aircraft were in Australian territory; or

(b) if the aircraft is in a Contracting State—the person would be permitted under the law of the Contracting State to carry out the maintenance if the aircraft were registered in the Contracting State; or

Authorised Version F2017C00094 registered 01/02/2017

(c) the person is authorised by CASA under subregulation (3) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.

(3) CASA may, in writing, authorise a person for the purposes of paragraph (2)(c).

(4) An authorisation is subject to any conditions that:
(a) CASA considers are necessary in the interests of the safety of air navigation; and
(b) are included in the authorisation.

Authorised Version F2017C00094 registered 01/02/2017

Division 6—Certification of completion of maintenance

Subdivision 1—Maintenance in Australian territory

42ZE Certification of completion of maintenance on aircraft in Australian territory

(1) A person who carries out maintenance on an Australian aircraft in Australian territory must ensure that completion of the maintenance is certified in accordance with:

(a) if the person has an approved system of certification of completion of maintenance—that system; or

(b) if paragraph (a) does not apply—the CASA system of certification of completion of maintenance.

Penalty: 50 penalty units.

(2) For the purposes of this regulation, maintenance performed by employees of an employer who is the holder of a certificate of approval, an aircraft engineer licence or an airworthiness authority is to be taken to be carried out by the employer and not by the employees.

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

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

42ZF Request for approval of system of certification

(1) A person who is, or who may be, required by regulation 42ZE to ensure completion of maintenance is certified may, in writing, request CASA to approve a system of certification of completion of maintenance.

(2) The request must be accompanied by a copy of the system.

42ZG Approval of system of certification

(1) If:

Authorised Version F2017C00094 registered 01/02/2017

(a) CASA receives a request for approval of a system of certification of completion of maintenance; and

(b) CASA is satisfied that, having regard to the CASA system of certification of completion of maintenance, the system adequately provides for certification of the completion of the maintenance;

CASA must approve the system.

(2) CASA must, in writing, notify the person who requested approval of the system of certification of CASA's decision in relation to the system.

(3) If CASA decides not to approve the system of certification CASA must include in the notice a statement of the reasons for that decision.

42ZH When approval is effective

(1) If CASA approves a system of certification of completion of maintenance, the approval has effect from when notice of the decision is given to the person who requested approval of the system.

(2) The approval stops being in force if:

(a) it is revoked by CASA by written notice given to the person who requested approval of the system; or

(b) the person who requested approval of the system gives CASA written notice that the person no longer wants to use the system.

(3) CASA must not revoke an approval of a system of certification of completion of maintenance unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

42ZJ Changes to an approved system of certification

(1) A person who has an approved system of certification of completion of maintenance may, in writing, request CASA or an authorised person to approve a proposed change to the system.

Authorised Version F2017C00094 registered 01/02/2017

(2) The request must be accompanied by a copy of the proposed change.

(3) If an approved system of certification of completion of maintenance is:

(a) no longer appropriate; or

(b) defective;

within 7 days of becoming aware of the inappropriate aspect or the defect, the person who has the approved system of certification of completion of maintenance must make a request under subregulation (1) for CASA or an authorised person to approve a proposed change to the system to ensure that it is appropriate and not defective.

Penalty: 25 penalty units.

(4) CASA may, under regulation 38, direct a person who has an approved system of certification of completion of maintenance:

(a) to make:

(i) a specified change to the system; or

(ii) a change to the system that will correct a specified deficiency in the system; and

(b) to submit the proposed change to CASA or an authorised person for approval.

42ZK Approval of changes

(1) If:

(a) CASA or an authorised person receives a request for approval of a change to an approved system of certification of completion of maintenance; and

(b) CASA or the authorised person is satisfied that, having regard to the CASA system of certification of completion of maintenance, the system, as proposed to be changed, would adequately provide for certification of the completion of the maintenance;

CASA or the authorised person must approve the change.

Authorised Version F2017C00094 registered 01/02/2017

(2) CASA or the authorised person must, in writing, notify the person who requested approval of the change of CASA's or the authorised person's decision in relation to the request.

(3) If CASA or the authorised person decides not to approve the proposed change, CASA or the authorised person must include in the notice a statement of the reasons for that decision.

42ZL When approval of a change is effective

If CASA or an authorised person approves a change to a system of certification of completion of maintenance, the approval has effect from when notice of the approval is given to the person who requested approval of the change.

42ZM All changes must be approved

A purported change to an approved system of certification of completion of maintenance has no effect unless it has been approved under subregulation 42ZK(1) and that approval is in force.

Subdivision 2—Maintenance outside Australian territory

42ZN Certification of maintenance outside Australian territory

(1) The holder of the certificate of registration for an Australian aircraft on which maintenance has been carried out outside Australian territory must not fly the aircraft, and must ensure the aircraft is not flown, if each of the following requirement is not satisfied:

(a) the completion of the maintenance has been certified by:

(i) a person who would have been permitted by regulation 42ZC to carry out the maintenance if the aircraft had been in Australia; or

(ii) if the maintenance was carried out in a Contracting State—a person who would be permitted under the law of the Contracting State to certify the completion of the maintenance if the aircraft were registered in the Contracting State; or

Authorised Version F2017C00094 registered 01/02/2017

(iii) a person who is authorised by CASA to certify the completion of the maintenance;

(b) the certification is made in a manner that is acceptable to CASA having regard to the safety of air navigation.

Penalty: 50 penalty units.

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

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

Subdivision 3—Miscellaneous

42ZP Certification not to be made

(1) A person must not certify the completion of maintenance carried out on an aircraft, aircraft component or aircraft material if the maintenance was not carried out in accordance with the approved maintenance data for the aircraft, aircraft component or aircraft material.

Penalty: 50 penalty units.

Note: Regulation 2A sets out what is approved maintenance data for an aircraft.

(2) This regulation has effect in spite of any provision in an approved system of certification of completion of maintenance.

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

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

Authorised Version F2017C00094 registered 01/02/2017

Division 7—Exemptions from, and variations of, requirements

42ZQ Requirements to which Division applies

(1) This Division applies to requirements that are specified in a prescribed regulation or in a related document.

(2) In this regulation:

prescribed regulation means regulation 39, 41, 42G, 42U, 42V, 42W, 42X, 42Y, 42Z or 42ZA.

related document means a document that is:

(b) a direction issued by CASA under regulation 38 or 44, or a direction in force under subregulation 202.051(3) of CASR; or

(c) a document or design that:

(i) was approved under regulation 35, as in force before 27 June 2011; or

(ia) was approved by a modification/repair design approval; or

(ib) was approved by an approval mentioned in regulation 21.475 of CASR; or

(ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; or

(ii) forms part of a certificate of type approval; or

(d) issued by the manufacturer of an aircraft component or aircraft material; or

(e) issued by the designer of a modification of an aircraft or aircraft component;

that relates to:

(f) what maintenance is to be carried out on an aircraft; or

(g) when maintenance is to be carried out on an aircraft; or

(h) how maintenance is to be carried out on an aircraft.

Authorised Version F2017C00094 registered 01/02/2017

42ZR Application for exemption from, or variation of, requirements

(1) The holder of the certificate of registration for an Australian aircraft may apply, in writing, to CASA or an authorised person for:

(a) an exemption, in relation to the aircraft, from a requirement to which this Division applies; or

(b) a variation, in relation to the aircraft, of a requirement to which this Division applies.

(2) The application must set out:

(a) particulars of the exemption or variation sought; and

(b) the reasons for seeking the exemption or variation.

(3) In the application, the applicant must also state whether the exemption or variation is to apply to any person who might otherwise be bound to comply with the requirement or only to a specified person or specified persons.

(4) CASA or the authorised person may require the applicant to provide an explanation of the effect of the exemption or variation on the safety of air navigation.

42ZS Granting of exemptions and approval of variations

(1) CASA or an authorised person must grant the exemption or approve the variation if CASA or the authorised person is satisfied that granting the exemption or approving the variation would not adversely affect the safety of air navigation.

(2) If CASA or the authorised person grants the exemption, or approves the variation, the grant or approval may be made or given subject to such conditions as CASA or the authorised person thinks necessary in the interests of the safety of air navigation.

(3) CASA or the authorised person must, in writing, notify the applicant of CASA's, or the authorised person's, decision in relation to the application.

Authorised Version F2017C00094 registered 01/02/2017

(4) If CASA or the authorised person grants the exemption, or approves the variation, CASA or the authorised person must identify in the exemption or approval:

(a) in the case of an exemption:

(i) the aircraft to which the exemption relates; and

(ii) the person or persons to whom the exemption applies; and

(iii) the conditions (if any) subject to which the exemption is granted; or

(b) in the case of an approval of a variation:

(i) the aircraft to which the variation relates; and

(ii) the person or persons to whom the variation applies; and

(iii) the conditions (if any) subject to which the variation is granted.

(5) If CASA or the authorised person decides not to grant the exemption, or approve the variation, CASA or the authorised person must include in the notice a statement of the reasons for that decision.

42ZT When grant or approval is effective

(1) If CASA or an authorised person grants an exemption, or approves a variation, the grant or approval has effect from when notice of the grant or approval is given to the applicant.

(2) The exemption or variation stops being in force if:

(a) it is expressed to have effect for a limited period and that period ends; or

(b) it is revoked by CASA by written notice given to the holder of the certificate of registration for the aircraft concerned; or

(c) the holder of the certificate of registration for the aircraft concerned gives CASA or the authorised person written notice that the holder no longer wants the exemption or variation to apply in relation to the aircraft.

(3) CASA must not revoke an exemption or a variation unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

Authorised Version F2017C00094 registered 01/02/2017

42ZU Effect of grant of exemption or approval of variation

(1) If:

(a) CASA or an authorised person has granted an exemption from a requirement to which this Division applies; and

(b) that exemption is in force;

then, subject to any conditions imposed under subregulation 42ZS(2), a person identified in the exemption under subparagraph 42ZS(4)(a)(ii) is exempt from compliance with the requirement in relation to the aircraft concerned.

(2) If:

(a) CASA or an authorised person has approved a variation of a requirement to which this Division applies; and

(b) that approval is in force;

then, subject to any conditions imposed under subregulation 42ZS(2), the requirement has effect, in relation to a person identified in the approval under subparagraph 42ZS(4)(b)(ii) and the aircraft concerned, as if the requirement were varied in the manner approved.

Authorised Version F2017C00094 registered 01/02/2017

Division 8—Maintenance control manual and maintenance controller

42ZV Maintenance controllers

(1) The operator of a class A aircraft must appoint a person to be the maintenance controller for the aircraft.

Penalty: 50 penalty units.

(2) The same person may be appointed as the maintenance controller for more than 1 class A aircraft.

(3) A person appointed as the maintenance controller for a class A aircraft must not undertake duties as the maintenance controller if each of the following requirements is not satisfied:

(a) the appointment is approved under regulation 42ZW;

(b) the approval is not suspended or cancelled under regulation 42ZX.

Penalty: 50 penalty units.

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

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

42ZW Approval of maintenance controllers

(1) The operator of a class A aircraft may ask CASA to approve a person's appointment as the maintenance controller for the aircraft.

(2) CASA must, on receiving a request for approval of a person's appointment, approve the appointment if it is reasonably satisfied that the person:

(a) meets the requirements of Part 1 of Schedule 9; and

(b) can properly perform the functions set out in Part 2 of Schedule 9.

Authorised Version F2017C00094 registered 01/02/2017

Note: A decision not to approve the appointment of a person to be a maintenance controller is reviewable by the Administrative Appeals Tribunal under regulation 297A.

(3) CASA may approve an appointment subject to any condition that is necessary in the interests of the safety of air navigation.

Note: A decision to approve the appointment of a person to be a maintenance controller subject to conditions is reviewable by the Administrative Appeals Tribunal under regulation 297A.

(4) If CASA approves a person's appointment it must give a copy of the approval, including the conditions (if any) applicable to the approval, both to the person and to the operator.

(5) A person whose appointment is approved must not contravene a condition to which the approval is subject.

Penalty: 50 penalty units.

(5A) An offence against subregulation (5) is an offence of strict liability.

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

(6) An approval stops being in force if:
(a) it is cancelled; or
(b) the appointment to which it relates ends.

(7) If CASA suspends an approval, the approval has no effect during the period of the suspension.

42ZX Suspension or cancellation of approvals

(1) CASA may suspend or cancel an approval of a person's appointment as the maintenance controller for a class A aircraft if:
(a) the person is not carrying out the maintenance controller's functions satisfactorily; or
(b) the person has contravened a condition to which the approval is subject.

Note: A decision to suspend or cancel an approval is reviewable by the Administrative Appeals Tribunal under regulation 297A.

(2) A suspension or cancellation does not have effect until a notice of the suspension or cancellation is served on:

Authorised Version F2017C00094 registered 01/02/2017

(a) the person; and
(b) the operator of the aircraft.

42ZY Maintenance control manuals

(1) The operator of a class A aircraft must prepare a maintenance control manual for the aircraft that:
  (a) states the operator's name; and
  (b) if the operator does not hold the registration certificate for the aircraft—states the name of its certificate holder; and
  (c) sets out the functions of the operator's maintenance controller; and
  (d) includes:
    (i) a description of the aircraft that identifies it, including particulars of its type, model and marks; and
    (ii) details of the arrangements for the control of maintenance of the aircraft; and
    (iii) details of the arrangements under which the aircraft's approved maintenance program is to be met; and
    (iv) details of the arrangements to ensure compliance with the weight and balance requirements for the aircraft; and
    (v) a statement determining the period, or period of time-in-service, for which a maintenance release for the aircraft is to remain in force.

  Penalty: 50 penalty units.

(2) The operator must ensure:
  (a) compliance with the maintenance control manual; and
  (b) that the maintenance controller properly carries out the maintenance controller's function set out in Part 2 of Schedule 9.

  Penalty: 50 penalty units.

(3) An operator must make available to a person who carries out maintenance on the operator's aircraft a copy of the parts of the maintenance control manual that are relevant to the maintenance.

Authorised Version F2017C00094 registered 01/02/2017

Penalty: 50 penalty units.

(4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

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

42ZZ Maintenance control manuals: amendments

(1) An operator must amend the operator's maintenance control manual whenever it is necessary to do so to keep it up-to-date.

Penalty: 50 penalty units.

(2) CASA may direct the operator, in writing, to amend the maintenance control manual in accordance with the direction.

(3) An operator must comply with a direction given to the operator.

Penalty: 50 penalty units.

(4) The operator must ensure that amendments of the maintenance control manual made under this regulation are incorporated in each copy of the manual kept by the operator.

Penalty: 50 penalty units.

(5) An offence against subregulation (1), (3) or (4) is an offence of strict liability.

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

42ZZA Inspection of maintenance control manuals

(1) An operator must, if asked by CASA, make the operator's maintenance control manual available for inspection by CASA.

Penalty: 50 penalty units.

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

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

Authorised Version F2017C00094 registered 01/02/2017

Division 9—Maintenance releases

43 Maintenance releases in respect of Australian aircraft

(1) Maintenance releases in respect of Australian aircraft shall be issued only by authorised persons and only in such manner, and in accordance with such form, as CASA directs or approves.

(2) CASA may give a direction specifying the information to be entered on a maintenance release before its issue.

(3) Where a person appointed as an authorised person for the purposes of this regulation is a body corporate, CASA shall specify in the instrument of appointment the condition that any maintenance release issued by the authorised person is to be signed, on behalf of the authorised person, by a specified person or by a person included in a specified class of persons.

(4) CASA may give a direction with respect to the retention and transfer of maintenance releases and copies of maintenance releases issued under this regulation.

(5) CASA may give a direction specifying the period, or the maximum period, that a maintenance release of a kind specified in the direction is to be expressed to remain in force.

(6) A maintenance release may be issued in respect of an aircraft only if:

(a) there is in force, a certificate of airworthiness for the aircraft; or

(b) CASA has approved the issue of the maintenance release.

(7) A maintenance release may be issued in respect of an aircraft only if all maintenance in respect of the aircraft required to be carried out to comply with any requirement or condition imposed under these Regulations has been certified, in accordance with regulation 42ZE or 42ZN, to have been completed.

(8) For the purposes of subregulation (7), the existence of an earlier maintenance release issued by virtue of that subregulation in

Authorised Version F2017C00094 registered 01/02/2017

respect of an aircraft may, in the absence of evidence to the contrary, be accepted by an authorised person for the purposes of this regulation as proof that all maintenance required under these Regulations to be carried out on the aircraft before the date of issue of the earlier maintenance release has been certified to have been completed as required by that subregulation.

(9) A maintenance release may bear an endorsement that the release is issued subject to a condition set out in the endorsement, being a condition imposed for the purpose of ensuring the safety of air navigation.

(10) Where an aircraft has a permissible unserviceability, a maintenance release issued in respect of the aircraft, or other document approved for use as an alternative to the maintenance release for the purposes of this subregulation, shall bear an endorsement:

(a) setting out each permissible unserviceability that exists with respect to the aircraft;

(b) setting out such of the conditions (if any) with respect to the use of an aircraft with those permissible unserviceabilities set out in any direction given under regulation 37, or approval under regulation 21.007 of CASR, in relation to those permissible unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Civil Aviation Orders; and

(c) stating that the maintenance release is issued subject to those conditions, whether set out in the maintenance release or the other document or otherwise.

(11) A person shall not issue a maintenance release in contravention of this regulation.

Penalty:

(a) for a contravention of subregulation (1)—25 penalty units; or

(b) for a contravention of subregulation (6)—25 penalty units; or

(c) for a contravention of subregulation (7)—50 penalty units; or

(d) for a contravention of subregulation (10)—10 penalty units.

(11A) A person must not contravene:

(a) a direction; or

Authorised Version F2017C00094 registered 01/02/2017

(b) the condition specified in subregulation (3); or

(c) a condition to which a maintenance release is subject.

Penalty:

(a) for a contravention of a direction under subregulation (2)—10 penalty units; or

(b) for a contravention of the condition specified in subregulation (3)—10 penalty units; or

(c) for a contravention of a direction under subregulation (4) or (5)—5 penalty units; or

(d) for a contravention of a condition under subregulation (9)—50 penalty units.

(12) Subregulation (11) does not apply in relation to a person by reason only that he or she has issued a maintenance release in contravention of a direction given under this regulation unless the direction has been served on the person.

(13) A person shall not sign a maintenance release to be issued by virtue of subregulation (7) in respect of an aircraft if:

(a) the person considers that:

(i) the aircraft is defective; and

(ii) the defect is major damage or a major defect; and

(iii) the defect is not a permissible unserviceability; or

(b) the person considers that maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or of any system of aircraft components, installed in the aircraft; or

(c) the person is aware that certain maintenance that has been carried out on the aircraft has not been certified, in accordance with regulation 42ZE or 42ZN, to have been completed; or

(d) the person is aware that:

(i) information entered on the maintenance release is incorrect; or

Authorised Version F2017C00094 registered 01/02/2017

(ii) the maintenance release does not contain all information that it is required by or under these Regulations to contain.

(13A) A person must not contravene subregulation (13).

Penalty:

(a) if the person signs the maintenance release in contravention of paragraph (13)(a) or (b)—50 penalty units; or

(b) if the person signs the maintenance release in contravention of paragraph (13)(c)—10 penalty units; or

(c) if the person signs the maintenance release in contravention of paragraph (13)(d)—25 penalty units.

(15) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(16) Where a maintenance release is issued under this regulation, or again commences to be in force by virtue of regulation 48, in respect of an aircraft, any other maintenance release in force in respect of the aircraft immediately before that issue or that commencement, as the case may be, ceases to be in force.

(17) An offence against subregulation (11) or (11A) is an offence of strict liability.

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

43A Maintenance release to be available for inspection

(1) CASA or an authorised person may, at all reasonable times, inspect a maintenance release, or a copy of a maintenance release, for an aircraft.

(2) A person who has possession or custody of a maintenance release, or a copy of a maintenance release, must make it available for inspection by CASA or an authorised person at the request of CASA or the authorised person.

Penalty: 25 penalty units.

(3) An offence against subregulation (2) is an offence of strict liability.

Authorised Version F2017C00094 registered 01/02/2017

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

43B Time-in-service to be recorded on maintenance release

(1) On the completion of flying operations on each day that an aircraft is flown, the owner, operator or pilot in command must record on the maintenance release the total time-in-service of the aircraft on the day.

Penalty: 25 penalty units.

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

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

44 Conditions with respect to maintenance releases

(1) CASA may, for the purpose of ensuring the safety of air navigation, give a direction that a condition set out in the direction shall apply in relation to:

(a) every maintenance release in force on or after the date of the direction;

(b) every maintenance release in respect of an aircraft of a kind specified in the direction in force on or after the date of the direction; or

(c) a maintenance release in respect of a specified aircraft.

(1A) CASA may, for the purpose of ensuring the safety of air navigation, give directions requiring the endorsement of information on maintenance releases.

(1B) It is a condition of a maintenance release that any applicable directions under subregulation (1A) are complied with.

(2) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(3) A person who contravenes a direction given under this regulation is guilty of an offence punishable, on conviction, by:

(a) in the case of a direction under subregulation (1)—a fine not exceeding 50 penalty units; and

Authorised Version F2017C00094 registered 01/02/2017

(b) in the case of a direction under subregulation (1A)—a fine not exceeding 25 penalty units.

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

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

45 Suspension or cancellation of maintenance release

(1) Where CASA is satisfied that a condition set out in, or applying in relation to, a maintenance release has not been complied with, CASA may suspend or cancel the maintenance release.

(2) A suspension or cancellation of a maintenance release under this regulation does not have effect in relation to a person until a notification of the suspension or cancellation has been served on the person.

46 Information to be passed to other persons

(1) If a direction setting out a condition that applies in relation to a maintenance release of an aircraft given under regulation 44, or a notification of a suspension or cancellation of a maintenance release of an aircraft given under regulation 45, has been served on the holder of the certificate of registration for the aircraft, the holder must use his or her best endeavours to ensure that the direction or the fact that the maintenance release has been suspended or cancelled, as the case may be, is brought to the attention of any person, who is likely to fly, or likely to issue a maintenance release for, the aircraft.

Penalty: 25 penalty units.

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

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

47 Maintenance release to cease to be in force

(1) If:

(aa) the holder of the certificate of registration for; or

(ab) the operator of; or

Authorised Version F2017C00094 registered 01/02/2017

(ac) a flight crew member of; or

(ad) an authorised person engaged (whether as an employee or on his or her own behalf) in the maintenance of;

an aircraft in respect of which a maintenance release is in force becomes aware:

(a) that:

(i) a requirement or condition imposed under these Regulations in respect of the maintenance of the aircraft has not been complied with;

(ii) the aircraft has developed a defect that is major damage or a major defect and that is not a permissible unserviceability;

(iii) abnormal flight or ground loads have been imposed on the aircraft; or

(iv) maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or any system of aircraft components, installed in the aircraft; and

(b) that there is a likelihood that the aircraft will be flown before:

(i) the requirement or condition referred to in subparagraph (a)(i) has been complied with;

(ii) the defect referred to in subparagraph (a)(ii) has been remedied;

(iii) any damage caused by the imposition of the abnormal loads referred to in subparagraph (a)(iii) has been remedied; or

(iv) the characteristics referred to in subparagraph (a)(iv) have been corrected;

as the case may be;

he or she shall enter on the maintenance release, or other document approved for use as an alternative to the maintenance release for the purposes of this subregulation, an endorsement signed by him or her setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

Authorised Version F2017C00094 registered 01/02/2017

Penalty: 25 penalty units.

(1A) For subregulation (1), damage to an aircraft is taken not to be major damage if advice has been given under regulation 21.007A of CASR that the damage is not major damage.

(1B) For subregulation (1), damage to a limited category aircraft is taken not to be major damage if advice has been given under regulation 132.175 of CASR that the damage is not major damage.

(1C) For subregulation (1), a defect in a limited category aircraft is taken not to be a major defect if advice has been given under regulation 132.175 of CASR that the defect is not a major defect.

(3) If:

(a) the holder of the certificate of registration for; or

(b) the operator of; or

(c) the pilot in command of; or

(d) an authorised person engaged (whether as an employee or on his or her own behalf) in the maintenance of;

an aircraft in respect of which a maintenance release is in force becomes aware that the certificate of airworthiness in respect of the aircraft has been suspended or cancelled, he or she shall enter on the maintenance release an endorsement signed by him or her setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

Penalty: 25 penalty units.

(5) A maintenance release for an aircraft stops being in force when a maintenance release inspection of the aircraft begins.

(6) In this regulation, ***maintenance release inspection*** means an inspection carried out on an aircraft for the purpose of determining whether a maintenance release for the aircraft should be issued.

48 Maintenance release to recommence to be in force

(1) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under

Authorised Version F2017C00094 registered 01/02/2017

subregulation 47(1), the maintenance release shall again commence to be in force if:

(a) where the endorsement refers to a requirement or condition in respect of the maintenance of the aircraft not having been complied with—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance to which the requirement or condition relates has been completed;

(b) where the endorsement refers to the aircraft having suffered major damage or having developed a major defect—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to remedy the damage or the defect, as the case may be, has been completed;

(c) where the endorsement refers to the aircraft having had imposed on it abnormal flight or ground loads—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to be carried out to check whether that imposition has caused any damage to the aircraft, and to remedy any damage so caused, has been completed; or

(d) where the endorsement relates to the flight characteristics of the aircraft or the operating characteristics of an aircraft component, or system of aircraft components, installed in the aircraft—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to correct the flight characteristics or operating characteristics, as the case may be, has been completed.

(2) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under regulation 47, the maintenance release shall again commence to be in force if there is entered on the maintenance release or other document on which the

Authorised Version F2017C00094 registered 01/02/2017

endorsement was made a further endorsement signed by an authorised person cancelling the first-mentioned endorsement.

(3) An authorised person must not make an endorsement under subregulation (2) if there is a reason why the endorsement to be cancelled should remain in force.

Penalty: 25 penalty units.

(4) A maintenance release that has ceased to be in force by virtue of an endorsement made under regulation 47 shall not again commence to be in force except by virtue of an endorsement made under this regulation.

(5) This regulation does not have effect in relation to a maintenance release issued in respect of an aircraft if:

(a) the period during which the maintenance release is expressed to remain in force has expired; or

(b) a subsequent maintenance release has been issued in respect of the aircraft by virtue of subregulation 43(7).

49 Permissible unserviceabilities to be endorsed on maintenance releases

(1) This regulation applies to each of the following persons in relation to an aircraft in respect of which a maintenance release is in force:

(a) the holder of the certificate of registration for the aircraft;

(b) the operator of the aircraft;

(c) a flight crew member of the aircraft;

(d) a person who is permitted by regulation 42ZC or 42ZD to carry out maintenance on the aircraft.

(2) If:

(a) an aircraft in respect of which a maintenance release is in force has developed a defect that is a permissible unserviceability; and

(b) there is a likelihood that the aircraft will be flown before the permissible unserviceability is rectified;

a person mentioned in subregulation (1), who becomes aware of the defect, must endorse the maintenance release, or other

Authorised Version F2017C00094 registered 01/02/2017

document approved for use as an alternative to the maintenance release for the purposes of this regulation, in the manner set out in subregulation (3).

Penalty: 25 penalty units.

(3) For subregulation (2), the maintenance release or other document must be signed by the person mentioned in subregulation (1), and must:

(a) set out each permissible unserviceability that exists with respect to the aircraft; and

(b) set out the conditions (if any) with respect to the use of the aircraft with those permissible unserviceabilities set out in any direction given under regulation 37, or approval under regulation 21.007 of CASR, in relation to those permissible unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Civil Aviation Orders; and

(c) state that the maintenance release has effect subject to those conditions, whether set out in the maintenance release or the other document or otherwise.

50 Defects and major damage to be endorsed on maintenance release

(1) This regulation applies to each of the following persons:

(a) the holder of the certificate of registration for an Australian aircraft;

(b) the operator of an Australian aircraft;

(c) a flight crew member of an Australian aircraft.

(2) If:

(a) there is a defect in the aircraft; or

(b) the aircraft has suffered major damage;

a person mentioned in subregulation (1), who becomes aware of the defect or damage, must endorse the maintenance release of the aircraft or other document approved for use as an alternative for the purposes of this regulation, setting out the particulars of the defect or damage, as the case may be, and sign the endorsement.

Authorised Version F2017C00094 registered 01/02/2017

Regulation 50

Penalty: 25 penalty units.

Authorised Version F2017C00094 registered 01/02/2017

Division 10—Aircraft log books

50A Aircraft log book

(1) Subject to regulation 50B, the holder of the certificate of registration for an Australian aircraft must:

(a) keep a log book for the aircraft; and

(b) make the log book, and other documents referred to in the log book, available to CASA and to persons engaged in maintenance on the aircraft;

in accordance with the instructions issued by CASA under subregulation (2).

Penalty: 50 penalty units.

(2) CASA may issue written instructions:

(a) relating to how aircraft log books are to be kept; and

(b) requiring aircraft log books, and documents referred to in aircraft log books, to be made available to CASA and to persons engaged in maintenance on aircraft.

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

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

50B Alternative to aircraft log book or section of aircraft log book

(1) CASA may, in writing, approve the use, in relation to an Australian aircraft, of an alternative to an aircraft log book or to a particular section of an aircraft log book.

(2) An approval may be subject to such conditions as CASA considers necessary in the interests of the safety of air navigation.

(3) If CASA approves the use of an alternative to an aircraft log book, the holder of the certificate of registration of the aircraft concerned must:

(a) keep a record relating to the aircraft's maintenance; and

Authorised Version F2017C00094 registered 01/02/2017

(b) make the record, and other documents referred to in the record, available to CASA and to persons engaged in maintenance on the aircraft;

in accordance with the terms of the approval.

Penalty: 50 penalty units.

(4) If CASA approves the use of an alternative to a particular section of an aircraft log book, the holder of the certificate of registration of the aircraft concerned must:

(a) keep a record relating to the aspects of the aircraft's maintenance that would otherwise be covered by that section; and

(b) make the record, and other documents referred to in the record, available to CASA and to persons engaged in maintenance on the aircraft;

in accordance with the terms of the approval.

Penalty: 50 penalty units.

(5) A person must not engage in conduct that results in the alteration of an entry in an alternative to an aircraft log book if:

(a) the alteration is not a single line through the words to be struck out; and

(b) the words struck out do not remain legible.

Penalty: 50 penalty units.

(6) An offence against subregulation (5) is an offence of strict liability.

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

50C Directions relating to aircraft maintenance records

(1) CASA may, for the purpose of ensuring the safety of air navigation, give directions in relation to:

(a) the retention and transfer of aircraft maintenance records and parts of aircraft maintenance records; and

(b) the making and keeping of copies of aircraft maintenance records and parts of aircraft maintenance records.

Authorised Version F2017C00094 registered 01/02/2017

(2) A direction is not binding on a person unless it has been served on the person.

(3) A person must not contravene a direction that is binding on the person.

Penalty: 50 penalty units.

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

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

50D Inspection of records

(1) A person required by this Division (including by a direction under regulation 50C) to keep or retain a record must make the record available for inspection by CASA or an authorised person at the request of CASA or the authorised person.

Penalty: 25 penalty units.

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

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

Authorised Version F2017C00094 registered 01/02/2017

Division 11—Miscellaneous

50E Inconsistent requirements—resolution of inconsistencies

(1) This regulation applies where, apart from this regulation, a person would be required, by this Part, to comply with two requirements that are inconsistent.

(2) The person is only required to comply with whichever of the requirements has the higher priority.

(3) For the purposes of this regulation, two requirements are inconsistent if:
  (a) it is not possible to comply with both of the requirements; or
  (b) they require the same, or substantially the same, action to be taken at different times or in a different way.

(4) The order of priority of requirements is as follows (starting with those of highest priority):
  (a) requirements in these Regulations (except those requirements mentioned in the remaining provisions of this subregulation);
  (b) requirements in instruments made under these Regulations;
  (c) requirements in documents (including designs) approved by CASA or authorised persons under these Regulations;
  (d) requirements in instructions issued by designers of modifications of aircraft;
  (e) requirements in instructions issued by designers of modifications of aircraft components;
  (f) requirements in instructions issued by aircraft manufacturers;
  (g) requirements in instructions issued by aircraft component manufacturers;
  (h) requirements in instructions issued by aircraft material manufacturers;
  (j) requirements in documents that are approved maintenance data because of paragraph 2A(2)(e).

(5) If there is in existence more than one requirement of a kind mentioned in one of the paragraphs of subregulation (4), then the requirement that is later in time has higher priority.

Authorised Version F2017C00094 registered 01/02/2017

50F Notice of maintenance to be given

(1) A person who has control in Australian territory of an aircraft on which maintenance is being carried out must take reasonable steps to ensure that notice that the maintenance is being carried out is given to any person likely to want to fly the aircraft.

Penalty: 50 penalty units.

(2) For the purposes of this regulation, an aircraft on which maintenance (other than approved maintenance to be carried out by the holder of a pilot licence that is valid for the aircraft) has been commenced is to be taken to be an aircraft on which maintenance is being carried out until completion of the maintenance has been certified in accordance with regulation 42ZE.

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

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

50G Copying or disclosing CVR information

(1) For paragraph 32AP(3A)(a) of the Act, the following are authorised:

(a) a person who:

(i) is a staff member within the meaning of the *Transport Safety Investigation Act 2003*; and

(ii) has had training with respect to the replay and analysis of cockpit voice recordings; and

(iii) has been briefed on the requirements of Part IIIB of the Act;

(b) a person who:

(i) is to check on behalf of the holder of a CVR certificate of approval (the ***holder***) whether equipment used to make a cockpit voice recording is functioning and reliable; and

(ii) has had training from the holder with respect to the replay and analysis of cockpit voice recordings; and

(iii) has been briefed by the holder on the requirements of Part IIIB of the Act.

Authorised Version F2017C00094 registered 01/02/2017

(2) In this regulation, ***CVR certificate of approval*** means a certificate of approval covering the maintenance of aeronautical products used to make cockpit voice recordings.

Part 4B—Defect reporting

51 Reporting of defects in Australian aircraft—general

(1) Where a person who, in the course of his or her employment with an employer, is engaged in the maintenance of an Australian aircraft becomes aware of the existence of a defect in the aircraft, the person shall report the defect to his or her employer.

(2) Subject to subregulation (3), if a person engaged in the maintenance of an Australian aircraft becomes aware of the existence of a major defect in the aircraft, the person must report the defect to the holder of the certificate of registration for the aircraft and to CASA.

Penalty: 25 penalty units.

(3) A person is not required to report a defect under subregulation (2) if:

(a) the person was engaged in the maintenance as an employee; or

(b) the person is the holder of the certificate of registration for the aircraft.

(4) If the holder of the certificate of registration for an Australian aircraft becomes aware of the existence of a defect in the aircraft, he or she must:

(a) have an investigation made of the defect; and

(b) if the defect is a major defect—have a report made to CASA with respect to the defect and to any matters revealed by the investigation.

Penalty: 25 penalty units.

Authorised Version F2017C00094 registered 01/02/2017

51A Reporting of defects in Australian aircraft: major defects

(1) This regulation applies to major defects:

(a) that have caused, or that could cause, a primary structural failure in an aircraft; or

(b) that have caused, or that could cause, a control system failure in an aircraft; or

(c) that have caused, or that could cause, an engine structural failure in an aircraft; or

(d) caused by, that have caused, or that could cause, fire in an aircraft.

(2) If a person connected with the operation of, or the carrying out of maintenance on, an Australian aircraft discovers a defect in the aircraft, being a defect of a kind to which this regulation applies, the person must report the defect to CASA immediately.

Penalty: 50 penalty units.

(2A) An offence against subregulation (2) is an offence of strict liability.

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

(3) A person must not prevent another person from reporting a defect of a kind to which this regulation applies.

Penalty: 50 penalty units.

(4) It is a defence to a prosecution under subregulation (2) if the person charged establishes:

(a) a reason for not being able to report the defect to CASA immediately; and

(b) that the reason was:

(i) by its nature such as to prevent the person reporting the defect to CASA immediately; or

(ii) that the defect required further investigation to discover the extent of the defect; and

(c) that the person reported the defect to CASA as soon as he or she was not prevented by the reason from doing so.

Authorised Version F2017C00094 registered 01/02/2017

51B Defects discovered in complying with directions by CASA

(1) If a person discovers a defect in an aircraft in the course of complying with an airworthiness directive or a direction given by CASA under regulation 38, the person must report the defect to CASA.

Penalty: 25 penalty units.

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

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

52 Defects discovered in aircraft components

(1) This regulation applies if:

(a) a person engaged in the maintenance of an aircraft component becomes aware of a defect in the component; or

(b) a person engaged in the maintenance of an aircraft becomes aware of a defect in an aircraft component that the person proposed to install in the aircraft in the course of that maintenance; or

(c) a person who holds a certificate of approval that covers the maintenance of aircraft components becomes aware of a defect in an aircraft component that he or she owns; or

(d) a person who holds an Air Operator's Certificate becomes aware of a defect in an aircraft component that he or she owns and intends to install in an aircraft used in operations under that Air Operator's Certificate.

(2) If the person owns the aircraft component:

(a) the person must have an investigation made of the defect; and

(b) if the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might be affected or the aircraft might become a danger to person or property—the person must have a report made to CASA in relation to the defect and any matters revealed by the investigation.

Penalty: 25 penalty units.

(3) If the person does not own the aircraft component the person must:

Authorised Version F2017C00094 registered 01/02/2017

(a) have a report made to the owner of the component in relation to the defect; and

(b) if the person thinks that the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might become affected or the aircraft might become a danger to person or property—have a report made to CASA in relation to the defect.

Penalty: 25 penalty units.

(4) After the owner of an aircraft component receives the report mentioned in paragraph (3)(a):

(a) the owner must have an investigation made of the defect; and

(b) if the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might be affected or the aircraft might become a danger to person or property—the owner must have a report made to CASA in relation to the defect and any matters revealed by the investigation.

Penalty: 25 penalty units.

(5) An offence against subregulation (4) is an offence of strict liability.

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

52A How must reports to Authority be made?

(1) A report of a defect to CASA under regulation 51, 51A or 52:

(a) must be made in accordance with this regulation; and

(b) is not taken to be made unless in accordance with this regulation.

(2) A report must:

(a) describe the defect; and

(b) set out the date on which the defect was discovered; and

(c) set out the circumstances in which the defect was discovered; and

(d) set out any action that has been taken or that is proposed to be taken:

(i) to rectify the defect; or

Authorised Version F2017C00094 registered 01/02/2017

(ii) to prevent the defect from recurring; and

(e) set out what the person making the report thinks is the cause of the defect; and

(f) if the defect is in an aircraft—set out:

(i) the type, model, serial number and registration mark of the aircraft; and

(ii) the type, model and serial number of the aircraft's engine; and

(iii) if the aircraft has a propeller—the type, model and serial number of the aircraft's propeller; and

(iv) the time in service of, number of landings of, or number of cycles completed by, the aircraft since new; and

(g) if the defect is in an aircraft component—set out:

(i) the identity of the component, including (if applicable) the part number and serial number of the component; and

(ii) the time in service of, or the number of cycles completed by, the component since new; and

(iii) if the component has been overhauled—the time in service of, or the number of cycles completed by, the component since its most recent overhaul; and

(iv) if the component is a turbine engine—the number of cycles completed by the component since new.

(3) Subject to subregulation (4), a report to CASA in relation to a defect must be sent to CASA within 2 working days of the discovery of the defect.

(4) Subregulation (3) does not apply to a report of a defect of a kind to which regulation 51A applies.

52B Keeping of defective aircraft and aircraft components

(1) This regulation applies where a person:

(a) who owns an aircraft or an aircraft component; or

(b) who is otherwise in possession of an aircraft or an aircraft component;

Authorised Version F2017C00094 registered 01/02/2017

is required, by a provision of this Division, to report a defect in the aircraft or component to CASA.

(2) The person must take reasonable steps to ensure that:

(a) the aircraft, or the part of the aircraft that is defective; or

(b) the aircraft component;

as the case requires, is kept in a state that will allow CASA to investigate the defect.

Penalty: 25 penalty units.

(2A) An offence against subregulation (2) is an offence of strict liability.

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

(3) Subject to subregulation (5), the obligation under subregulation (2) ends when CASA gives the person notice that the aircraft, part of the aircraft, or aircraft component is no longer required to be kept in a state that allows CASA to investigate the defect.

(4) CASA must give the notice to the person within a period of 1 year from the day on which the defect was reported to CASA.

(5) If CASA does not give the notice to the person within that period, the obligation under subregulation (2) ends at the end of that period.

53 Investigation of defects of Australian aircraft

(1) An authorised person may, for the purpose of ensuring the safety of air navigation, conduct an investigation into any matter connected with any defect in an Australian aircraft (including the making of a test of an aircraft or of any aircraft component installed or provided in an aircraft).

(2) An investigation under subregulation (1) may extend to defects generally or may be limited to the investigation of a particular defect or a particular kind of defect.

(3) The authorised person may, for the purposes of carrying out the investigation:

Authorised Version F2017C00094 registered 01/02/2017

(a) by order in writing served on a person, require the production to the first-mentioned person of any documents, aircraft components or other things that are in the possession, or under the control, of the person on whom the order is served;

(b) retain any document, aircraft component or other thing produced during the course of the investigation for such period as is necessary for the purpose of carrying out the investigation; and

(c) make and retain copies of, or take extracts from, any document so produced.

(3A) A person must comply with an order.

Penalty: 10 penalty units.

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

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

(4) Where the retention of a document, aircraft component or other thing produced for the purposes of an investigation is no longer necessary, CASA or the authorised person shall return the document, aircraft component or other thing to the person by whom it was produced.

Part 4C—Flight manuals

54 Registered operators to maintain aircraft flight manuals

The registered operator of an aircraft must ensure that the aircraft's flight manual is at all times appropriate for the aircraft, having regard to:

(a) any direction issued by CASA relating to the flight manual; and

(b) any modifications to the aircraft that would require amendment of the flight manual; and

(c) any instructions in relation to the flight manual from the holder of a type certificate, supplemental type certificate or

Authorised Version F2017C00094 registered 01/02/2017

modification/repair design approval that applies to the aircraft.

Part 4D—Removal or alteration of data plates etc.

56 Definitions for this Part

In this Part:

manufacturer's data plate means a manufacturer's data plate attached to an aircraft, aircraft engine or aircraft propeller under Division 21.Q.2 of CASR.

57 Removal or alteration of manufacturer's data plate

(1) A person must not remove from an aircraft, aircraft engine, aircraft propeller, propeller blade or propeller hub a manufacturer's data plate that has been attached to the aircraft, engine, propeller, blade or hub, if the person does not have CASA's written approval to do so.

Penalty: 20 penalty units.

Note: The removal of a manufacturer's data plate is permitted during maintenance, subject to conditions—see regulation 60.

(2) A person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of the information on a manufacturer's data plate required by Division 21.Q.2 of CASR to be there.

Penalty: 20 penalty units.

(2A) An offence against subregulation (1) or (2) is an offence of strict liability.

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

(3) CASA must not grant an approval for subregulation (1) or (2) if granting the approval would adversely affect the safety of air navigation.

Authorised Version F2017C00094 registered 01/02/2017

Regulation 58

58 Removal or alteration of identification from heater assembly of manned balloon or propeller

(1) A person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of the information marked on the heater assembly of a manned balloon under Division 21.Q.2 of CASR.

Penalty: 20 penalty units.

(2) If information mentioned in subregulation 21.840(5) of CASR is marked on an aircraft propeller, propeller blade or propeller hub, a person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of that information.

Penalty: 20 penalty units.

(2A) An offence against subregulation (1) or (2) is an offence of strict liability.

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

(3) CASA must not grant an approval for subregulation (1) or (2) if granting the approval would adversely affect the safety of air navigation.

59 Transfer of manufacturer's data plate to another aircraft etc prohibited

(1) A person must not attach, to an aircraft, aircraft engine, aircraft propeller, propeller blade or propeller hub, a manufacturer's data plate that bears information about another aircraft, engine, propeller, blade or hub.

Penalty: 50 penalty units.

(2) A person must not mark on an aircraft propeller, propeller blade or propeller hub information:

(a) about another propeller, blade or hub; or

(b) about a fictitious propeller, blade or hub.

Penalty: 50 penalty units.

Authorised Version F2017C00094 registered 01/02/2017

(3) A person must not mark on a balloon heater:

(a) information about another balloon heater; or

(b) information about a fictitious balloon heater.

Penalty: 50 penalty units.

(4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

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

60 Removal of manufacturer's data plates

(1) In spite of regulation 57, a person carrying out maintenance on an aircraft, aircraft engine or aircraft propeller or the basket of a manned balloon may remove the manufacturer's data plate attached to the aircraft, engine, propeller or basket if he or she does so in accordance with a method, technique or practice acceptable to CASA.

(2) A person who has removed a manufacturer's data plate from an aircraft, aircraft engine or aircraft propeller, or from the basket of a manned balloon, under subregulation (1) must re-attach it to the aircraft, engine, propeller or basket in accordance with a method, technique or practice acceptable to CASA.

Penalty: 50 penalty units.

(3) An offence against subregulation (2) is an offence of strict liability.

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

Authorised Version F2017C00094 registered 01/02/2017