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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 7—Navigation logs

77 Part 7 not to apply to New Zealand AOC holders with ANZA privileges

This Part does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

78 Navigation logs

(1) The pilot in command of an aircraft shall keep a log of such navigational data as is required to enable him or her to determine the geographical position of the aircraft at any time while the aircraft is in flight.

Penalty: 10 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) The log shall be kept in chronological order and, in the case of an Australian aircraft engaged on an international flight, shall include the following information:

(a) points of departure and destination;
(b) required track;
(c) wind velocity used for calculations;
(d) headings flown;
(e) true airspeed;
(f) position lines, fixes and pinpoints obtained;
(g) times of alteration of headings;
(h) estimated times of arrival at turning points and destination; and
(i) such other information relevant to the navigation of the aircraft as CASA directs.

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79 Form of logs

(1) A log kept under this Part shall be kept in accordance with such form, and in such manner, as CASA directs.

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*.

80 Retention of logs

(1) CASA may give directions specifying the period during which a log kept under this Part is to be retained by the person keeping it.

(2) The person keeping the log must not contravene a direction.

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 had a reasonable excuse.

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

81 Directions under this Part

A direction given under this Part does not have effect in relation to a person until it has been served on the person.

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Part 8—Radio systems for use in, or in connection with, aircraft

82 Equipment of Australian aircraft with radiocommunication systems

(1) An Australian aircraft engaged in a regular public transport service, and such other Australian aircraft as CASA directs, shall be equipped with such radiocommunication systems as CASA approves to ensure the safety of air navigation.

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) In approving a radiocommunication system for the purposes of subregulation (1), CASA shall have regard to:

(a) the suitability and efficiency of the system for use in conjunction with the air route and airway facilities provided under the *Air Services Act 1995*; and

(b) in the case of a system installed, or to be installed, in an aircraft engaged in international air navigation—the suitability and efficiency of the system in the conditions in which it is likely to be used.

82A Use of radiocommunication systems: words and phrases to be used

(1) CASA may give directions in relation to the words and phrases to be used in communicating with, or in relation to, aircraft, using radiocommunication systems approved under subregulation 82(1).

(2) A direction must be published in AIP or NOTAMS.

83 Transmitting on aeronautical radio frequencies

(1) A person commits an offence if:

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(a) the person transmits on a radio frequency of a kind used for the purpose of ensuring the safety of air navigation; and

(b) the person is not qualified to transmit on the radio frequency.

Penalty: 50 penalty units.

(2) For paragraph (1)(b), a person is qualified to transmit on a radio frequency of a kind mentioned in paragraph (1)(a) if the person:

(a) holds a flight radiotelephone operator licence within the meaning of subregulation 5.01(1); or

(b) is authorised to transmit on the frequency under Part 61, 64 or 65 of CASR; or

(c) for a pilot flying a foreign registered aircraft—is authorised (however described) to transmit on the frequency under the law of the aircraft's State of registry.

(3) An offence against this regulation is an offence of strict liability.

84 Use and operation of radiocommunication systems by foreign aircraft

(1) The pilot in command of a foreign aircraft in which a radiocommunication system is installed, or carried, and that is in Australian territory:

(a) must not use, or permit the use of, the radiocommunication system if there is not in force a licence to install and operate the radiocommunication system issued by the appropriate authority of the country of nationality of the aircraft;

(b) must not operate the radiocommunication system if the pilot is not the holder of an appropriate licence issued by the appropriate authority of the country of nationality of the aircraft; and

(c) must not permit the operation of the radiocommunication system by a person who is not the holder of a licence of a kind referred to in the last preceding paragraph.

Penalty: 10 penalty units.

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(2) Subregulation (1) applies only to a radiocommunication system installed or carried for the purpose of ensuring the safe navigation of the 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*.

85 Directions under Part 8

A direction given under this Part does not have effect in relation to a person until it has been served on the person.

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Part 9—Aerodromes

Division 8—Use of aerodromes

90 Access of official aircraft to aerodromes

Notwithstanding anything contained in this Part, all aircraft belonging to or employed in the service of the Crown shall have access, at all times, to any licensed aerodrome.

91 Use of aerodromes by aircraft of Contracting States

(1) Aerodromes established under the Air Navigation Regulations or licensed under this Part and open to public use shall be open to any aircraft which possesses the nationality of a Contracting State.

(2) Subject to these Regulations, an aircraft which possesses the nationality of a Contracting State shall be entitled to use the aerodromes and all air navigation facilities, including radio and meteorological services, which are provided for public use for the safety and expedition of air navigation.

92 Use of aerodromes

(1) A person must not land an aircraft on, or engage in conduct that causes an aircraft to take off from, a place that does not satisfy one or more of the following requirements:

(a) the place is an aerodrome established under the Air Navigation Regulations;

(b) the use of the place as an aerodrome is authorised by a certificate granted, or registration, under Part 139 of CASR;

(c) the place is an aerodrome for which an arrangement under section 20 of the Act is in force and the use of the aerodrome by aircraft engaged in civil air navigation is authorised by CASA under that section;

(d) the place (not being a place referred to in paragraph (a), (b) or (c)) is suitable for use as an aerodrome for the purposes of the landing and taking-off of aircraft;

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and, having regard to all the circumstances of the proposed landing or take-off (including the prevailing weather conditions), the aircraft can land at, or take-off from, the place in safety.

Penalty: 25 penalty units.

(2) CASA may, in relation to an aerodrome, issue directions relating to the safety of air navigation.

(3) A person must not contravene a direction.

Penalty: 25 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*.

92A Use of aerodromes in regular public transport operations

(1) Subject to subregulation (2), the pilot in command of an aircraft that:

(a) is employed in a regular public transport operation; and

(b) has a maximum carrying capacity, for that operation, that exceeds 30 seats or 3,400 kilograms;

must not engage in conduct that causes the aircraft to land at, or take off from, a place that is not a licensed aerodrome.

Penalty: 10 penalty units.

(2) The aircraft may land at, or take-off from, an aerodrome that is not a licensed aerodrome, if:

(a) the aircraft does so in accordance with subregulation (4); and

(b) the aerodrome is:

(i) a military aerodrome; or

(ii) an aerodrome outside Australian territory; or

(iii) an alternate aerodrome.

(3) Except in an emergency, an aircraft that:

(a) is employed in a regular public transport operation; and

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(b) has a maximum carrying capacity, for that operation, equal to, or less than, 30 seats or 3,400 kilograms;

must not land at, or take-off from, an aerodrome, except in accordance with subregulation (4) or (4A).

(4) The pilot in command of an aircraft must not land the aircraft at, or engage in conduct that causes the aircraft to take off from, an aerodrome that is not a licensed aerodrome if each of the following requirements is not satisfied:

(a) the aerodrome meets the requirements of subregulation (5);

(b) the aerodrome operator has arrangements to warn the aircraft operator or pilot in command of any occurrence of the kind referred to in subregulation 139.155(1) of CASR.

Penalty: 10 penalty units.

(4A) The operator of an aircraft must not permit the aircraft to land at or take off from an aerodrome that is not a licensed aerodrome if each of the following requirements is not satisfied:

(a) the aerodrome meets the requirements of subregulation (5);

(b) the aerodrome operator has arrangements to warn the aircraft operator or pilot in command of any occurrence of the kind referred to in subregulation 139.155(1) of CASR.

Penalty: 10 penalty units.

(5) For the purposes of paragraphs (4)(a) and (4A)(a), despite the repeal of Division 4 of this Part by the *Civil Aviation Amendment Regulations 2003 (No. 1)*, the requirements are those of subregulation 92A(5), as in force on 1 May 2003.

Note: The text of that subregulation, as in force on 1 May 2003, is available on SCALEplus at http://scaleplus.law.gov.au/html/histreg/6/3203/rtf/CivilAviation1988Vol2.rtf.

(5A) An aerodrome or an aerodrome operator is taken to comply with a requirement of subregulation 92A(5) (as in force on 1 May 2003) if:

(a) the aerodrome or the operator complies with a requirement of Part 139 of CASR that corresponds to the requirement of that subregulation; or

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(b) under Subpart 202.GA of CASR, the aerodrome or the operator is taken to so comply.

Note: Regulation 202.705 of CASR provides for the continuation in force of certain exemptions granted under regulation 89ZD.

(6) This regulation does not affect the operation of regulation 224 or any other provision with which the operator or pilot in command of an aircraft landing at, or taking off from, an aerodrome is required to comply.

(7) An offence against subregulation (1), (4) or (4A) is an offence of strict liability.

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

(8) It is a defence to a prosecution under subregulation (1) if the landing or take-off occurred in an emergency.

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

93 Protection of certain rights

Nothing in these Regulations shall be construed as conferring on any aircraft, as against the owner of any land or any person interested therein, the right to alight on that land, or as prejudicing the rights or remedies of any person in respect of any injury to persons or property caused by the aircraft.

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Division 9—Removal or marking of obstructions or other hazards

94 Dangerous lights

(1) Whenever any light is exhibited at or in the neighbourhood of an aerodrome, or in the neighbourhood of an air route or airway facility on an air route or airway, and the light is likely to endanger the safety of aircraft, whether by reason of glare, or by causing confusion with, or preventing clear reception of, the lights or signals prescribed in Part 13 or of air route or airway facilities provided under the *Air Services Act 1995*; CASA may authorise a notice to be served upon the owner of the place where the light is exhibited or upon the person having charge of the light directing that owner or person, within a reasonable time to be specified in the notice, to extinguish or to screen effectually the light and to refrain from exhibiting any similar light in the future.

(2) An owner or person on whom a notice is served under this regulation must comply with the directions contained in the notice.

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*.

(2B) It is a defence to a prosecution under subregulation (2) if the defendant had a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (2B) (see subsection 13.3(3) of the *Criminal Code*).

(3) If any owner or person on whom a notice under this regulation is served fails, within the time specified in the notice, to extinguish or to screen effectually the light mentioned in the notice, CASA may authorise an officer, with such assistance as is necessary and reasonable, to enter the place where the light is and extinguish or screen the light, and may recover the expenses incurred by CASA in so doing from the owner or person on whom the notice has been served.

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95 Removal or marking of objects which constitute obstructions or potential hazards to air navigation

(1) Subject to subregulation (6), whenever any object which is located on or within the defined limits of an aerodrome open to public use by aircraft engaged in international air navigation or air navigation within a Territory and which projects above the surfaces specified in subregulation (5) constitutes an obstruction or a potential hazard to aircraft moving in the navigable air space in the vicinity of an aerodrome, CASA may authorise a notice to be served upon the owner of the property in which the object is located directing the owner, within such reasonable time as is specified in the notice:

(a) to remove the object or such portion of it specified in the notice as is practicable and necessary; or

(b) to install and operate lights on the object and mark it in accordance with the requirements of the Convention.

(2) The notice may be served either personally or by post or by affixing it in some conspicuous place near to the object to which the notice relates.

(3) A person is guilty of an offence if:

(a) CASA serves on the person a notice under this regulation; and

(b) the person fails to comply with the directions contained in the notice.

Penalty: 25 penalty units.

(3A) If CASA serves a notice on a person under this regulation and the person does not comply with the directions in the notice, CASA may authorise an officer, with such assistance as is necessary and reasonable:

(a) to enter the place where the object is located; and

(b) to carry out the directions contained in the notice.

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

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

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(4) All reasonable expenses and the amount of any actual loss or damage incurred and suffered by any person in complying with the directions contained in a notice served upon him in pursuance of this regulation may be recovered from CASA.

(5) For the purposes of this regulation, ***the defined limits*** of an aerodrome means the area enclosed by the perimeter of the surface specified in paragraph (a), and the surfaces referred to in subregulation (1) are:

(a) the surface 45 metres above the elevation of the nearest limit of the landing area and extending horizontally outward for a distance of 3,000 metres;

(b) the surface extending outward from the end of a landing strip having the following dimensions and slopes:

(i) in the case of an aerodrome open only to aircraft making non-instrument approaches—the width of the landing strip at the landing strip end; a width of 750 metres at a point 3,000 metres outward from the end of the landing strip and a slope of 1 in 40 rising outward from the end of the landing strip; or

(ii) in the case of an aerodrome open to aircraft making instrument approaches—the width of the landing strip at the landing strip end, a width of 1,200 metres at a point 3,000 metres outward from the end of the landing strip and a slope of 1 in 50 rising outward from the end of the landing strip;

(c) the surface sloping upwards and outwards from the edge of the surface specified in paragraph (b) to the intersection with the surface specified in paragraph (a) and having a slope of 1 in 7; and

(d) the surface sloping upwards and outwards from the boundary of the landing area to the intersection with the surface specified in paragraph (a) and having a slope of 1 in 7.

(6) This regulation does not apply to or in relation to an aerodrome referred to in a plan in a Schedule to the Civil Aviation (Buildings Control) Regulations.

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96 Dumping of rubbish

(1) In this regulation, ***aerodrome*** means:

(a) an aerodrome established under the Air Navigation Regulations;

(b) a place the use of which as an aerodrome is authorised by a certificate granted, or registration, under Part 139 of CASR; or

(c) an aerodrome in respect of which an arrangement under section 20 of the Act is in force.

(2) Where CASA is satisfied that the presence of waste foodstuffs in the vicinity of an aerodrome constitutes or may constitute such an attraction to birds as to create a hazard or a potential hazard to aircraft using that aerodrome or flying in the vicinity of that aerodrome, CASA may, by notice in the *Gazette*, declare that area to be an area of land to which this regulation applies.

(3) A person shall not leave waste foodstuffs on, or bring waste foodstuffs onto, an area of land to which this regulation applies.

Penalty: 50 penalty units.

(4) CASA may, by notice in writing, require the owner of land on which waste foodstuffs are, being land within an area of land to which this regulation applies, to remove, within a time specified in the notice, the waste foodstuffs from his or her land to a place outside an area of land to which this regulation applies or to deal, within a time, and in a manner, specified in the notice, with the waste foodstuffs.

(5) A notice under subregulation (4) may be served personally or by post.

(6) A person shall not fail to comply with the requirements of a notice served on him or her under subregulation (4).

Penalty: 50 penalty units.

(6A) An offence against subregulation (3) or (6) is an offence of strict liability.

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

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(7) If a person on whom a notice under subregulation (4) is served fails to comply with the requirements of the notice, an officer authorised for the purpose by CASA may, with such assistance as is necessary and reasonable, enter upon the land and remove or deal with the waste foodstuffs.

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Part 10—Air Traffic Services and other services

Division 1—Air Traffic Services

99AA Air Traffic—Services, directions and instructions

(3) A pilot in command of an aircraft must not engage in a V.F.R. flight in airspace designated as belonging to Class A airspace without CASA's approval.

Penalty: 50 penalty units.

(5) CASA may give directions or instructions about the use of a class of airspace, a controlled aerodrome, a control area or a control zone by either or both of the following:

(a) aircraft engaged in I.F.R. flights;

(b) aircraft engaged in V.F.R. flights.

(5A) If:

(a) an area of Australian territory has been declared to be a restricted area or a danger area; and

(b) the airspace above that area is, or is part of, a class of airspace;

CASA may give directions or instructions about the use of the airspace above that area that are different from instructions it gives under subregulation (5) about the use of the class of airspace.

(6) A direction, instruction or particulars of a service must be given by means of Civil Aviation Orders or published in AIP or NOTAMS.

(7) A pilot in command of an aircraft must not engage in a flight, or part of a flight, in contravention of a direction or instruction under subregulation (5) or (5A).

Penalty: 50 penalty units.

(8) An offence against subregulation (3) or (7) is an offence of strict liability.

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

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99A Broadcasts to be made at certain aerodromes

(1) CASA may:

(a) designate an aerodrome as an aerodrome at which broadcast requirements apply; and

(b) designate airspace within defined horizontal and vertical limits as an area in which broadcast requirements apply.

(3) CASA may give directions specifying:

(a) the broadcast requirements that apply; and

(b) the radio frequency on which broadcasts must be made;

at a particular aerodrome, or in a particular area, designated under subregulation (1).

(4) If CASA gives a direction, it must publish a notice setting out the details of the direction in AIP or NOTAMS.

(5) A pilot in command of an aircraft that is operating at an aerodrome or area designated under subregulation (1) must not contravene a direction that applies to that aerodrome or area.

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*.

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

Note: A defendant bears an evidential burden in relation to the matter in subregulation (7) (see subsection 13.3(3) of the *Criminal Code*).

100 Compliance with air traffic control clearances and air traffic control instructions

(1) The pilot in command of an aircraft must comply with air traffic control instructions.

Penalty: 50 penalty units.

(2) The pilot in command of an aircraft must not allow the aircraft to:

(a) enter, operate in, or leave a control area;

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(b) operate outside a control area as a result of a diversion out of that control area in accordance with air traffic control instructions; or

(c) enter, operate in, or leave a control zone or operate at a controlled aerodrome;

if the movement or operation is not in accordance with an air traffic control clearance in respect of the aircraft.

Penalty: 50 penalty units.

(2A) Subregulation (2) does not apply if the movement or operation:

(a) is authorised by:

(i) air traffic control; or

(ii) a notification in Aeronautical Information Publications or NOTAMS; or

(b) is made in an emergency in accordance with subregulation (3).

(3) If an emergency arises that, in the interests of safety, necessitates a deviation from the requirements of an air traffic control clearance or air traffic control instructions, the pilot in command may make such deviation as is necessary but shall forthwith inform air traffic control of the deviation.

Penalty: 5 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*.

101 Procedure when air traffic control not in operation

An aircraft operating in a control zone or at a controlled aerodrome shall not be required to comply with the provisions of paragraph 100(2)(c) during any period in which air traffic control is not in operation in respect of that control zone or controlled aerodrome.

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105 Temporary medical unfitness of holder of licence

(1) If:

(a) the holder of an air traffic controller licence; or

(b) a person referred to in paragraph 65.035(3)(a) or (d) of CASR;

suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

Penalty: 10 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*.

115 Medical unfitness of holder of licence

Where a person, being:

(a) the holder of a flight service licence; or

(b) a person referred to in paragraph 65.050(3)(a) or (d) of CASR;

suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

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Division 2—Meteorological services

120 Weather reports not to be used if not made with authority

(1) The operator or pilot in command of an aircraft must not use weather reports of actual or forecasted meteorological conditions in the planning, conduct and control of a flight if the meteorological observations, forecasts or reports were not made with the authority of:

(a) the Director of Meteorology; or

(b) a person approved for the purpose by CASA.

Penalty: 5 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*.

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Division 3—Statistical returns

132 Statistical returns

(1) The owner of any aircraft shall furnish to CASA, or to an authorised officer, such statistical returns or other information relating to the aircraft and the crew thereof, the goods carried, other work performed by the aircraft, the journeys made by the aircraft, and the development of defects or failures in the aircraft, its engines or its accessories as CASA from time to time directs.

Penalty: 10 penalty units.

(2) An airline, or the owner of an aircraft engaged in public transport service, which uses any air route or airway facility maintained and operated by AA must give CASA or an authorised officer any traffic reports that CASA requires.

Penalty: 5 penalty units.

(3) A person must not disclose information received under subregulation (2) if the disclosure is not:

(a) in the course of duty to another person performing duties under these Regulations;

(b) with the consent of the airline or owner of the aircraft; or

(c) in pursuance of subregulation (4).

Penalty: 5 penalty units.

(3A) 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*.

(4) In accordance with Article 67 of the Convention, CASA shall transmit to the Council of the International Civil Aviation Organization such of the particulars supplied in accordance with subregulation (2) as relate to the international operations of Australian airlines engaged in such operations.

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Part 11—Conditions of flight

Division 1—General

133 Conditions to be met before Australian aircraft may fly

(1) Subject to regulation 21.197 of CASR, the pilot in command of an Australian aircraft must not commence a flight if each of the following requirements is not satisfied:

(a) the aircraft has a nationality mark and a registration mark painted on, or affixed to, it in accordance with Part 45 of CASR;

(c) the flight is not in contravention of any condition that:

(i) is set out or referred to in the maintenance release or in any other document approved for use as an alternative to the maintenance release for the purposes of regulation 49, or subregulation 43(10); or

(ii) is applicable to the maintenance release by virtue of a direction given under regulation 44;

(d) any maintenance that is required to be carried out before the commencement of the flight, or that will be required to be carried out before the expiration of the flight, to comply with any requirement or condition imposed under these Regulations with respect to the aircraft has been certified, in accordance with regulation 42ZE or 42ZN, to have been completed;

(e) the aircraft complies with these Regulations in respect of the number and description of, and the holding of licences and ratings by, the operating crew.

Penalty: 50 penalty units.

(2) Paragraph (1)(d) does not apply to any maintenance that was required to be carried out before the issue of the maintenance release in force, or the last maintenance release that was in force, for the aircraft.

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

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

135 Foreign aircraft of Contracting States

(1A) This regulation does not apply to the operation of an aircraft if Part 129 of CASR applies to the operation of the aircraft.

(1) Subject to regulation 135A, the pilot in command of an aircraft possessing the nationality of a Contracting State must not allow the aircraft to fly within, or depart from, Australian territory if the aircraft does not comply with the provisions of these Regulations that are expressed to apply to such aircraft and the requirements of the Convention in respect of:

(a) its nationality mark and registration mark;

(b) its certificate of airworthiness;

(c) the number and description of, and the holding of licences and ratings by, the operating crew;

(d) the documents to be carried;

(e) the flight and manoeuvre of aircraft; and

(f) the provision of radio apparatus.

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*.

135A Special flight authorisation

(1) An aircraft to which regulation 135 applies may be operated without the certificate of airworthiness mentioned in paragraph 135(b) if a special flight authorisation for the operation is issued under this regulation.

(2) A person may apply to CASA for a special flight authorisation for an aircraft that possesses the nationality of a Contracting State.

(3) An application for a special flight authorisation must be in a form and manner acceptable to CASA.

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(4) CASA may issue the authorisation subject to the conditions (if any) that CASA considers necessary for the safety of other airspace users and persons on the ground or water.

(5) Any conditions imposed under this regulation must be in writing and set out in, or attached to, the authorisation.

(6) A person must not contravene a condition of a special flight authorisation.

Penalty: 50 penalty units.

Source FARs section 91.715 modified.

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

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

136 Foreign state aircraft

A state aircraft other than an Australian military aircraft shall not fly over or land on Australian territory except on the express invitation or with the express permission of CASA, but any aircraft so flying or landing on such invitation or with such permission shall be exempt from the provisions of these Regulations except to such extent as is specified in the invitation or permission.

138 Pilot to comply with requirements etc of aircraft's flight manual etc

(1) If a flight manual has been issued for an Australian aircraft, the pilot in command of the aircraft must comply with a requirement, instruction, procedure or limitation concerning the operation of the aircraft that is set out in the manual.

Penalty: 50 penalty units.

(2) If a flight manual has not been issued for an Australian aircraft and, under the relevant airworthiness standards for the aircraft, the information and instructions that would otherwise be contained in an aircraft's flight manual are to be displayed either wholly on a placard, or partly on a placard and partly in another document, the pilot in command of the aircraft must comply with a requirement,

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instruction, procedure or limitation concerning the operation of the aircraft that is set out:

(a) on the placard; or

(b) on the placard or in the other document.

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*.

139 Documents to be carried in Australian aircraft

(1) Subject to subregulation (2), the pilot in command of an aircraft, when flying, must carry on the aircraft:

(a) its certificate of registration;

(b) its certificate of airworthiness;

(c) if Part 42 of CASR does not apply to the aircraft—unless CASA otherwise approves, its maintenance release and any other document approved for use as an alternative to the maintenance release for the purposes of a provision of these Regulations;

(d) unless CASA otherwise approves, the licences and medical certificates of the operating crew;

(e) the flight manual (if any) for the aircraft;

(f) any licence in force with respect to the radio equipment in the aircraft;

(g) if the aircraft is carrying passengers—a list of the names, places of embarkation and places of destination of the passengers;

(h) if the aircraft is carrying cargo—the bills of lading and manifests with respect to the cargo.

Penalty: 10 penalty units.

(2) An aircraft operating wholly within Australian territory is not required, when flying, to carry a document specified in paragraph (1)(a), (b), (f) or (g).

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(3) An aircraft that is operated under an AOC need not carry its flight manual when flying if it carries on board an operations manual that:

(a) contains the information and instructions that are required, under the relevant airworthiness standards for the aircraft, to be included in the flight manual; and

(b) does not contain anything that conflicts with the information or instructions.

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

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

(5) Subregulation (1) does not apply to the pilot in command if the flight was authorised by a special flight permit issued under regulation 21.197 of CASR.

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

140 Prohibited, restricted and danger areas

(4) The pilot in command of an aircraft must not fly the aircraft over a prohibited area.

Penalty: 25 penalty units.

(5) The pilot in command of an aircraft must not fly the aircraft over a restricted area if the flight is not in accordance with conditions specified in the notice declaring the area to be a restricted area.

Penalty: 25 penalty units.

(6) If the pilot in command of an aircraft finds that the aircraft is over a prohibited area or a restricted area in contravention of subregulation (4) or (5), the pilot must:

(a) immediately have the aircraft flown to a position where it is not over the area; and

(b) when the aircraft reaches a position where it is not over the area, report the circumstances to air traffic control; and

(c) land at such aerodrome as is designated by air traffic control and, for that purpose, obey any instructions given by air traffic control as to the movement of the aircraft.

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Penalty: 25 penalty units.

(7) An offence against subregulation (4), (5) or (6) is an offence of strict liability.

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

143 Carriage of firearms

(1) A person, including a flight crew member, must not carry a firearm in, or have a firearm in his or her possession in, an aircraft other than an aircraft engaged in charter operations or regular public transport operations.

Penalty: 10 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) It is a defence to a prosecution under subregulation (1) if the person had the written permission of CASA to have the firearm in the aircraft.

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

144 Discharge of firearms in or from an aircraft

(1) A person, including a flight crew member, must not discharge a firearm while on board an aircraft.

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) It is a defence to a prosecution under subregulation (1) if:
(a) the person had the written permission of CASA to discharge the firearm while on board the aircraft; and
(b) the firearm was discharged in accordance with the conditions (if any) specified in the permission.

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(4) It is a defence to a prosecution under subregulation (1) if the person's discharge of the firearm was authorised under regulation 4.59A of the *Aviation Transport Security Regulations 2005*.

Note 1: Regulation 4.59A of the *Aviation Transport Security Regulations 2005* deals with air security officers using weapons on board aircraft to safeguard against unlawful interference with aviation.

Note 2: A defendant bears an evidential burden in relation to the matters in subregulations (3) and (4) (see subsection 13.3(3) of the *Criminal Code*).

145 Emergency authority

In conforming with the rules contained in the provisions of Division 2 of this Part and in the provisions of Parts 12 and 13, the pilot in command of an aircraft shall pay due regard to all dangers of navigation and collision and to any special circumstances which may render a departure from those rules necessary in order to avoid immediate danger.

146 Liability as to neglect of rules regarding lights etc

Nothing in the rules contained in the provisions of Division 2 of this Part and in the provisions of Parts 12 and 13 shall exonerate any aircraft or the owner or hirer or pilot in command or crew thereof from the consequence of any neglect in the use of lights and signals, of any neglect to keep a proper lookout, or of the neglect of any precaution required by the ordinary practice of the air or the special circumstances of the case.

147 Australian aircraft in or over territory of a State which is not a Contracting State

When an Australian aircraft is in or over the territory of a State which is not a Contracting State, the rules contained in the provisions of Division 2 of this Part and the provisions of Parts 12 and 13 shall apply to the aircraft only in so far as those rules do not conflict with the laws of that State.

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Division 2—Flight rules

149 Towing

(1) The pilot in command of an aircraft commits an offence if:
  (a) he or she permits anything to be towed by the aircraft; and
  (b) the requirement mentioned in subregulation (1A) is not met.

Penalty: 50 penalty units.

(1A) For paragraph (1)(b), the requirement is that the towing must be:
  (a) permitted by this regulation; or
  (b) authorised under Part 61 of CASR.

(2) Nothing in this regulation shall prevent the reasonable use or display from an aircraft in flight of radio aerials, or any signal apparatus, equipment or article required or permitted to be displayed or used by or from an aircraft in flight in accordance with the rules contained in the provisions of this Division and in the provisions of Parts 12 and 13.

(3) Instruments for experimental purposes may be towed if the prior approval of CASA has been given.

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

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

(5) It is a defence to a prosecution under subregulation (1) if:
  (a) the pilot in command had the written permission of CASA for the towing; and
  (b) the towing was done in accordance with the directions (if any) specified in the permission.

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

150 Dropping of articles

(1) Subject to this regulation, the pilot in command of an aircraft in flight shall not permit anything to be dropped from the aircraft.

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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) Nothing in this regulation shall prevent:

(a) the dropping of packages or other articles or substances:

(i) in the course of agricultural operations; or

(ii) in the course of cloud seeding operations; or

(iii) in the course of firefighting operations; or

(iv) to initiate controlled burning; or

(v) in the course of search and rescue operations; or

(vi) to deliver emergency medical supplies; or

(vii) to deliver emergency food supplies; or

(viii) in the course of other operations;

in accordance with directions issued by CASA:

(ix) to ensure the safety of the aircraft as far as practicable; and

(x) to minimise hazard to persons, animals or property;

(b) the dropping of ballast in the form of fine sand or water;

(c) the use of apparatus solely for the purpose of navigating an aircraft where the approval of CASA to the type of apparatus and the method of use has previously been notified; or

(d) in an emergency, the jettisoning of liquid fuel or cargo over areas where hazard to persons or property on the ground or water is not created.

151 Picking up of persons or objects

(1) The pilot in command of an aircraft in flight must not allow persons or objects to be picked up by 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*.

(3) It is a defence to a prosecution under subregulation (1) if:

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(a) CASA gave prior written authority for the person or object to be picked up while the aircraft was in flight; and

(b) the person or object was picked up in accordance with the conditions (if any) specified in the authority.

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

152 Parachute descents

(1) A person must not make a parachute descent if the descent is not:

(a) authorised in writing by CASA; and

(b) conducted in accordance with the written specifications of 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*.

(3) It is a defence to a prosecution under subregulation (1) if the parachute descent was a necessary emergency descent.

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

153 Flight under simulated instrument flying conditions

(1) The pilot must not fly an aircraft under simulated instrument flying conditions if each of the following requirements is not satisfied:

(a) fully functioning dual controls are installed in the aircraft;

(b) a competent pilot occupies a control seat to act as safety pilot for the person who is flying under simulated instrument conditions and:

(i) the safety pilot has adequate vision forward and to each side of the aircraft; or

(ii) if the safety pilot's field of vision is limited, a competent observer in communication with the safety pilot occupies a position in the aircraft from which his or her field of vision supplements that of the safety pilot.

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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*.

155 Aerobatic manoeuvres

(1) The pilot in command of an aircraft commits an offence if the pilot conducts an aerobatic manoeuvre at night.

Penalty: 25 penalty units.

(2) The pilot in command of an aircraft commits an offence if the pilot conducts an aerobatic manoeuvre that is not in VMC.

Penalty: 25 penalty units.

(3) The pilot in command of an aircraft commits an offence if:
(a) the pilot conducts a particular kind of aerobatic manoeuvre; and
(b) neither of the following state that the aircraft may perform that kind of aerobatic manoeuvre:
(i) the aircraft's certificate of airworthiness;
(ii) the aircraft's flight manual.

Penalty: 25 penalty units.

(4) A person commits an offence if:
(a) the person conducts an aerobatic manoeuvre over a populous area or public gathering; and
(b) the person does not have CASA's written permission to do so.

Penalty: 25 penalty units.

(5) The pilot in command of an aircraft commits an offence if:
(a) the pilot conducts an aerobatic manoeuvre; and
(b) the pilot does not, before conducting the aerobatic manoeuvre, take any action that is necessary to ensure that each of the following requirements are met:

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(i) any loose articles must be removed from the aircraft or made secure in the aircraft;

(ii) all locker and compartment doors of the aircraft must be fastened;

(iii) the safety harness or seat belt of any vacant seat must be made secure so as to avoid the fouling of the controls of the aircraft;

(iv) the dual controls (if any) of the aircraft must be removed from the aircraft or rendered inoperative, unless the control seats are occupied in accordance with regulation 226 or the dual control seat is vacant;

(v) every person in the aircraft must be secured with a correctly adjusted safety harness or seat belt.

Penalty: 25 penalty units.

(6) An offence against this regulation is an offence of strict liability.

156 Flying over public gatherings

(1) The pilot in command of an aircraft must not fly the aircraft over a public gathering if:

(a) the pilot does not have the written permission of CASA for the flight; and

(b) the flight is not in accordance with the conditions specified in the permit.

Penalty: 10 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) Nothing in subregulation (1) shall apply to an aircraft passing over a public gathering in the process of:

(a) arriving at or departing from an aerodrome in the course of its normal navigation for so doing; or

(b) passing from place to place in the ordinary course of navigation.

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157 Low flying

(1) The pilot in command of an aircraft must not fly the aircraft over:

(a) any city, town or populous area at a height lower than 1,000 feet; or

(b) any other area at a height lower than 500 feet.

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) A height specified in subregulation (1) is the height above the highest point of the terrain, and any object on it, within a radius of:

(a) in the case of an aircraft other than a helicopter—600 metres; or

(b) in the case of a helicopter—300 metres;

from a point on the terrain vertically below the aircraft.

(3A) Paragraph (1)(a) does not apply in respect of a helicopter flying at a designated altitude within an access lane details of which have been published in the AIP or NOTAMS for use by helicopters arriving at or departing from a specified place.

(4) Subregulation (1) does not apply if:

(a) through stress of weather or any other unavoidable cause it is essential that a lower height be maintained; or

(b) the aircraft is engaged in private operations or aerial work operations, being operations that require low flying, and the owner or operator of the aircraft has received from CASA either a general permit for all flights or a specific permit for the particular flight to be made at a lower height while engaged in such operations; or

(c) the pilot of the aircraft is receiving flight training in low-level operations or aerial application operations, within the meaning of Part 61 of CASR; or

(d) the pilot of the aircraft is engaged in a baulked approach procedure, or the practice of such procedure under the supervision of a flight instructor or a check pilot; or

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(e) the aircraft is flying in the course of actually taking-off or landing at an aerodrome; or

(f) the pilot of the aircraft is engaged in:

(i) a search; or

(ii) a rescue; or

(iii) dropping supplies;

in a search and rescue operation; or

(g) the aircraft is a helicopter:

(i) operated by, or for the purposes of, the Australian Federal Police or the police force of a State or Territory; and

(ii) engaged in law enforcement operations; or

(h) the pilot of the aircraft is engaged in an operation which requires the dropping of packages or other articles or substances in accordance with directions issued by CASA.

158 Reports at designated points or intervals

(1) If radio apparatus is fitted to an aircraft, and a Flight Plan has been submitted in respect of the flight, the time and altitude of passing each reporting point designated by air traffic control, together with any other required information, shall be reported by the pilot in command by radio as soon as possible to air traffic control, and, in the absence of designated reporting points, position reports shall be made at intervals specified by air traffic control.

Penalty: 10 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*.

159 Procedure on radio failure

(1) If a radio failure or failure of radio navigation aid equipment precludes compliance with these Regulations, the pilot in command of the aircraft must comply with any relevant instructions issued by CASA under regulation 159A.

Penalty: 10 penalty units.

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

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

159A Power of CASA to issue instructions

CASA must issue written instructions specifying the procedures to be followed by a pilot in command of an aircraft in the event of the failure of the aircraft's radio or radio navigation aid equipment.

159B Manner of notifying instructions

Instructions issued under regulation 159A must be published in the AIP and NOTAMS.

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Part 12—Rules of the air

Division 1—General

160 Interpretation

In this Division, an ***overtaking aircraft*** means an aircraft that approaches another aircraft from the rear on a line forming an angle of less than 70 degrees with the plane of symmetry of the latter, that is to say, an aircraft that is in such a position with reference to another aircraft that at night it would be unable to see either of the forward navigation lights of the other aircraft.

161 Right of way

(1) An aircraft that is required by the rules in this Division to keep out of the way of another aircraft shall avoid passing over or under the other, or crossing ahead of it, unless passing well clear.

(2) The pilot in command of an aircraft that has the right of way must maintain its heading and speed, but nothing in the rules in this Division shall relieve the pilot in command of an aircraft from the responsibility of taking such action as will best avert collision.

Penalty: 25 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*.

162 Rules for prevention of collision

(1) When 2 aircraft are on converging headings at approximately the same height, the aircraft that has the other on its right shall give way, except that:

(a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons;

(b) airships shall give way to gliders and balloons;

(c) gliders shall give way to balloons; and

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(d) power-driven aircraft shall give way to aircraft that are seen to be towing other aircraft or objects.

(2) When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its heading to the right.

(3) An aircraft that is being overtaken has the right-of-way and the overtaking aircraft, whether climbing, descending, or in horizontal flight, shall keep out of the way of the other aircraft by altering its heading to the right, and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from this obligation until it is entirely past and clear.

(4) An overtaking aircraft shall not pass the aircraft that it is overtaking by diving or climbing.

(5) An aircraft in flight, or operating on the ground or water, shall give way to other aircraft landing or on final approach to land.

(6) When two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing, aircraft at the greater height shall give way to aircraft at the lesser height, but the latter shall not take advantage of this rule to cut-in in front of another that is on final approach to land, or overtake that aircraft.

(7) Notwithstanding anything contained in subregulation (6), power-driven heavier-than-air aircraft shall give way to gliders.

(8) An aircraft that is about to take-off shall not attempt to do so until there is no apparent risk of collision with other aircraft.

(9) The pilot in command of an aircraft must give way to another aircraft that is compelled to land.

Penalty: 25 penalty units.

(10) The pilot in command of an aircraft must comply with the rules in subregulations (1) to (8).

Penalty: 25 penalty units.

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(11) An offence against subregulation (10) is an offence of strict liability.

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

163 Operating near other aircraft

(1) The pilot in command of an aircraft must not fly the aircraft so close to another aircraft as to create a collision hazard.

Penalty: 50 penalty units.

(2) The pilot in command of an aircraft must not operate the aircraft on the ground in such a manner as to create a hazard to itself or to another 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*.

163AA Formation flying

(1) A pilot must not fly an aircraft in formation if each of the following requirements is not satisfied:

(a) each of the pilots in command is authorised, under Part 61 of CASR, to fly in formation;

(b) the formation is pre-arranged between the pilots in command;

(c) the formation flight is conducted either:

(i) under the Visual Flight Rules by day; or

(ii) under an approval given by CASA.

Penalty: 50 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*.

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163A Responsibility of flight crew to see and avoid aircraft

When weather conditions permit, the flight crew of an aircraft must, regardless of whether an operation is conducted under the Instrument Flight Rules or the Visual Flight Rules, maintain vigilance so as to see, and avoid, other aircraft.

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Division 2—Operation on and in the vicinity of aerodromes

Subdivision 1—General

164 Responsibility for compliance with rules of this Division

When operating an aircraft on or in the vicinity of an aerodrome the pilot in command shall be responsible for compliance by the aircraft with the rules contained in this Division.

165 Temporary suspension of rules

CASA may, in respect of any specified aerodrome, temporarily suspend, either wholly or in part, the application of the rules contained in this Division.

Subdivision 2—Operating on and in the vicinity of non-controlled aerodromes

166 Definitions for Subdivision 2

(1) In this Subdivision:

in the vicinity of, in relation to a non-controlled aerodrome, has the meaning given by subregulation (2).

radiotelephone qualification includes a certificate, relating to the operation of radiotelephone equipment, issued by any of the following organisations in accordance with the organisation's operations manual:

(a) Australian Ballooning Federation Incorporated;
(b) Australian Sport Rotorcraft Association Incorporated;
(c) The Gliding Federation of Australia Incorporated;
(d) Hang Gliding Federation of Australia Incorporated;
(e) Recreational Aviation Australia Incorporated.

(2) An aircraft is ***in the vicinity of*** a non-controlled aerodrome if it is within:

(a) airspace other than controlled airspace; and

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(b) 10 miles from the aerodrome; and
(c) a height above the aerodrome that could result in conflict with operations at the aerodrome.

(3) For paragraphs (2)(b) and (c), if an aerodrome reference point for the aerodrome is published in the AIP, the distance or height must be measured from that point.

166A General requirements for aircraft on the manoeuvring area or in the vicinity of a non-controlled aerodrome

(1) The pilot in command of an aircraft commits an offence if:
(a) the aircraft is being operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
(b) the pilot engages in conduct; and
(c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

(2) The rules are the following:
(a) the pilot must maintain a lookout for other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome to avoid collision;
(b) the pilot must ensure that the aircraft does not cause a danger to other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome;
(c) if the pilot is flying in the vicinity of the aerodrome, the pilot must:
(i) join the circuit pattern for the aerodrome; or
(ii) avoid the circuit pattern for the aerodrome;
(d) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns in accordance with subregulation (3);
(e) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns in accordance with subregulation (3) while the aircraft is flying in the circuit pattern for the aerodrome;

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(f) subject to subregulation (4), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;

(g) the pilot must not:

(i) take off from a part of the aerodrome that is outside the landing area of the aerodrome; or

(ii) land the aircraft on a part of the aerodrome that is outside the landing area of the aerodrome;

(h) if the pilot takes off from, or lands at, the aerodrome, the pilot must take off or land into the wind if, at the time of the take-off or landing:

(i) the pilot is not permitted under subregulation (5) to take off or land downwind; and

(ii) it is practicable to take off or land into the wind.

(3) For paragraphs (2)(d) and (e), the turns must be made:

(a) if CASA has, under subregulation 92(2), directed that all turns at the aerodrome be made in a particular direction—in accordance with CASA's directions; or

(b) if paragraph (a) does not apply and visual signals are displayed at the aerodrome indicating a direction to make all turns—in accordance with the visual signals; or

(c) in any other case—to the pilot's left.

Note: Directions under subregulation 92(2) are published in the AIP.

(4) The rule in paragraph (2)(f) does not apply if a change to the track is necessary to avoid the terrain.

(5) For subparagraph (2)(h)(i), the pilot in command of an aircraft may take off or land downwind at a non-controlled aerodrome if:

(a) the aircraft's flight manual allows the aircraft to take off or land downwind; and

(b) after considering any other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome, the pilot believes that it is safe to do so.

(6) An offence against subregulation (1) in relation to any of paragraphs (2)(a) to (g) is an offence of strict liability.

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Note: The pilot in command of an aircraft must comply with the flight manual, or other equivalent document for the aircraft, as required by regulation 138.

166B Carrying out a straight-in approach

(1) The pilot in command of an aircraft commits an offence if:
  (a) the pilot carries out a straight-in approach to land at a non-controlled aerodrome; and
  (b) the pilot engages in conduct; and
  (c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

(2) The rules are the following:
  (a) before starting the approach, the pilot must determine:
    (i) the wind direction at the aerodrome; and
    (ii) the runways in use at the aerodrome;
  (b) the pilot must give way to any other aircraft flying in the circuit pattern for the aerodrome;
  (c) subject to subregulation (3), the pilot must carry out all manoeuvring, to establish the aircraft on final approach, at least 3 miles from the threshold of the runway that the pilot intends to use for landing.

(3) The rule in paragraph (2)(c) does not apply to the pilot if he or she is carrying out the approach:
  (a) using an instrument approach procedure; and
  (b) in IMC.

(4) An offence against subregulation (1) in relation to paragraph (2)(a) or (b) is an offence of strict liability.

166C Responsibility for broadcasting on VHF radio

(1) If:
  (a) an aircraft is operating on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
  (b) the aircraft is carrying a serviceable aircraft VHF radio; and

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(c) the pilot in command of the aircraft holds a radiotelephone qualification;

the pilot is responsible for making a broadcast on the VHF frequency in use for the aerodrome in accordance with subregulation (2).

(2) The pilot must make a broadcast that includes the following information whenever it is reasonably necessary to do so to avoid a collision, or the risk of a collision, with another aircraft:

(a) the name of the aerodrome;

(b) the aircraft's type and call sign;

(c) the position of the aircraft and the pilot's intentions.

Note 1: See the AIP for the recommended format for broadcasting the information mentioned in this regulation.

Note 2: For the requirement to maintain a listening watch, see regulation 243.

166D Designation of non-controlled aerodromes

(1) For paragraph 98(5A)(a) of the Act, CASA may issue a legislative instrument that states that a specified non-controlled aerodrome is a designated non-controlled aerodrome.

(2) CASA must ensure that details of the designation of an aerodrome under subregulation (1) are published in AIP or NOTAMS.

166E Requirements for operating on or in the vicinity of certified, military, registered or designated non-controlled aerodromes

(1) The pilot in command of an aircraft commits an offence if:

(a) he or she operates the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome that is:

(i) a certified aerodrome; or

(ii) a military aerodrome; or

(iii) a registered aerodrome; or

(iv) specified as a designated non-controlled aerodrome in a legislative instrument issued by CASA under regulation 166D; and

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(b) he or she is not permitted to do so by subregulation (2), (3) or (4).

Penalty: 25 penalty units.

Note 1: For the definitions of ***certified aerodrome*** and ***registered aerodrome***, see the CASR Dictionary.

Note 2: For the definition of ***military aerodrome***, see subregulation 2(1).

Aircraft with serviceable radio and pilot with radiotelephone qualification

(2) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:

(a) the aircraft is carrying a serviceable aircraft VHF radio; and

(b) the pilot holds a radiotelephone qualification.

Flight in VMC during the day and in company

(3) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:

(a) either:

(i) the aircraft is not carrying a serviceable aircraft VHF radio; or

(ii) the pilot does not hold a radiotelephone qualification; and

(b) the aircraft is being operated for a flight:

(i) that is in VMC; and

(ii) that is not a night flight; and

(iii) that is undertaken in company with another aircraft; and

(c) the other aircraft is carrying a serviceable aircraft VHF radio; and

(d) the pilot in command of the other aircraft holds a radiotelephone qualification.

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Unserviceable radio

(4) The pilot in command of an aircraft that is carrying an unserviceable aircraft VHF radio may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:

(a) either:

(i) the radio became unserviceable during the flight; or

(ii) the purpose of the flight is to take the radio to a place where it can be repaired; and

(b) for an aircraft that is flying in the vicinity of the aerodrome—the pilot ensures that each of the following are switched on:

(i) the aircraft's landing lights (if any);

(ii) the aircraft's anti-collision lights (if any);

(iii) the aircraft's secondary surveillance radar transponder (if any); and

(c) for an aircraft arriving at the aerodrome—the pilot joins the circuit pattern for the aerodrome on the cross-wind leg of the circuit pattern.

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

Subdivision 3—Controlled aerodromes, aerodromes at which the operation of aircraft is not restricted to runways, and preventing collisions on water

167 General requirements for aerodrome traffic at controlled aerodromes

(1) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome must:

(a) maintain a lookout for other aerodrome traffic to avoid collision; and

(b) either:

(i) maintain a continuous listening watch on the radio frequency specified in the AIP for communications with the aerodrome control service for the aerodrome; or

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(ii) if it is not possible to maintain a continuous listening watch as mentioned in subparagraph (i)—keep a watch for any instructions given by visual signals by the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

(2) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome commits an offence if:

(a) he or she carries out any manoeuvre preparatory to, or associated with, taxiing, landing or taking off; and

(b) he or she has not, before carrying out the manoeuvre, obtained, by radio or visual signals, authorisation to do so from the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

(3) The pilot in command of an aircraft commits an offence if:

(a) the aircraft is part of the aerodrome traffic at a controlled aerodrome; and

(b) the pilot engages in conduct; and

(c) the conduct results in the contravention of a rule set out in subregulation (4); and

(d) the aerodrome control service for the aerodrome has not instructed or permitted the pilot to engage in that conduct.

Penalty: 25 penalty units.

(4) The rules are the following:

(a) subject to subregulation (5), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;

(b) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns to the pilot's left;

(c) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns to the pilot's left while the aircraft is flying in the circuit pattern for the aerodrome.

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(5) The rule in paragraph (4)(a) does not apply if a change to the track is necessary to avoid the terrain.

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

Note 1: Under subregulation 100(1), the pilot in command of an aircraft must comply with air traffic control instructions.

Note 2: The pilot in command of an aircraft must comply with the flight manual, or other equivalent document for the aircraft, as required by regulation 138.

168 Aerodromes at which the operation of aircraft is not restricted to runways

(1) Subject to this regulation, at aerodromes where the operation of aircraft is not restricted to prepared runways, the pilot in command of an aircraft must, as far as possible, observe the following rules when landing and taking off:

(a) aircraft, when landing, shall land on the right of any aircraft which has already landed or is about to land, or which is taking-off or about to take-off;

(b) aircraft, when taking-off, shall take-off on the right of any aircraft which is already taking-off;

(c) aircraft, when landing or taking-off, shall leave a reasonable space on the right for other aircraft to land or take-off;

(d) aircraft, when manoeuvring on the ground, shall normally do so in the direction of landing, but aircraft may cross the landing area if, in the course of the crossing, all turns are made to the left and the aircraft gives free way to all aircraft landing and taking-off.

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) The rules specified in paragraphs (1)(a), (b), (c) and (d) do not apply at an aerodrome at which they would otherwise apply:

(a) where CASA has directed that those rules are not to apply at that aerodrome;

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(b) where a person performing duty in air traffic control has, by radio, directed that those rules are not to apply at that aerodrome; or

(c) where a right-handed arrow of conspicuous colour is displayed in the signal area or at the end of the runway or strip in use at that aerodrome.

(3) At an aerodrome at which a ground signal of the kind referred to in paragraph (2)(c) is displayed, aircraft, when landing and taking-off, as far as possible shall observe the rules specified in paragraphs (1)(a), (b) and (c) as if the references in those paragraphs to 'the right' were references to 'the left' and shall observe the rule specified in paragraph (1)(d) as if the reference in that paragraph to 'the left' was a reference to 'the right'.

169 Preventing collisions on water

(1) The pilot in command of an aircraft in flight, or in the process of manoeuvring near the surface of the water, must, as far as possible:

(a) keep clear of all vessels; and

(b) not impede their navigation.

Penalty: 25 penalty units.

(2) Subject to this regulation, the pilot in command of an aircraft on the water must comply with the International Regulations for Preventing Collisions at Sea as set out in Schedule 3 to the *Navigation Act 1912*.

Penalty: 25 penalty units.

(3) In conforming with the International Regulations for Preventing Collisions at Sea, the pilot in command of an aircraft must give due regard to the fact that in narrow channels stem vessels cannot manoeuvre to avoid collision, and must, as far as possible:

(a) keep clear of such vessels; and

(b) not impede their navigation.

Penalty: 25 penalty units.

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Regulation 169

(4) Notwithstanding anything contained in the International Regulations for Preventing Collisions at Sea, the pilot in command of an aircraft must observe the following rules with respect to other aircraft and vessels:

(a) when aircraft, or an aircraft and a vessel are approaching one another and there is a risk of collision, the aircraft shall proceed with careful regard to existing circumstances and conditions including the limitations of the respective craft;

(b) an aircraft which is converging with another aircraft or a vessel on its right shall give way so as to keep well clear of that aircraft or vessel;

(c) an aircraft approaching another aircraft or a vessel head-on, or approximately head-on, shall alter its heading to the right so as to keep well clear of that aircraft or vessel;

(d) an aircraft or vessel which is being overtaken has the right of way, and the one overtaking shall alter its heading to keep well clear of the aircraft or vessel being overtaken.

Penalty: 25 penalty units.

(5) At a water aerodrome which is a controlled aerodrome, the following additional rules shall apply:

(a) the pilot in command of an aircraft must not take off or alight if the alighting area:

(i) has not been swept; or

(ii) is not clear of floating debris dangerous to the navigation of the aircraft;

(b) the pilot in command of an aircraft shall ensure that operations are conducted on the swept part of a water aerodrome by commencing his or her take-off or landing run from such a position that the control launch is on his or her left at no greater distance than seventy-five yards.

Penalty: 25 penalty units.

(5A) Paragraph (5)(a) does not apply in an emergency to an aircraft landing in the safest part of the alighting area without delay.

(5B) An offence against subregulation (1), (2), (3), (4) or (5) is an offence of strict liability.

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

(6) At a water aerodrome which is a controlled aerodrome, the swept part of an alighting area shall be indicated by the control launch which shall take up position at the leeward and on the left side of the area and shall head into the direction of an aircraft taking-off or landing.

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Division 3—Visual flight rules

170 Interpretation

In this Division, ***flight level 200***, in relation to a time and place, means such a height above the ground or water that, if an aircraft were flying at that height at that time and place and had an altimeter adjusted to a reading on the sub-scale of 1013.2 millibars, the altimeter would show a height of 20,000 feet.

171 V.F.R. flight

(1) A flight conducted in accordance with the provisions of this Division is classed as a flight under the Visual Flight Rules.

(2) Where an aircraft cannot be flown in accordance with the Visual Flight Rules, the pilot in command shall comply with the Instrument Flight Rules contained in Division 4 of this Part or land at the nearest suitable aerodrome.

Penalty: 25 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*.

172 Flight visibility and distance from cloud

(1) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height of, or less than, 2 000 feet above ground or water if:

(a) the pilot is not able to navigate by reference to the ground or water; and

(b) CASA has not directed that the flight may be conducted at a height of 2 000 feet or less.

Penalty: 50 penalty units.

(2) Subject to subregulation (4), the pilot in command must not conduct a V.F.R. flight if:

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(a) the flight visibility during that flight is not equal to or greater than the applicable distance determined by CASA; and

(b) the vertical and horizontal distances from cloud are not equal to or greater than the applicable distances determined by CASA.

Penalty: 50 penalty units.

(2AA) 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*.

(2A) CASA may determine applicable distances for the purposes of subregulation (2).

(2B) CASA must notify the distances determined under subregulation (2A) in AIP or NOTAMS.

(3) When determining applicable distances, CASA may do so by reference to a class of airspace.

(4) In spite of subregulation (2), the pilot in command of an aircraft may conduct a special V.F.R. flight if:

(a) air traffic control gives permission for the flight; and

(b) the flight is conducted in accordance with any conditions to which the permission is subject.

(5) In this regulation:

special V.F.R. flight means a V.F.R. flight:

(a) conducted in a control zone; or

(b) conducted in a control area next to a control zone for the purpose of entering or leaving the zone;

when the flight visibility or distances from cloud are less than the applicable distances determined under subregulation (2).

173 Cruising level to be appropriate to magnetic track

(1) When a V.F.R. flight is conducted at a height of 5,000 feet or more above mean sea level, the pilot in command must, subject to any

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contrary air traffic control instructions, ensure that the cruising level of the aircraft is appropriate to its magnetic track.

Penalty: 25 penalty units.

(2) When a V.F.R. flight is conducted at a height less than 5,000 feet above mean sea level, the pilot in command must, subject to any contrary air traffic control instructions, ensure that the cruising level of the aircraft is, whenever practicable, appropriate to its magnetic track.

Penalty: 25 penalty units.

(2A) CASA must notify in AIP or NOTAMS the cruising levels appropriate to an aircraft's magnetic track.

(3) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height above flight level 200 if the pilot does not have CASA's approval to conduct the flight at a height above that level.

Penalty: 25 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*.

174 Determination of visibility for V.F.R. flights

(1) Flight visibility shall be determined by the pilot in command from the cockpit of the aircraft while in flight.

(3) Subject to regulation 257, the pilot in command of an aircraft operating under the Visual Flight Rules is responsible for determining the visibility for the take-off and landing of the aircraft.

(4) In determining visibility for the purposes of this regulation, the pilot in command shall take into account the meteorological conditions, sunglare and any other condition that may limit his or her effective vision through his or her windscreen.

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174A Equipment of aircraft for V.F.R. flight

(1AA) This regulation does not apply in relation to an aircraft that is registered in New Zealand and is operated under a New Zealand AOC with ANZA privileges.

(1) CASA may issue instructions specifying:

(a) the radiocommunication systems; or

(b) the radio navigation systems; or

(c) the secondary surveillance radar transponder equipment;

that must be carried on, or installed in, an aircraft before it undertakes a V.F.R. flight.

(1A) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. if the aircraft is not equipped with:

(a) suitable flight instruments as directed by CASA; and

(b) the equipment specified in instructions issued under subregulation (1) in relation to the aircraft.

Penalty: 25 penalty units.

(1B) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:

(a) served on the person; or

(b) published in NOTAMS or AIP.

(2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. at night if, in addition to the equipment referred to in subregulation (1A), it is not also equipped with:

(a) a landing light;

(b) illumination for all instruments and equipment used by the flight crew, being instruments and equipment that are essential for the safe operation of the aircraft;

(c) lights in all passenger compartments;

(d) an electric torch for each crew member; and

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(e) such other equipment as CASA directs in the interests of safety.

Penalty: 25 penalty units.

(3) In respect of an aircraft that is not equipped as referred to in subregulation (1A), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown under the V.F.R.

(4) In respect of an aircraft that is not equipped as referred to in subregulation (2), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown at night under the V.F.R.

(5) The pilot in command of an aircraft must not fly the aircraft in contravention of a condition of a permission given under this regulation.

Penalty: 25 penalty units.

(6) An offence against subregulation (1A), (2) or (5) is an offence of strict liability.

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

174B V.F.R. flights at night

(1) The pilot in command of an aircraft must not fly the aircraft at night under the V.F.R. at a height of less than 1 000 feet above the highest obstacle located within 10 miles of the aircraft in flight if it is not necessary for take-off or landing.

Penalty: 25 penalty units.

(2) The pilot in command of a single engine aircraft must not fly the aircraft at night under the V.F.R. if the flight is not in one of the following operations:

(a) private operations;

(b) aerial work operations;

(c) charter operations that do not involve the carrying of passengers for hire or reward;

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(d) charter operations that involve the carrying of passengers for hire or reward, if:

(i) the operator is approved in writing by CASA to conduct the operations; and

(ii) the operations are conducted in a turbine powered aeroplane approved in writing by CASA for those operations.

Penalty: 25 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*.

(4) It is a defence to a prosecution under subregulation (1) if CASA gave permission for the flight.

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

174D Navigation of aircraft on V.F.R. flight

(1) CASA may issue instructions in relation to V.F.R. flights specifying:

(a) the method by which an aircraft is to be navigated; or

(b) how a positive position fix for an aircraft is to be obtained; or

(c) how often a positive position fix is to be obtained.

(2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. if it is not equipped:

(a) for navigation; and

(b) to obtain positive position fixes;

in accordance with instructions issued under subregulation (1).

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*.

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(3) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:

(a) served on the person; or

(b) published in NOTAMS or AIP.

(4) CASA may give permission, subject to the conditions specified in the permission, for an aircraft to be flown under the V.F.R. if the aircraft is not equipped as required under subregulation (2).

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Division 4—Instrument flight rules

175 I.F.R. flight

(1) A flight conducted in accordance with the provisions of this Division is classed as a flight under the Instrument Flight Rules.

(2) Subject to subregulation (3), the pilot in command of an aircraft that is flying in weather conditions other than V.M.C. must comply with the I.F.R.

Penalty: 25 penalty units.

(3) Subregulation (2) does not apply to a pilot in command of an aircraft that is flying for the purpose of landing at the nearest suitable aerodrome under subregulation 171(2).

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

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

175A Restriction on I.F.R. flights by single engine aircraft

(1) The pilot in command of a single engine aircraft must not fly the aircraft under the I.F.R. if the flight is not in one of the following operations:

(a) private operations;

(b) aerial work operations;

(c) charter operations that do not involve the carrying of passengers for hire or reward;

(d) charter or regular public transport operations that involve the carrying of passengers for hire or reward, if:

(i) the operator is approved in writing by CASA to conduct the operations; and

(ii) the operations are conducted in a turbine powered aeroplane approved in writing by CASA for those operations.

Penalty: 25 penalty units.

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(2) CASA may issue directions to an operator to ensure that any of the following matters do not affect the safety of a regular public transport operation to which paragraph (1)(d) refers:

(a) seasonal influences;

(b) the conduct of operations by night;

(c) adverse weather patterns;

(d) the terrain below, or in the proximity of, the route used in the operation.

(3) An operator who is bound by a direction must not contravene it.

Penalty: 10 penalty units.

(4) A direction under subregulation (2) does not bind an operator until it is served on the operator.

(5) 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*.

176A Determination of visibility and cloud base for I.F.R. flights

(1) Subject to regulation 257, the pilot in command of an aircraft operating under the Instrument Flight Rules is responsible for determining the visibility and cloud base for the take-off and landing of the aircraft.

(2) In determining visibility, the pilot in command of an aircraft must take into account the meteorological conditions, sunglare and any other condition that may limit his or her effective vision through the windscreen of the cockpit of the aircraft.

(3) In determining the cloud base, the pilot in command of an aircraft must:

(a) for take-off—take into account the current available weather forecasts and reports; and

(b) for landing—determine the cloud base from the cockpit of the aircraft while in flight.

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177 Equipment of aircraft for I.F.R. flight

(1AA) This regulation does not apply in relation to an aircraft that is registered in New Zealand and is operated under a New Zealand AOC with ANZA privileges.

(1) CASA may issue instructions specifying:

(a) the radiocommunication systems; or

(b) the radio navigation systems; or

(c) the secondary surveillance radar transponder equipment; or

(d) the airborne weather radar system; or

(e) the self-contained or long-range radio navigation systems;

that must be carried on, or installed in, an aircraft before it undertakes an I.F.R. flight.

(1A) Subject to subregulation (3), an aircraft must not be flown under the I.F.R. unless it is equipped with:

(a) suitable flight instruments as required by CASA; and

(b) the equipment specified under subregulation (1) in relation to the aircraft.

(1B) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:

(a) served on the person; or

(b) published in NOTAMS or AIP.

(2) Subject to subregulation (4), an aircraft shall not be flown under the Instrument Flight Rules by night, unless, in addition to the equipment referred to in subregulation (1A), it is equipped with:

(a) 2 landing lights;

(b) illumination for all instruments and equipment, used by the flight crew, that are essential for the safe operation of the aircraft;

(c) lights in all passenger compartments;

(d) an electric torch for each crew member; and

(e) such other equipment as CASA requires in the interest of safety.

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(3) In respect of an aircraft that is not equipped as referred to in subregulation (1A), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown under the I.F.R.

(4) In respect of an aircraft that is not equipped as referred to in subregulation (2), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown at night under the I.F.R.

(5) The pilot in command of an aircraft to which subregulation (3) or (4) applies must not fly the aircraft in contravention of a condition specified in the permission.

Penalty: 25 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*.

178 Minimum height for flight under I.F.R.

(1) Subject to subregulation (4), the pilot in command of an aircraft flown along a route segment for which there is a published lowest safe altitude must not fly the aircraft at a height lower than the published lowest safe altitude.

Penalty: 50 penalty units.

(2) Subject to subregulation (4), the pilot in command of an aircraft flown along a route segment for which there is no published lowest safe altitude must not fly the aircraft at a height lower than the lowest safe altitude calculated in accordance with a method for determining a lowest safe altitude that is determined by CASA under subregulation (6).

Penalty: 50 penalty units.

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

(4) An aircraft may be flown along a route segment at a height less than the height that is applicable under subregulation (1) or (2):

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(a) during take-off or landing; or
(b) during arrival or departure, if the aircraft is being flown:
(i) at a safe height above the terrain; and
(ii) in accordance with any instructions published in AIP; or
(c) during an authorised instrument departure procedure or authorised instrument approach procedure; or
(d) if the aircraft is being flown by day in V.M.C.; or
(e) if the aircraft is being flown in accordance with instructions from air traffic control.

(5) This regulation has effect subject to regulation 157.

(6) For the purposes of these Regulations, CASA may, in writing, determine any or all of the following:
(a) a method of calculating a lowest safe altitude;
(b) an instrument approach procedure;
(c) an instrument departure procedure.

(7) In this regulation:

arrival means the time during which an aircraft is descending for a landing at a rate that is reasonable under the circumstances.

authorised instrument approach procedure means an instrument approach procedure that:
(a) either:
(i) is designed by a certified designer or authorised designer; and
(ii) is published in the AIP or given to CASA under Part 173 of CASR; or
(b) is determined by CASA under subregulation (6).

authorised instrument departure procedure means an instrument departure procedure that:
(a) either:
(i) is designed by a certified designer or authorised designer; and
(ii) is published in the AIP or given to CASA under Part 173 of CASR; or

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(b) is determined by CASA under subregulation (6).

departure means the time during which an aircraft is climbing after take-off at a rate that is reasonable under the circumstances.

published lowest safe altitude means a lowest safe altitude that:

(a) is calculated in accordance with a method determined by CASA under subregulation (6); and

(b) is published in the AIP or NOTAMS.

179 Authorised instrument approach procedures to be used

(1) The pilot in command of an aircraft when conducting an I.F.R. flight must follow the authorised instrument approach procedures (within the meaning of regulation 178) for the aerodromes used.

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) It is a defence to a prosecution under subregulation (1) if air traffic control authorised the pilot not to follow the instrument approach procedures for the aerodrome.

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

179A Navigation of aircraft on I.F.R. flight

(1) CASA may issue instructions in relation to I.F.R. flights specifying:

(a) the method by which an aircraft is to be navigated; or

(b) how a positive position fix for an aircraft is to be obtained; or

(c) how often a positive position fix is to be obtained.

(2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the I.F.R. if it is not equipped:

(a) for navigation; and

(b) to obtain positive position fixes;

in accordance with instructions issued under subregulation (1).

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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) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:

(a) served on the person; or

(b) published in NOTAMS or AIP.

(4) CASA may give permission, subject to the conditions specified in the permission, for an aircraft to be flown under the I.F.R. if the aircraft is not equipped as required under subregulation (2).

180 Cruising levels for I.F.R. flights

(1) The pilot in command of an aircraft being flown under the I.F.R. must fly the aircraft:

(a) within controlled airspace—at a cruising level authorised for the flight by air traffic control; or

(b) outside controlled airspace—at a cruising level appropriate to its magnetic track as notified by CASA in Aeronautical Information Publications.

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*.

181 Flight procedure for I.F.R. flight where cruising level cannot be maintained

(1) If an aircraft conducting an I.F.R. flight is unable for any reason to comply with the requirements of paragraph 180(b), the pilot in command shall:

(a) notify air traffic control of the cruising level at which the aircraft is flying and of all subsequent changes of that level; and

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(b) in the event of the risk of a collision with another aircraft which is complying with that regulation, give way to that aircraft or fly at a cruising level authorised by that regulation until the other aircraft is past and clear.

Penalty: 10 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*.

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Division 5—Operations in RVSM airspace

Subdivision 1—Preliminary

181A What this Division does

This Division sets out the requirements for getting an RVSM airworthiness approval or an RVSM operational approval and provides for the administrative control of such approvals.

181B Definitions for this Division

In this Division:

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

181C What is an RVSM airworthiness approval?

An RVSM airworthiness approval is an approval given, under regulation 181G, for an Australian aircraft indicating that it is suitable to be operated in RVSM airspace.

181D What is an RVSM foreign airworthiness approval?

An RVSM foreign airworthiness approval is an approval (however described) given for a foreign aircraft by the competent authority of the country in which the aircraft is registered indicating that the aircraft is suitable to be operated in RVSM airspace.

181E What is an RVSM operational approval?

An RVSM operational approval is an approval given, under regulation 181M, to an Australian operator approving the operator to operate the aircraft covered by the approval in RVSM airspace.

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Subdivision 2—RVSM airworthiness approvals

181F Application for RVSM airworthiness approval

(1) The operator of an Australian aircraft may apply to CASA for an RVSM airworthiness approval for the aircraft.

(2) An application must be in writing and must be accompanied by:
  (a) documents that identify the aircraft; and
  (b) enough information to show that the aircraft is equipped with the following:
    (i) 2 independent altitude measurement systems;
    (ii) a secondary surveillance radar transponder that has an altitude-reporting system that can be switched to operate from either of the altitude measurement systems;
    (iii) an altitude alert system;
    (iv) an automatic altitude control system; and
  (c) enough information to show that the equipment mentioned in paragraph (b) meets the requirements of ICAO Doc. 9574-AN/934; and
  (d) enough information to show that the aircraft is of a type that meets the requirements of ICAO Doc. 9574-AN/934.

181G RVSM airworthiness approval

(1) CASA must approve an application for an RVSM airworthiness approval for an Australian aircraft if:
  (a) the aircraft is equipped with the equipment mentioned in paragraph 181F(2)(b); and
  (b) the equipment meets the requirements of ICAO Doc. 9574-AN/934; and
  (c) the aircraft is of a type that meets the requirements of ICAO Doc. 9574-AN/934.

(2) CASA must give the applicant written notice setting out:
  (a) its decision about the applicant's application; and
  (b) any other information CASA thinks should be included.

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Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181H How long RVSM airworthiness approvals remain in force

(1) An RVSM airworthiness approval remains in force until it is cancelled.

(2) However, an RVSM airworthiness approval is not in force during any period of suspension.

181I Notice to RVSM airworthiness approval holder to show cause

(1) CASA may give the holder of an RVSM airworthiness approval a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the cancellation of the approval under regulation 181J.

(2) A show cause notice must:
   (a) tell the holder of the facts and circumstances that, in CASA's opinion, would justify the cancellation of the approval under regulation 181J; and
   (b) invite the holder to show in writing, within a reasonable time stated in the notice, why the approval should not be cancelled.

(3) A show cause notice may state that the approval is suspended if CASA reasonably considers that there may be a serious risk to aviation safety if the approval were not suspended.

(4) If a show cause notice states that the approval is suspended, the approval is suspended from when the notice is given to the holder.

(5) CASA may at any time revoke the suspension.

(6) If the approval is suspended and CASA has not dealt with it under regulation 181J within the period of 90 days after the day it is suspended, the suspension lapses at the end of that period.

Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

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181J Cancellation of RVSM airworthiness approval

(1) CASA may cancel an RVSM airworthiness approval by written notice given to its holder if:

(a) CASA has given the holder a show cause notice under regulation 181I in relation to it; and

(b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and

(c) there are reasonable grounds for believing that the aircraft covered by the approval:

(i) does not meet, or continue to meet, a requirement of this Division for the approval; or

(ii) is no longer capable of being operated safely in RVSM airspace because of inaccurate or unreliable height-keeping caused by the failure, or malfunctioning, of any of the aircraft's equipment mentioned in paragraph 181F(2)(b).

(2) If CASA has given a show cause notice under regulation 181I to the holder of an RVSM airworthiness approval and it decides not to cancel the approval, it:

(a) must tell the holder in writing of the decision; and

(b) must, if the approval is suspended under that regulation, revoke the suspension.

Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

Subdivision 3—RVSM operational approvals

181L Application for RVSM operational approval

(1) An Australian operator may apply to CASA for an RVSM operational approval.

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

(a) a list of the RVSM airworthiness approved aircraft that are proposed to be covered by the approval; and

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(b) a written description of the program proposed by the applicant to ensure the continued airworthiness for operations in RVSM airspace of the aircraft while they are used in those operations; and

(c) a written description of the training program proposed by the applicant for the members of the applicant's flight crew who will carry out operations in RVSM airspace.

181M RVSM operational approval

(1) CASA must approve an application for an RVSM operational approval if:

(a) each aircraft to be covered by the approval is an RVSM airworthiness approved aircraft; and

(b) the applicant has a program for the continued airworthiness for operations in RVSM airspace of the aircraft to ensure that they will continue to meet the requirements of ICAO Doc. 9574-AN/934 while they are used in those operations; and

(c) the applicant has a training program for the members of the flight crew of the aircraft to ensure that the members are adequately trained to carry out operations in RVSM airspace.

Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181N How long RVSM operational approvals remain in force

(1) An RVSM operational approval remains in force until it is cancelled.

(2) However, an RVSM operational approval is not in force during any period of suspension.

181O Notice to RVSM operational approval holder to show cause

(1) CASA may give the holder of an RVSM operational approval a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the cancellation of the approval under regulation 181P.

(2) A show cause notice must:

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(a) tell the holder of the facts and circumstances that, in CASA's opinion, would justify the cancellation of the approval under regulation 181P; and

(b) invite the holder to show in writing, within a reasonable time stated in the notice, why the approval should not be cancelled.

(3) A show cause notice may state that the approval is suspended if CASA reasonably considers that there may be a serious risk to aviation safety if the approval were not suspended.

(4) If a show cause notice states that the approval is suspended, the approval is suspended from when the notice is given to the holder.

(5) CASA may at any time revoke the suspension.

(6) If the approval is suspended and CASA has not dealt with it under regulation 181P within the period of 90 days after the day it is suspended, the suspension lapses at the end of that period.

Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181P Cancellation of RVSM operational approval

(1) CASA may cancel an RVSM operational approval by written notice given to its holder if:

(a) CASA has given the holder a show cause notice under regulation 181O in relation to it; and

(b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and

(c) there are reasonable grounds for believing that the holder:

(i) has contravened regulation 181S, 181T, 181U or 181V; or

(ii) does not meet, or continue to meet, a requirement of this Division for getting the approval; or

(iii) is no longer able to operate an aircraft covered by the approval safely in RVSM airspace because of inaccurate or unreliable height-keeping caused by the failure, or

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malfunctioning, of any of the aircraft's equipment mentioned in paragraph 181F(2)(b); or

(iv) is no longer able to carry out operations in RVSM airspace safely because of inaccurate or unreliable height-keeping by members of the holder's flight crew during those operations.

(2) If CASA has given a show cause notice under regulation 181O to the holder of an RVSM operational approval and it decides not to cancel the approval, it:

(a) must tell the holder in writing of the decision; and

(b) must, if the approval is suspended under that regulation, revoke the suspension.

Note: Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181Q Removal of aircraft from RVSM operational approval—cancellation of airworthiness approval

(1) In this regulation:

airworthiness approval means:

(a) an RVSM airworthiness approval; or

(b) an RVSM foreign airworthiness approval.

(2) If an RVSM operational approval covers an aircraft whose airworthiness approval is cancelled by the issuing authority, CASA:

(a) must cancel the RVSM operational approval; and

(b) must (unless the airworthiness approvals of all the aircraft covered by the RVSM operational approval are cancelled) give a new RVSM operational approval covering the remaining aircraft.

(3) A new RVSM operational approval given under paragraph (2)(b) takes effect on the cancellation of the replaced RVSM operational approval.

(4) If CASA cancels an RVSM operational approval under paragraph (2)(a), it:

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(a) must give written notice of the cancellation, setting out the date of the cancellation, to the holder of the approval; and

(b) must, if it replaces the approval under paragraph (2)(b), include in the notice a statement to that effect.

181QA Removal of aircraft from RVSM operational approval—holder ceasing to operate aircraft

(1) If the holder of an RVSM operational approval ceases to be the operator of an aircraft covered by the RVSM operational approval, the holder must tell CASA, in writing, as soon as practicable.

(2) After receiving information under subregulation (1), CASA:

(a) must cancel the RVSM operational approval; and

(b) must (unless no other aircraft are covered by the RVSM operational approval) give a new RVSM operational approval covering the remaining aircraft.

(3) CASA must give the holder written notice of the cancellation, and the new approval (if any), setting out:

(a) the date of the cancellation; and

(b) any other information CASA thinks should be included.

(4) A new RVSM operational approval given under paragraph (2)(b) takes effect on the cancellation of the replaced RVSM operational approval.

181S Requirements of Australian operator using Australian aircraft

The holder of an RVSM operational approval must not permit an Australian aircraft used by the holder to begin a flight during which the aircraft may fly in RVSM airspace unless:

(a) the approval covers the aircraft; and

(b) an RVSM airworthiness approval is in force for the aircraft; and

(c) the aircraft is equipped with the equipment mentioned in paragraph 181F(2)(b); and

(d) the equipment is functioning properly; and

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(e) each member of the flight crew of the aircraft has satisfactorily completed the training program mentioned in paragraph 181M(1)(c).

181T Requirements of Australian operator using foreign aircraft

The holder of an RVSM operational approval must not permit a foreign aircraft used by the holder to fly into Australian territory on a flight, or begin a flight in Australian territory, during which the aircraft may fly in RVSM airspace over Australian territory unless:

(a) the approval covers the aircraft; and

(b) an RVSM foreign airworthiness approval is in force for the aircraft; and

(c) the aircraft is equipped with the equipment mentioned in paragraph 181F(2)(b); and

(d) the equipment is functioning properly; and

(e) each member of the flight crew of the aircraft has satisfactorily completed the training program mentioned in paragraph 181M(1)(c).

181U Monitoring height-keeping

The holder of an RVSM operational approval must comply with the requirements for monitoring height-keeping in RVSM operations mentioned in the RVSM Minimum Monitoring Requirements issued by the Australian Airspace Monitoring Agency, as in force from time to time.

Note: The RVSM Minimum Monitoring Requirements are available from Airservices Australia's website (www.airservicesaustralia.com).

181V Telling CASA about cancellation of RVSM foreign airworthiness approval

If the RVSM foreign airworthiness approval of a foreign aircraft used by an Australian operator is cancelled by the issuing authority, the operator must tell CASA in writing as soon as practicable.

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Subdivision 4—Miscellaneous

181X New registration marks

If an RVSM airworthiness approval or RVSM operational approval identifies an Australian aircraft by reference to a registration mark (the ***old registration mark***) that has been replaced with a new registration mark, the reference in the approval to the old registration mark is taken to be a reference to the new registration mark.

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Part 13—Signals for the control of air traffic

Division 1—Aerodrome traffic

182 Use of prescribed signals

(1) A person must not use a signal prescribed in this Part for a purpose that is not the purpose prescribed in this Part for that signal.

Penalty: 25 penalty units.

(2) A person must not use a signal that is:
(a) not prescribed in this Part; and
(b) likely to be confused with a signal prescribed in this Part.

Penalty: 25 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*.

183 Responsibility for complying with this Part

(1) The pilot in command of an aircraft being operated on or in the vicinity of an aerodrome shall comply with signals and instructions given in accordance with this Part and with the rules and other provisions contained in this Part.

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*.

184 Two-way radiotelephony communication

(1) Where aerodromes are equipped with two-way radiotelephony apparatus, air traffic control shall give control instructions by this means to all aircraft equipped to receive radiotelephony messages.

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(2) All such communication between aircraft and air traffic control shall be in the English language:

Provided that:

(a) when authorised by CASA in exceptional cases and if air traffic control personnel are available who can intelligibly speak both the English language and the other language concerned; or

(b) when the owner or operator of the aircraft has furnished properly qualified personnel who can intelligibly speak both the English language and the language concerned and they are available to assist air traffic control in communicating with the aircraft;

the communications may be made in the language concerned.

185 Visual signals

(1) Where control by the means referred to in regulation 184 is not available, the appropriate visual signals prescribed by this Part may be used.

(2) Nothing in this regulation shall prevent any combination of radiotelephony signals and visual signals being used at any aerodrome, but a visual signal shall not be used in any case where it is possible to use radiotelephony.

186 Pilot in command to maintain look out for visual signals

Where radio communication is being used, the pilot in command of an aircraft shall not thereby be relieved of the responsibility of keeping a look out for any instructions which may be issued by visual means.

187 Light signals

(1) A light signal directed at a particular aircraft from air traffic control at an aerodrome has, both by day and by night, the meaning specified in relation to the signal in Aeronautical Information Publications.

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(2) Light signals directed from an aircraft to air traffic control at an aerodrome have the following meaning:

(a) a green light (made by signalling apparatus or pyrotechnics, but not by navigation lights) means:

(i) by day—that the aircraft wishes to land in other than the direction authorised; and

(ii) by night—that the aircraft wishes to land, although not compelled to do so;

(b) a steady white light directed downward until the landing is made means—acknowledgment of permission to land.

188 Pyrotechnic signals

A pyrotechnic signal made by air traffic control at an aerodrome has the meaning specified in relation to the signal in Aeronautical Information Publications.

189 Ground signals

When displayed at an aerodrome, ground signals shall take the form, and for all aircraft shall have the meaning, specified, in relation to the signal, in Aeronautical Information Publications.

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Division 2—Special signals relating to danger areas, prohibited areas and restricted areas

190 Warning signal

For the purpose of warning an aircraft that it is in the vicinity of a danger area, a prohibited area or a restricted area and should take remedial action, the signal used shall be, by day or by night, a series of projectiles, discharged at intervals of 10 seconds each, showing, on bursting, red and green lights or stars.

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Division 3—Emergency signals

191 Transmission of signals

(1) The pilot in command of an aircraft shall transmit or display the signals specified in this Division according to the degree of emergency being experienced.

(2) The signals specified in relation to each successive degree of emergency may be sent either separately or together for any one degree of emergency.

(3) Nothing in the rules contained in this Division shall prevent the use by an aircraft in distress of any means at its disposal to attract attention or make known its position for the purpose of obtaining help.

192 Distress signals

(1) The distress signal shall be transmitted only when the aircraft is threatened with grave and immediate danger and requires immediate assistance.

(2) In radio telegraphy, the distress signal shall take the form of SOS (... — — —...), sent 3 times, followed by the group DE, sent once, and the call sign of the aircraft, sent 3 times.

(3) The signal specified in subregulation (2) may be followed by the automatic alarm signal which consists of a series of 12 dashes, sent in one minute, the duration of each dash being 4 seconds, and the duration of the interval between consecutive dashes being one second.

(4) In radiotelephony, the distress signal shall take the form of the word ‘MAYDAY’, pronounced 3 times, followed by the words ‘THIS IS’, followed by the call sign of the aircraft 3 times.

(5) By other means the distress signal shall take one or more of the following forms:

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(a) the Morse signal ... — — —... with visual apparatus or with sound apparatus;
(b) a succession of pyrotechnical lights, fired at short intervals, each showing a single red light;
(c) the two-flag signal corresponding to the letters NC of the International Code of Signals;
(d) the distant signal, consisting of a square flag having, either above or below, a ball or anything resembling a ball;
(e) a parachute flare showing a red light;
(f) a gun or other explosive signal fired at intervals of approximately one minute.

193 Urgency signals

(1) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice of difficulties which compel it to land without requiring immediate assistance:
(a) the repeated switching on and off of the landing lights;
(b) the repeated switching on and off of the navigation lights, in such a manner as to be distinctive from the flashing lights described in subregulation 196(2);
(c) a succession of white pyrotechnical lights.

(2) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice that the aircraft has a very urgent message to transmit concerning the safety of a ship, aircraft or vehicle, or of some person on board or within sight:
(a) in radiotelegraphy, 3 repetitions of the group XXX (— .. — — .. — — .. —), sent with the letters of each group, and the successive groups clearly separated from each other, and sent before the transmission of the message;
(b) in radiotelephony, 3 repetitions of the words PAN, PAN, sent before the transmission of the message;
(c) a succession of green pyrotechnical lights;
(d) a succession of green flashes with signal apparatus.

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194 Safety signal

(1) The safety signal shall be transmitted when an aircraft wishes to transmit a message concerning the safety of navigation or to give important meteorological warnings.

(2) The safety signal shall be sent before the call and:

(a) in the case of radiotelegraphy shall consist of 3 repetitions of the group TTT (— — —), sent with the letters of each group and the successive groups clearly separated from each other; and

(b) in the case of radiotelephony shall consist of the word ‘SECURITY’, repeated 3 times.

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Division 4—Lights to be displayed by aircraft and lights and markings to be displayed on mooring cables

195 Compliance with rules about lights

(1) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must comply with the rules in this Part requiring lights to be displayed in relation to the aircraft.

Penalty: 25 penalty units.

(2) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must not allow to be displayed other lights that are likely to be mistaken for the lights required to be displayed under this Part.

Penalty: 25 penalty units.

(3) The operator and the pilot in command of an aircraft must ensure that the lights displayed are not dazzling.

Penalty: 25 penalty units.

(4) If a light, which the rules of this Part require to be displayed by an aircraft in flight, fails and the light cannot be repaired immediately, the pilot in command of the aircraft must:
(a) notify air traffic control immediately; or
(b) if this is not possible, land the aircraft as soon as it can be landed without danger.

Penalty: 25 penalty units.

(5) An offence against subregulation (1), (2), (3) or (4) is an offence of strict liability.

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

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196 Aeroplanes in flight or on the manoeuvring area of land aerodromes

(1A) The operator and the pilot in command of an aeroplane in flight, or operating on the manoeuvring area of a land aerodrome, must ensure that the lights required by this regulation to be displayed on the aeroplane are so displayed.

Penalty: 25 penalty units.

(1) Unless CASA otherwise directs, an aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display the following navigation lights:

(a) an unobstructed red light projected above and below the horizontal plane through an angle from dead ahead to 110° port;

(b) an unobstructed green light projected above and below the horizontal plane through an angle from dead ahead to 110° starboard; and

(c) an unobstructed white light projecting above and below the horizontal plane rearward through an angle of 140°, equally distributed on the port and starboard sides.

(2) Unless CASA otherwise directs, navigation lights shall be steady lights.

(3) Unless CASA otherwise directs, an aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display, in addition to the navigation lights, an anti-collision light consisting of a flashing red light visible in all directions within 30 degrees above and 30 degrees below the horizontal plane of the aeroplane.

(4) Where the lights are flashing lights, the aircraft:

(a) shall display an additional flashing white light visible in all directions; and

(b) may display an additional flashing red rear light;

in accordance with such requirements as CASA, having regard to Annex 8 of the Convention, specifies in Civil Aviation Orders.

(5) The colour specifications and minimum and maximum intensities of the navigation lights and the anti-collision light shall be such as

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CASA, having regard to Annex 8 of the Convention, specifies in Civil Aviation Orders.

(6) Unless CASA otherwise directs, wing-tip clearance lights comprising steady lights of the appropriate colours must be displayed if the distance of the navigation lights from the wing-tip is more than 2 metres.

(7) A person may park an aircraft on, or adjacent to, the movement area of an aerodrome used or available for use in night flying operations only if:

(a) the aircraft is clearly illuminated or lighted; or

(b) the area that it occupies is marked by obstruction lights.

Penalty: 25 penalty units.

(8) An offence against subregulation (1A) or (7) is an offence of strict liability.

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

(9) It is a defence to a prosecution under subregulation (1A) if CASA directed lighting otherwise than as required by this regulation and the defendant used that lighting.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3(3) of the *Criminal Code*).

197 Aeroplanes under way on the surface of water

(1A) The pilot in command of an aeroplane on the surface of the water must display lights on the aeroplane in accordance with this regulation.

Penalty: 25 penalty units.

(1) An aeroplane, when under way on the surface of the water shall display steady lights being:

(a) the lights specified in subregulation 196(1); and

(b) a white light visible forward throughout a dihedral angle of 220° bisected by a vertical plane through the longitudinal axis of the aeroplane and visible at a distance of at least 6 kilometres.

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(2) When towing another aircraft or vessel, an aeroplane shall display:

(a) the lights specified in subregulation (1); and

(b) a second steady white light of the same construction and character as the light specified in paragraph (1)(b) placed not less than 2 metres vertically above or below that light.

(3) When being towed an aeroplane shall display only the lights specified in subregulation 196(1).

(4) The pilot in command of an aeroplane on the surface of the water must ensure that, when the aeroplane is no longer under command, it displays:

(a) the lights specified in subregulation (1) or, when not making way, the lights specified in that subregulation other than the red and green lights specified in paragraphs 196(1)(a) and (b); and

(b) two steady red lights placed where they can best be seen, one vertically over the other and not less than 1 metre apart and visible at a distance of at least 4,000 metres.

Penalty: 25 penalty units.

(5) An offence against subregulation (1A) or (4) is an offence of strict liability.

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

198 Aeroplanes at anchor or moored on the surface of water

(1) A person who anchors or moors an aeroplane on the surface of the water must ensure that the aeroplane displays:

(a) if the aeroplane is less than 50 metres in length—a steady white light, where it can best be seen, visible all round the horizon at a distance of at least 4,000 metres;

(b) if the aeroplane is 50 metres or more in length—a steady white forward light and a steady white rear light, where they can best be seen, both visible all round the horizon at a distance of at least 6 kilometres; and

(c) if the aeroplane is 50 metres or more in span—a steady white light on each side to demarcate the maximum span and

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visible, as far as practicable, all round the horizon at a distance of at least 2,000 metres.

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*.

199 Aeroplanes aground on the surface of the water

(1) The pilot in command of an aeroplane must not allow the aeroplane to be on the surface of the water and aground if the aeroplane is not displaying:

(a) the appropriate lights specified in regulation 198; and

(b) 2 steady red lights in a vertical red line not less than 1 metre apart, placed so as to be visible all round the horizon.

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*.

200 Gliders

(1) In all circumstances in which the rules of this Division require an aeroplane to display lights, a person who flies or operates a glider must ensure that the glider displays a red light visible, as far as practicable, in all directions.

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*.

203 Airships

(1) CASA may give directions in writing specifying the lights that must be displayed in relation to an airship.

(2) If CASA gives a direction under subregulation (1) to a person, the person must comply with the direction.

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Penalty: 25 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*.

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Part 14—Air service operations

Division 1A—AOCs with ANZA privileges

205 Additional conditions—Australian AOC with ANZA privileges

(1) For paragraph 28B(1)(e) of the Act, it is a condition for the issue of an Australian AOC with ANZA privileges that CASA must be satisfied that each aeroplane that the applicant proposes to operate under the AOC for ANZA activities in New Zealand complies with the requirements mentioned in subregulation (3).

(2) For paragraph 28BA(1)(b) of the Act, it is a condition of an Australian AOC with ANZA privileges that each aeroplane operated by the AOC holder under the AOC for ANZA activities in New Zealand must comply with the requirements mentioned in subregulation (3).

(3) For subregulations (1) and (2), the requirements are that the aeroplane must:

(a) either:

(i) have a maximum take-off weight of more than 15 000 kg; or

(ii) be permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats; and

(b) be registered in Australia or New Zealand.

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Division 1—General

206 Commercial purposes (Act, s 27(9))

(1) For the purposes of subsection 27(9) of the Act, the following commercial purposes are prescribed:

(a) aerial work purposes, being purposes of the following kinds (except when carried out by means of an RPA):

(i) aerial surveying;

(ii) aerial spotting;

(iii) agricultural operations;

(iv) aerial photography;

(v) advertising;

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

(vii) ambulance functions;

(viii) carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);

(ix) any other purpose that is substantially similar to any of those specified in subparagraphs (i) to (vii) (inclusive);

(b) charter purposes, being purposes of the following kinds:

(i) the carriage of passengers or cargo for hire or reward to or from any place, other than carriage in accordance with fixed schedules to and from fixed terminals;

(ii) the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally;

(c) the purpose of transporting persons generally, or transporting cargo for persons generally, for hire or reward in accordance with fixed schedules to and from fixed terminals over

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specific routes with or without intermediate stopping places between terminals.

(1A) However, the commercial purposes prescribed by subregulation (1) do not include:

(a) for a limited category aircraft:

(i) the conduct of an adventure flight; or

(ii) practice in flying the aircraft conducted in support of a special purpose operation mentioned in the aircraft's limited category certificate; or

(iii) training conducted in support of a special purpose operation mentioned in the certificate; or

(b) carrying out an activity under paragraph 262AP(2)(c) (experimental aircraft—operating limitations).

207 Requirements according to operations on which Australian aircraft used

(1) A person must not use an Australian aircraft in a class of operation if CASA has not authorised and approved the particular type of aircraft for that use.

Penalty: 50 penalty units.

(2) A person must not use an Australian aircraft in a class of operation if the aircraft is not:

(a) fitted with instruments; and

(b) fitted with, or carrying, equipment, including emergency equipment;

that CASA has approved and directed.

Penalty: 50 penalty units.

(3) Where CASA approves or directs that an instrument or item of equipment be fitted or carried on an aircraft, a person must fit, carry or use the instrument or item of equipment on the aircraft only in accordance with the directions (if any) of CASA.

Penalty: 50 penalty units.

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(4) In giving an authorisation, approval or direction for the purposes of this regulation, CASA shall have regard only to the safety of air navigation.

(5) 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*.

208 Number of operating crew

(1) The operator of an Australian aircraft must ensure that the minimum operating crew of the aircraft is not less in number than that specified in the certificate of airworthiness of, or the flight manual for, the aircraft, and that it is supplemented by such additional operating crew members, having such qualifications, as CASA considers necessary and directs, 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*.

209 Private operations

(1) The operator and the pilot in command of an aircraft engaged in private operations shall comply with the provisions of these Regulations and such additional conditions as CASA from time to time directs in the interest of safety.

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*.

210A Flight time limitations

(1) CASA may, in writing, give directions to a licence holder or an aircraft operator about any of the following:

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(a) the number of hours that a licence holder may fly in any period as a member of the flight crew of an aircraft;
(b) the length of each tour of duty undertaken by a licence holder;
(c) the length of reserve time for a licence holder;
(d) the rest periods that must be taken by a licence holder;
(e) the circumstances in which a licence holder must not:
(i) fly as a member of the flight crew of an aircraft; or
(ii) perform any other duty associated with his or her employment.

(2) CASA may, in writing, give directions to an aircraft operator about the circumstances in which an operator must not require a licence holder:
(a) to fly as a member of the flight crew of an aircraft; or
(b) perform any other duty associated with the holder's employment.

(3) A person commits an offence if:
(a) CASA gives the person a direction under subregulation (1) or (2); and
(b) the person does not comply with the direction.

Penalty: 50 penalty units.

(4) An offence against this regulation is an offence of strict liability.

(5) In this regulation:

licence holder means the holder of:
(a) a flight crew licence, rating or endorsement; or
(b) a certificate of validation; or
(c) any of the following within the meaning of subregulation 5.01 (1):
(i) a balloon class endorsement;
(ii) a balloon flight crew rating;
(iii) a CAR certificate of validation;
(iv) a commercial (balloon) pilot licence;
(v) a flight radiotelephone operator licence.

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reserve time means a period during which a flight crew member is required by an operator to hold himself or herself available for a tour of duty.

rest period means a period of time during which a flight crew member is relieved by an operator of all duties associated with his or her employment.

210B Pilot in command under supervision

(1) The operator of an aircraft commits an offence if:

(a) the operator permits a person to pilot the aircraft as pilot in command under supervision; and

(b) the person is not authorised under Part 61 of CASR to pilot the aircraft as pilot in command under supervision.

Penalty: 50 penalty units.

(2) An offence against this regulation is an offence of strict liability.

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Division 2—Requirements to ensure the safety of commercial operations

211 Division 2 not to apply to New Zealand AOC holders with ANZA privileges

This Division does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

212 Operator

In this Division, ***operator*** means an operator engaging in commercial operations.

213 Organisation

(1) An operator must provide an adequate organisation, including trained staff, together with workshop and other equipment and facilities in such quantities and at such places as CASA directs in order to ensure that airframes, engines, propellers, instruments, equipment and accessories are properly maintained at all times when they are in use.

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*.

214 Training of maintenance personnel

(1) An operator must ensure that provision is made for the proper and periodic instruction of all maintenance personnel, particularly in connection with the introduction into service of new equipment or equipment with which the maintenance personnel are not familiar, and the training programme shall be subject to the approval of CASA.

Penalty: 50 penalty units.

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

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

215 Operations manual

(1) An operator shall provide an operations manual for the use and guidance of the operations personnel of the operator.

Penalty: 25 penalty units.

(2) The operator must ensure that the operations manual contains such information, procedures and instructions with respect to the flight operations of all types of aircraft operated by the operator as are necessary to ensure the safe conduct of the flight operations (other than information, procedures or instructions that are set out in other documents required to be carried in the aircraft in pursuance of these Regulations).

Penalty: 25 penalty units.

(3) CASA may give a direction:

(a) requiring the operator to include particular information, procedures and instructions in the operations manual; or

(b) requiring the operator to revise or vary the information, procedures and instructions contained in the operations manual.

(3A) An operator must not contravene a direction.

Penalty: 25 penalty units.

(4) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(5) The operator shall revise the operations manual from time to time where necessary as the result of changes in the operator's operations, aircraft or equipment, or in the light of experience.

Penalty: 25 penalty units.

(6) An operator shall furnish copies of the operations manual to such of his or her or its personnel as the operator considers necessary, to

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CASA and to such other persons associated with the operator's operations as CASA considers necessary and directs.

Penalty: 25 penalty units.

(7) The operator shall ensure that a copy of the manual is kept in a convenient and accessible place for use by all members of the operations personnel of the operator who have not been furnished with a copy in pursuance of subregulation (6).

Penalty: 10 penalty units.

(8) The operator shall ensure that all amendments to the operations manual made in accordance with this regulation are incorporated in all copies of the operations manual kept within the operator's organisation and that copies of those amendments are forwarded to all persons to whom copies of the operations manual have been furnished in accordance with this regulation.

Penalty: 25 penalty units.

(9) Each member of the operations personnel of an operator shall comply with all instructions contained in the operations manual in so far as they relate to his or her duties or activities.

Penalty: 25 penalty units.

(10) In this regulation, a reference to the operations personnel of an operator shall be read as including a reference to a person undergoing flight training with that operator.

(11) An offence against subregulation (1), (2), (3A), (5), (6), (7), (8) or (9) is an offence of strict liability.

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

(12) 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 (12) (see subsection 13.3(3) of the *Criminal Code*).

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216 Flight time records

(1) An operator must maintain current records of the individual flight times of the members of the operating crews employed by the operator.

Penalty: 10 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*.

217 Training and checking organisation

(1) An operator of a regular public transport service, an operator of any aircraft the maximum take-off weight of which exceeds 5,700 kilograms and any other operator that CASA specifies shall provide a training and checking organisation so as to ensure that members of the operator's operating crews maintain their competency.

Penalty: 50 penalty units.

(2) The operator must ensure that the training and checking organisation includes provision for the making in each calendar year, but not at intervals of less than four months, of two checks of a nature sufficient to test the competency of each member of the operator's operating crews.

Penalty: 50 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) The training and checking organisation and the tests and checks provided for therein shall be subject to the approval of CASA.

(4) A pilot may conduct tests or checks for the purposes of an approved training and checking organisation without being the holder of a flight instructor rating.

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218 Route qualifications of pilot in command of a regular public transport aircraft

(1) A pilot is qualified to act in the capacity of pilot in command of an aircraft engaged in a regular public transport service if the pilot is qualified for the particular route to be flown in accordance with the following requirements:

(a) the pilot shall have been certified as competent for the particular route by a pilot who is qualified for that route;

(b) the pilot shall have made at least one trip over that route within the preceding 12 months as a pilot member of the operating crew of an aircraft engaged in any class of operation;

(c) the pilot shall have an adequate knowledge of the route to be flown, the aerodromes which are to be used and the designated alternate aerodromes, including a knowledge of:

(i) the terrain;

(ii) the seasonal meteorological conditions;

(iii) the meteorological, communication and air traffic facilities, services and procedures;

(iv) the search and rescue procedures; and

(v) the navigational facilities;

associated with the route to be flown;

(d) the pilot shall have demonstrated either in flight or by simulated means that he or she is proficient in the use of instrumental approach-to-land systems which he or she may utilise in operations on that route; and

(e) the pilot possesses such other qualifications (if any) as CASA specifies in relation to that route having regard to any special difficulties of that route.

(1A) A pilot must not act in the capacity of pilot in command of an aircraft engaged in a regular public transport service if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

(1B) An operator must not permit a pilot to act in the capacity of pilot in command of an aircraft engaged in a regular public transport

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service if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

(2) CASA may grant an exemption from the requirements specified in paragraphs (1)(a) and (b) subject to such conditions as CASA considers necessary in the interests of safety.

(3) An operator shall maintain a record of the routes for which each of his or her pilots is qualified in accordance with this regulation.

Penalty: 5 penalty units.

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

Penalty: 50 penalty units.

(5) An offence against subregulation (1A), (1B), (3) or (4) is an offence of strict liability.

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

219 Route qualifications of pilot in command of a charter aircraft

(1) A pilot is qualified to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is qualified for the particular route to be flown in accordance with the following requirements:

(a) the pilot shall have an adequate knowledge of the route to be flown, the aerodromes which are to be used and the designated alternate aerodromes, including a knowledge of:

(i) the terrain;

(ii) the seasonal meteorological conditions;

(iii) the meteorological, communication and air traffic facilities, services and procedures;

(iv) the search and rescue procedures; and

(v) the navigational facilities;

associated with the route to be flown;

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(b) if the flight is to be conducted under the Instrument Flight Rules, the pilot shall have demonstrated either in flight or by simulated means that he or she is proficient in the use of instrument approach-to-land systems which he or she may utilise in operations on that route.

(2) A pilot must not act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

(3) An operator must not permit a pilot to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

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

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

220 Fuel instructions and records

(1) An operator shall include in the operator's operations manual specific instructions for the computation of the quantities of fuel to be carried on each route, having regard to all the circumstances of the operations, including the possibility of failure of an engine *en route*.

Penalty: 50 penalty units.

(2) An operator shall maintain a record of the fuel remaining in the tanks at the end of each scheduled flight and shall review continuously the adequacy of the instructions in respect of the fuel to be carried in the light of that record, and shall make any such record available to CASA, upon request.

Penalty: 25 penalty units.

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

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

221 Facilities and safety devices for public

(1) An operator must provide such facilities and safety devices for the protection of the public at the aerodromes normally used by the operator as CASA considers adequate and directs.

Penalty: 10 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*.

222 Proving tests

(1) An aircraft of a new type shall not be used to carry passengers on a public transport service until it has completed proving tests under the supervision and in accordance with the requirements of CASA.

(2) In the case of major changes to an aircraft previously in operation on public transport services or previously proved for such operations, or the use of such an aircraft in an operation different to that in which it was previously used, CASA may require the aircraft to undergo such proving tests as CASA considers necessary in the circumstances.

(3) No persons other than those essential to the tests shall be carried in the aircraft during the tests required under subregulations (1) and (2), but mail or cargo may be carried with the permission of CASA.

(4) The operator must not allow an aircraft that is required to undergo proving tests to be used to carry passengers on a public transport service, if the proving tests have not been passed in accordance with the requirements of CASA.

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*.

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Division 3—Conduct of operations

222A Division 3 not to apply to New Zealand AOC holders with ANZA privileges

This Division does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

223 Operator to ensure employees and flight crew familiar with local laws and regulations

(1) An operator of an Australian aircraft engaged in air navigation outside Australian territory shall ensure that:

(a) his or her employees when abroad know that they must comply with the laws, regulations and procedures of the countries in which the aircraft is operated;

(b) the pilots of the aircraft are familiar with the regulations and procedures for the time being in force in the area in which the aircraft is operated, and, in particular, with such of those regulations and procedures as relate to the aerodromes and air navigation facilities to be used by the aircraft; and

(c) members of the flight crew, other than pilots, are familiar with such of the regulations and procedures of the countries in which the aircraft is operated as relate to the performance of their respective duties in the operation of 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*.

224 Pilot in command

(1) For each flight the operator shall designate one pilot to act as pilot in command.

Penalty: 5 penalty units.

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

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

(2) A pilot in command of an aircraft is responsible for:
(a) the start, continuation, diversion and end of a flight by the aircraft; and
(b) the operation and safety of the aircraft during flight time; and
(c) the safety of persons and cargo carried on the aircraft; and
(d) the conduct and safety of members of the crew on the aircraft.

(2A) A pilot in command must discharge his or her responsibility under paragraph (2)(a) in accordance with:
(a) any information, instructions or directions, relating to the start, continuation, diversion or end of a flight, that are made available, or issued, under the Act or these Regulations; and
(b) if applicable, the operations manual provided by the operator of the aircraft.

(3) The pilot in command shall have final authority as to the disposition of the aircraft while he or she is in command and for the maintenance of discipline by all persons on board.

224A Commercial operations carrying passengers—requirements if pilot in command 60 or more

(1) The operator and pilot in command of an Australian aircraft each commit an offence if:
(a) a flight of the aircraft is a commercial operation; and
(b) a passenger is carried on the flight; and
(c) the pilot in command of the aircraft is at least 60; and
(d) the aircraft is an aircraft of a category mentioned in subregulation (2).

Penalty: 50 penalty units.

(2) For paragraph (1)(d), the aircraft categories are the following:
(a) an aeroplane;
(b) a helicopter;
(c) a powered-lift aircraft;

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(d) a gyroplane;
(e) an airship.

(3) Subregulation (1) does not apply if:
(a) the aircraft:
(i) is fitted with fully functioning dual controls; and
(ii) has a flight crew that includes a qualified pilot for the aircraft who is not the pilot in command; or
(b) the pilot in command is successfully participating in an operator's training and checking system approved by CASA under regulation 217; or
(c) if the pilot in command is less than 65—the pilot in command has met the requirement mentioned in subregulation (4) within one year before the day of the flight; or
(d) if the pilot in command is at least 65—the pilot in command has met the requirement mentioned in subregulation (4) within 6 months before the day of the flight.

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

(4) For paragraphs (3)(c) and (d), the requirement is that the pilot in command has successfully completed an operator proficiency check or flight review in an aircraft of the same category or an approved flight simulator for the category of aircraft.

(5) An offence against this regulation is an offence of strict liability.

(6) In this regulation:

***approved flight simulator*:** see regulation 61.010 of CASR.

category, of aircraft**:** see regulation 61.010 of CASR.

qualified pilot, for a flight of an aircraft, means the holder of an air transport or commercial pilot licence who:
(a) is authorised under Part 61 of CASR to pilot the aircraft; and
(b) either:
(i) is less than 60; or
(ii) meets the requirements of paragraph (3)(b), (c) or (d).

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225 Pilots at controls

(1) The pilot in command must ensure that 1 pilot is at the controls of an aircraft from the time at which the engine or engines is or are started prior to a flight until the engine or engines is or are stopped at the termination of a flight.

Penalty: 50 penalty units.

(2) When, in accordance with these Regulations, 2 or more pilots are required to be on board an aircraft, the pilot in command must ensure that 2 pilots remain at the controls at all times when the aircraft is taking off, landing and during turbulent conditions in flight.

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*.

226 Dual controls

(1) During flight, a person may occupy a control seat of an aircraft equipped with fully or partially functioning dual controls only if:
   (a) the person holds an appropriate pilot licence for the type of aircraft and the class of operations in which the aircraft is flown; or
   (b) the person is a student pilot assigned for instruction in the aircraft; or
   (c) the person is authorised by CASA.

Penalty: 25 penalty units.

(2) In authorising a person to occupy a control seat in pursuance of subregulation (1), CASA may grant the authority subject to such conditions as CASA considers necessary in the interests of safety.

(3) A person authorised under paragraph (1)(b) must not contravene a condition subject to which the authority is granted.

Penalty: 25 penalty units.

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(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*.

227 Admission to crew compartment

(1) A person may enter the crew compartment of an aircraft during flight only if:

(a) the person is a member of the operating crew of the aircraft; or

(b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

(1A) A member of the operating crew of an aircraft may permit a person to enter, or remain in, the crew compartment of an aircraft during flight only if:

(a) the person is a member of the operating crew of the aircraft; or

(b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

Note 1: Regulation 4.67E of the *Aviation Transport Security Regulations 2005* sets out an offence if the pilot in command of a relevant aircraft permits a person to enter, or remain in, the cockpit of the aircraft and the person is not a person who meets the requirements of that regulation.

Note 2: For the definition of ***relevant aircraft***, see regulation 4.66 of the *Aviation Transport Security Regulations 2005*.

(2) A person may occupy the pilot seat or other operating crew position in an aircraft, only if:

(a) the person is a member of the operating crew who is duly assigned for duty in the aircraft and is licensed for the duties associated with that seat or position; or

(b) the person is authorised to enter the crew compartment to conduct examinations, inspections or checks of the aircraft,

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its equipment, a member of the operating crew or the ground organisation provided for use by aircraft.

Penalty: 50 penalty units.

(3) The pilot in command of an aircraft shall admit an authorised person to the crew compartment and allow that person to occupy the seat or position appropriate for the performance of his or her duties if the pilot in command is not of the opinion that the person's admission to the crew compartment or occupation of that seat or position, as the case may be, would endanger the safety of the aircraft.

Penalty: 10 penalty units.

(4) Whenever the pilot in command has refused to permit an authorised person to enter the crew compartment or occupy the seat or position appropriate for the performance of his or her duties, the pilot in command shall, if so required by the authorised person, furnish a report in writing to CASA setting forth the reasons for his or her refusal.

Penalty: 5 penalty units.

(4A) An offence against subregulation (1), (1A), (2), (3) or (4) 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:

(a) while acting as an authorised person; and

(b) if asked to do so by the pilot in command of the aircraft.

(6) Where an authorised person:

(a) is acting as an authorised person; and

(b) seeks admission, or is admitted, to the crew compartment of an aircraft; and

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

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that person is not authorised to be admitted under that subregulation and, if that person has been admitted, he or she must leave the crew compartment immediately.

228 Unauthorised persons not to manipulate controls

(1) A person commits an offence if:

(a) the person manipulates the controls of a registered aircraft during flight; and

(b) the person is not:

(i) if the aircraft is a balloon—authorised under Part 5 to fly the balloon or perform an activity essential to the balloon's operation during flight time; or

(ii) for an aircraft other than a balloon—authorised under Part 61 of CASR to pilot the aircraft.

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*.

228A Definition of *qualified* to taxi an aircraft

For regulations 229 and 230, a person is ***qualified*** to taxi an aircraft if:

(a) the person is authorised to taxi the aircraft under Part 61 or 64 of CASR; or

(b) for a foreign registered aircraft—the person is authorised (however described) to taxi or fly the aircraft under the law of the aircraft's State of registry.

229 Operation of aircraft on ground—only qualified persons may taxi aircraft

(1) A person commits an offence if:

(a) the person taxis an aircraft; and

(b) the person is not qualified to taxi the aircraft.

Penalty: 50 penalty units.

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(2) An offence against this regulation is an offence of strict liability.

230 Starting and running of engines

(1) A person must not:

(a) start the engine of an Australian aircraft; or

(b) permit the engine of an Australian aircraft to be run;

if it is not permitted by this regulation.

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) The engine may be started or run while the aircraft is inside or outside Australian territory if the control seat is occupied by an approved person or by a person who is qualified to taxi the aircraft.

(3) If the aircraft is an aeroplane that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run if the control seat is occupied:

(a) whether the aircraft is inside or outside Australian territory—by a person who:

(i) holds:

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

(B) an airworthiness authority covering the maintenance; and

(ii) has sufficient knowledge of the aircraft's controls and systems to ensure the starting or running does not endanger any person or damage the aircraft; or

(b) if the aircraft is outside Australian territory—by a person who:

(i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of

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maintenance, or the provision of maintenance training, as the case requires; or

(ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.

(4) If the aircraft is a rotorcraft or airship that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run:

(a) whether the aircraft is inside or outside Australian territory—by a person authorised, in writing, by CASA or an authorised person to start and run the engine in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or

(b) if the aircraft is outside Australian territory—by a person who:

(i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or

(ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.

(5) CASA may approve a person for the purposes of subregulation (2).

(6) CASA or an authorised person may authorise a person for the purposes of paragraph (4)(a).

(7) In this regulation:

maintenance training means:

(a) training for the purpose of obtaining a qualification to carry out maintenance on aircraft; or

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(b) maintenance training, within the meaning given by Part 3 of the CASR Dictionary.

231 Manipulation of propeller

(1) In spite of regulations 225 and 230 and subregulation (2), the pilot in command of an aircraft which requires an operating crew of only one pilot may manipulate the propeller of the aircraft for the purposes of starting the aircraft if:

(a) assistance is not readily available for that purpose;

(b) adequate provision is made to prevent the aircraft moving forward; and

(c) no person is on board the aircraft.

(2) The registration holder, or operator, or the pilot in command, of an Australian aircraft must not permit a person to manipulate the propeller of the aircraft to start the engine if the registration holder, operator or pilot in command is not satisfied that the person who is to manipulate the propeller knows the correct starting procedures for the aircraft.

Penalty: 25 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*.

232 Flight check system

(1) The operator of an aircraft shall establish a flight check system for each type of aircraft, setting out the procedure to be followed by the pilot in command and other flight crew members prior to and on take-off, in flight, on landing and in emergency situations.

Penalty: 25 penalty units.

(2) A flight check system shall be subject to the prior approval of CASA, and CASA may at any time require the system to be revised in such manner as CASA specifies.

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(3) The pilot in command must ensure that the check lists of the procedures are carried in the aircraft and are located where they will be available instantly to the crew member concerned.

Penalty: 10 penalty units.

(4) The pilot in command shall ensure that the flight check system is carried out in detail.

Penalty: 25 penalty units.

(5) The operator of an aircraft must not allow the aircraft to be flown if the following requirements have not been satisfied:
(a) the flight check system has been approved by CASA;
(b) if CASA has required the system to be revised—the system has been revised in the manner specified by CASA.

Penalty: 25 penalty units.

(6) An offence against subregulation (1), (3), (4) or (5) is an offence of strict liability.

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

232A Operational procedures in relation to computers

(1) Where an aircraft is fitted with a computer for the provision of navigation or aircraft performance information to the flight crew or to an automatic pilot system, the operator of that aircraft shall establish in relation to that computer operational procedures in accordance with directions given by CASA in Civil Aviation Orders.

(2) Without limiting the generality of subregulation (1), CASA may give directions in relation to any of the following matters:
(a) the duties or functions of the operator, pilot in command or other flight crew member in relation to:
(i) the operation of the computer; or
(ii) the entry of data into, and verification of data in, the computer;
(b) the qualifications of persons who:
(i) operate the computer; or

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(ii) enter data into, or verify data in, the computer;

(c) the notification to the personnel of an operator or to a pilot in command or other flight crew member of operational procedures relating to the computer;

(d) the inclusion of the operational procedures in the operator's operations manual.

(3) Where the operator of an aircraft has established operational procedures in relation to a computer under subregulation (1):

(a) each member of the personnel of the operator; and

(b) the pilot in command and other members of the flight crew of that aircraft;

shall, in relation to that computer, comply with those operational procedures.

(4) A direction given under this regulation shall not take effect until:

(a) the twenty-eighth day after the day on which the direction is given; or

(b) if a later day of effect is specified in the direction, that later day.

233 Responsibility of pilot in command before flight

(1) The pilot in command of an aircraft must not commence a flight if he or she has not received evidence, and taken such action as is necessary to ensure, that:

(a) the instruments and equipment required for the particular type of operation to be undertaken are installed in the aircraft and are functioning properly;

(b) the gross weight of the aircraft does not exceed the limitations fixed by or under regulation 235 and is such that flight performance in accordance with the standards specified by CASA for the type of operation to be undertaken is possible under the prevailing conditions; and

(c) any directions of CASA with respect to the loading of the aircraft given under regulation 235 have been complied with;

(d) the fuel supplies are sufficient for the particular flight;

(e) the required operating and other crew members are on board and in a fit state to perform their duties;

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(f) the air traffic control instructions have been complied with;

(g) the aircraft is safe for flight in all respects; and

(h) the aeronautical data and aeronautical information mentioned in subregulation (1A) is carried in the aircraft and is readily accessible to the flight crew.

Penalty: 50 penalty units.

(1A) For paragraph (1)(h), the aeronautical data and aeronautical information is the aeronautical data and aeronautical information:

(a) that is applicable to the route to be flown and to any alternative route that may be flown on that flight; and

(b) that is published:

(i) in the AIP; or

(ii) by a data service provider; or

(iii) by the holder of an approval mentioned in regulation 202.961 or 202.962 of CASR.

(2) The pilot in command of an aircraft engaged in international air navigation must not commence a flight if the pilot has not completed an approved flight preparation form certifying that the pilot is satisfied of the matters specified in subregulation (1).

Penalty: 5 penalty units.

(3) An operator must keep a completed flight preparation form for a period of 6 months.

Penalty: 5 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*.

234 Fuel requirements

(1) The pilot in command of an aircraft must not commence a flight within Australian territory, or to or from Australian territory, if he or she has not taken reasonable steps to ensure that the aircraft carries sufficient fuel and oil to enable the proposed flight to be undertaken in safety.

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Penalty: 50 penalty units.

(2) An operator of an aircraft must take reasonable steps to ensure that an aircraft does not commence a flight as part of the operator's operations if the aircraft is not carrying sufficient fuel and oil to enable the proposed flight to be undertaken in safety.

Penalty: 50 penalty units.

(3) For the purposes of these Regulations, in determining whether fuel and oil carried on an aircraft in respect of a particular flight was sufficient within the meaning of subregulations (1) and (2), a court must, in addition to any other matters, take into account the following matters:

(a) the distance to be travelled by the aircraft on the flight to reach the proposed destination;

(b) the meteorological conditions in which the aircraft is, or may be required, to fly;

(c) the possibility of:

(i) a forced diversion to an alternative aerodrome; and

(ii) a delay pending landing clearance; and

(iii) air traffic control re-routing the flight after commencement of the flight; and

(iv) a loss of pressurisation in the aircraft; and

(v) where the aircraft is a multi-engined aircraft—an engine failure;

(d) any guidelines issued from time to time by CASA for the purposes of this regulation.

(4) 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*.

235 Take-off and landing of aircraft etc

(1) CASA may, for the purposes of these Regulations, give directions setting out the method of estimating, with respect to an aircraft at anytime:

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(a) the weight of the aircraft, together with the weight of all persons and goods (including fuel) on board the aircraft, at that time; and
(b) the centre of gravity of the aircraft at that time.

(2) CASA may, for the purpose of ensuring the safety of air navigation, give directions setting out the manner of determining, with respect to a proposed flight of an aircraft:
(a) a maximum weight, being a weight less than the maximum take-off weight of the aircraft; or
(b) a maximum weight, being a weight less than the maximum landing weight of the aircraft;
that the gross weight of the aircraft at take-off or landing, as the case may be, is not to exceed.

(2A) A person must not contravene a direction under subregulation (1) or (2).

Penalty: 50 penalty units.

(3) A manner of determining a maximum weight referred to in subregulation (2) shall be such as to take into account such of the following considerations as CASA considers appropriate:
(a) the type of aircraft;
(b) the kind of operations to be carried out during the flight;
(c) the performance of the aircraft in configurations in which it is likely to be flown and with faults that are likely to occur;
(d) the meteorological conditions at the aerodrome at which the aircraft is to take off or land;
(e) the altitude of the aerodrome at which the aircraft is to take off or land;
(f) the aerodrome dimensions in the direction in which the aircraft is to take off or land;
(g) the material of which the surface of the aerodrome in the direction in which the aircraft is to take off or land is constituted and the condition and slope of that surface;
(h) the presence of obstacles in the vicinity of the flight path along which the aircraft is to take off, approach or land;

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(i) the anticipated meteorological conditions over the intended route to be flown by the aircraft after take-off and over planned divergencies from that route; and

(j) the altitude of the terrain along and on either side of the intended route to be flown by the aircraft after take-off and of planned divergencies from that route.

(4) The pilot in command of an aircraft must not allow the aircraft to take off if its gross weight exceeds its maximum take-off weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the take-off, that lesser weight.

Penalty: 50 penalty units.

(5) The pilot in command of an aircraft must not allow the aircraft to take off if its gross weight exceeds, by more than the weight of fuel that would normally be used in flying to its next landing place or planned alternative aerodrome, its maximum landing weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the landing at that place or aerodrome, that lesser weight.

Penalty: 50 penalty units.

(6) The pilot in command of an aircraft, must not land the aircraft if its gross weight exceeds its maximum landing weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the landing, that lesser weight.

Penalty: 50 penalty units.

(7) CASA may, for the purpose of ensuring the safety of air navigation, give directions with respect to the method of loading of persons and goods (including fuel) on aircraft.

(7A) A person must not contravene a direction under subregulation (7).

Penalty: 50 penalty units.

(8) The pilot in command of an aircraft must not allow the aircraft to take off or land if a direction given under this regulation, about the loading of the aircraft has not been complied with.

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Penalty: 50 penalty units.

(9) The pilot in command must ensure that the load of an aircraft throughout a flight shall be so distributed that the centre of gravity of the aircraft falls within the limitations specified in its certificate of airworthiness or its flight manual.

Penalty: 50 penalty units.

(10) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(12) An offence against subregulation (2A), (4), (5), (6), (7A), (8) or (9) is an offence of strict liability.

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

(13) It is a defence to a prosecution under subregulation (6) if the landing was made in an emergency.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (13) (see subsection 13.3(3) of the *Criminal Code*).

235A Taking off from and landing on narrow runways—certain aeroplanes

Application

(1) This regulation applies to an aeroplane if:
- (a) the aeroplane takes off from, or lands on, a runway with a width of less than the ICAO minimum runway width for the aeroplane (a ***narrow runway***); and
- (b) the aeroplane has a maximum certificated take-off weight of more than 5 700 kg; and
- (c) the aeroplane is being used to conduct a regular public transport operation or a charter operation; and
- (d) the aeroplane is of a type first type certificated in its country of manufacture on or after 1 March 1978.

Offence for operator and pilot in command—flight manual

(2) The operator of the aeroplane and the pilot in command each commit an offence if, when the take-off or landing is conducted,

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the aeroplane's flight manual does not provide for the operation of the aeroplane on a narrow runway.

Penalty: 50 penalty units.

Offence for operator—operator's operations manual

(3) The operator of the aeroplane commits an offence if, when the take-off or landing is conducted, the operator's operations manual does not include operating limitations for taking off from, or landing on, a narrow runway that are at least as restrictive as the provisions of the aeroplane's flight manual that provide for the operation of the aeroplane on a narrow runway.

Penalty: 50 penalty units.

Offence for operator—operator's training and checking manual

(4) The operator of the aeroplane commits an offence if, when the take-off or landing is conducted, the operator's training and checking manual does not state the training the operator requires the aeroplane's flight crew to have completed before conducting a take-off from, or a landing on, a narrow runway.

Penalty: 50 penalty units.

Offence for operator and pilot in command—flight crew training requirements

(5) The operator and the pilot in command of the aeroplane each commit an offence if, when the take-off or landing is conducted, each member of the aeroplane's flight crew has not successfully completed the training mentioned in subregulation (4).

Penalty: 50 penalty units.

Strict liability

(6) An offence against this regulation is an offence of strict liability.

Definitions

(7) In this regulation:

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code letter, for an aeroplane, means:

(a) for an aeroplane with a wing span and an outer main gear wheel span mentioned in the same item in table 235A-1 (other than an aeroplane mentioned in paragraph (c))—the letter mentioned in column 3 of the item; or

(b) for an aeroplane with a wing span and an outer main gear wheel span mentioned in different items in table 235A-1 (other than an aeroplane mentioned in paragraph (c))—the letter mentioned in column 3 of the item in the table with the higher number; or

(c) for an aeroplane with a wing span mentioned in item 1, 2, 3 or 4 of table 235A-1 and an outer main gear wheel span that is at least 9 m but less than 14 m—D.

Table 235A-1—Code letters

Item	Column 1 Wing span of aeroplane	Column 2 Outer main gear wheel span of aeroplane	Column 3 Code letter
1	less than 15 m	less than 4.5 m	A
2	at least 15 m but less than 24 m	at least 4.5 m but less than 6 m	B
3	at least 24 m but less than 36 m	at least 6 m but less than 9 m	C
4	at least 36 m but less than 52 m	at least 9 m but less than 14 m	D
5	at least 52 m but less than 65 m	at least 9 m but less than 14 m	E
6	at least 65 m but less than 80 m	at least 14 m but less than 16 m	F

code number, for an aeroplane with a reference field length mentioned in column 1 of an item of table 235A-2, means the number mentioned in column 2 of the item.

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Table 235A-2—Code numbers

Item	Column 1 Reference field length	Column 2 Code number
1	less than 800 m	1
2	at least 800 m but less than 1 200 m	2
3	at least 1 200 m but less than 1 800 m	3
4	at least 1 800 m	4

contaminated, for a runway: a runway is ***contaminated*** if more than 25% of the surface area required for take-off or landing is covered by any of the following:

(a) water or slush more than 3 mm deep;

(b) loose snow more than 20 mm deep;

(c) compacted snow or ice.

dry, for a runway: a runway is ***dry*** if the surface area required for a take-off or landing:

(a) has no visible moisture; and

(b) is not contaminated.

ICAO minimum runway width, for an aeroplane, means the width shown in the cell of table 235A-3 that is the intersection of the aeroplane's code letter and code number.

Table 235A-3—ICAO minimum runway width

Code letter	A	B	C	D	E	F
Code number						
1	18 m	18 m	23 m	-	-	-
2	23 m	23 m	30 m	-	-	-
3	30 m	30 m	30 m	45 m	-	-
4	-	-	45 m	45 m	45 m	60 m

maximum certificated take-off weight, for an aeroplane, means the maximum take-off weight stated in the aeroplane's type certificate, foreign type certificate, supplemental type certificate or foreign supplemental type certificate.

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reference field length, for an aeroplane, means the shortest take-off distance required for a take-off by the aeroplane at its maximum certificated take-off weight:

(a) on a runway that is level and dry; and

(b) in still air; and

(c) in International Standard Atmosphere conditions at sea level.

take-off distance required, for an aeroplane, means the take-off distance for the aeroplane set out in the aeroplane's flight manual.

238 Icing conditions

(1) The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by 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*.

239 Planning of flight by pilot in command

(1) Before beginning a flight, the pilot in command shall study all available information appropriate to the intended operation, and, in the cases of flights away from the vicinity of an aerodrome and all I.F.R. flights, shall make a careful study of:

(a) current weather reports and forecasts for the route to be followed and at aerodromes to be used;

(b) the airways facilities available on the route to be followed and the condition of those facilities;

(c) the condition of aerodromes to be used and their suitability for the aircraft to be used; and

(d) the air traffic control rules and procedure appertaining to the particular flight;

and the pilot shall plan the flight in relation to the information obtained.

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(2) When meteorological conditions at the aerodromes of intended landing are forecast to be less than the minima specified by CASA, the pilot in command shall make provision for an alternative course of action and shall arrange for the aircraft to carry the necessary additional fuel.

Penalty: 25 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*.

240 Authority may issue instructions in relation to flight planning

(1) CASA may, in relation to the planning of flights referred to in subregulation 239(1), issue instructions about:

(a) the weather reports or forecasts to which a pilot in command must have regard in planning a flight; and

(b) the circumstances in which a pilot in command must plan for an alternative course of action (including the use of alternate aerodromes); and

(c) the information that the pilot in command must take into account in planning an alternative course of action including:

(i) the range and timeliness of the available meteorological information about the aircraft's destination; and

(ii) the type and number of radio navigation aids that must be available at the aircraft's destination; and

(d) the conditions that an alternate aerodrome must meet before it can be used as an alternate aerodrome.

(2) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:

(a) served on the person; or

(b) published in NOTAMS or AIP.

(3) CASA may give permission, subject to the conditions specified in the permission, for a pilot in command to plan a flight without having regard to an instruction under subregulation (1).

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241 Flight plans—submission to air traffic control in certain cases

(1) CASA may, by notice published in Aeronautical Information Publications, declare that flights included in specified classes of flights are flights in respect of which flight plans are required, in the interests of safety and to ensure compliance with the Convention, to be submitted to air traffic control.

(2) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft on a flight included in a class of flights specified in a notice under subregulation (1) if a flight plan has not been submitted to air traffic control.

Penalty: 5 penalty units.

(3) CASA may, in a notice under subregulation (1), specify the circumstances in which, and the conditions subject to which, a flight included in a class of flights specified in the notice may be commenced and carried on before the flight plans for the flight are submitted to air traffic control and subregulation (2) does not apply to and in relation to the flight of an aircraft that has been commenced in those circumstances and so long as the conditions so specified are complied with.

(4) The pilot in command of an aircraft that deviates from a flight as specified in the flight plan that has been submitted under this regulation shall report the fact as soon as possible to air traffic control.

Penalty: 5 penalty units.

(5) 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*.

242 Testing of radio apparatus

(1) Before an aircraft is taxied on the manoeuvring area of an aerodrome for the purpose of moving to the take-off position, the pilot in command shall check that the radio apparatus fitted to the aircraft and to be used in flight is functioning correctly.

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Penalty: 25 penalty units.

(2) If the check indicates any malfunctioning of any portion of the radio apparatus the pilot in command must not fly the aircraft until the apparatus has been certified by a person licensed or approved for the purpose as being in proper working order.

Penalty: 25 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*.

243 Listening watch

(1) When an aircraft is equipped with radio apparatus for use during flight, the pilot in command must maintain a listening watch, or must ensure that a listening watch is maintained, at all times commencing immediately prior to the time at which the aircraft commences to move on the manoeuvring area prior to flight and lasting until the aircraft is brought to a stop at the apron or other point of termination of the flight.

Penalty: 25 penalty units.

(2) Where the means of communication between air traffic control and an aircraft under its control is a voice communication channel, the pilot in command and any other pilot for the time being operating the controls of the aircraft shall personally maintain a listening watch on the appropriate radio frequency.

Penalty: 25 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*.

244 Safety precautions before take-off

(1) Immediately before taking-off on any flight, the pilot in command of an aircraft shall:

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(a) test the flight controls on the ground to the full limit of their travel and make such other tests as are necessary to ensure that those controls are functioning correctly;
(b) ensure that locking and safety devices are removed and that hatches, doors and tank caps are secured; and
(c) ensure that all external surfaces of the aircraft are completely free from frost and ice.

Penalty: 50 penalty units.

(2) CASA may give such directions as CASA considers necessary in the interests of safety in respect of the duties and responsibilities of the pilot in command and other persons for tests, checks and other precautions before the despatch of an aircraft on any flight.

(3) A person must not contravene a direction.

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*.

245 Tests before and during the take-off run

(1) CASA may give directions specifying the tests to be carried out by the pilot in command of an aircraft before the commencement of, and during, a take-off run in order to be satisfied that the engine and associated items of equipment are functioning correctly within the permissible limits of performance.

(2) Before the commencement of, and during, a take-off run, the pilot in command of an aircraft shall:
(a) carry out all tests required to be carried out in relation to the aircraft under subregulation (1);
(b) test all flight instruments, and, in particular, all gyroscopic flight instruments, that it is possible to test so as to ensure that they are functioning correctly;
(c) ensure that all gyroscopic flight instruments are correctly set and uncaged; and

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(d) perform such checks and tests as are required by the flight manual for, or the operations manual of, the aircraft.

Penalty: 25 penalty units.

(3) If an inspection, check or test made under subregulation (2) indicates any departure from the permissible limits or any malfunctioning in any particular (not being a departure or malfunctioning that is a permissible unserviceability), the pilot in command shall not commence the take-off or, if the pilot has commenced the take-off, shall abandon the take-off or take such other action as the pilot considers appropriate to ensure the safety of the aircraft and of persons on board the aircraft.

Penalty: 50 penalty units.

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

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

246 Movement on manoeuvring area

(1) Immediately before take-off, the pilot in command shall manoeuvre the aircraft so that he or she is able to observe traffic on the manoeuvring area of the aerodrome and incoming and outgoing traffic, in order that he or she may avoid collision with other aircraft during the take-off.

Penalty: 10 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*.

247 Meteorological conditions observed en route

(1) The pilot in command shall report, in the approved form and at such times as requested by a meteorological observer, the meteorological conditions observed *en route*.

Penalty: 5 penalty units.

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(2) When any meteorological condition, hazardous to flight, is encountered *en route*, the pilot in command shall report the condition as soon as possible, giving such details as appear pertinent to the safety of other aircraft.

Penalty: 5 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*.

248 Reporting of defects

(1) At the termination of each flight, or in any urgent case, during the currency of the flight, the pilot in command shall report, in the manner and to the persons specified by CASA, all defects in the aircraft, aerodromes, air routes, air route facilities or airway facilities which have come to the pilot's notice.

Penalty: 10 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) Where a defect in the aircraft is reported in accordance with subregulation (1), the operator of the aircraft shall take such action in relation thereto as is required under these Regulations.

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Division 4—General provisions relating to the operation of aircraft

248A Division 4 not to apply to New Zealand AOC holders with ANZA privileges

This Division does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

249 Prohibition of carriage of passengers on certain flights

(1) The pilot in command of an aircraft that carries a passenger must not engage in any of the following types of flying:

(a) flying training given to a student pilot;

(b) practice of emergency procedures in the aircraft;

(c) low flying practice;

(d) testing an aircraft or its components, power plant or equipment.

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) An aircraft while engaged in flying of the type specified in paragraph (1)(d) may carry engineering and maintenance personnel who are required, as part of their duties, to be present in the aircraft during the flight for the purpose of flight observation or of maintenance of the aircraft, including any aircraft component installed in the aircraft.

(4) For the purposes of this regulation, the categories of aircraft are as follows:

(a) aeroplanes;

(b) helicopters;

(c) gyroplanes;

(d) airships.

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250 Carriage on wings, undercarriage etc

(1) The operator of an aircraft must not permit a person to be carried on:

(a) the wings or undercarriage of the aircraft; or

(b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or

(c) anything attached to the aircraft.

Penalty: 50 penalty units.

(1A) The pilot in command of an aircraft must not permit a person to be carried on:

(a) the wings or undercarriage of the aircraft; or

(b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or

(c) anything attached to the aircraft.

Penalty: 50 penalty units.

(1B) Subregulations (1) and (1A) do not apply to prevent a member of the crew having temporary access to:

(a) any part of the aircraft for the purpose of executing repairs or adjustments to the aircraft or its equipment, or doing anything that may be necessary for the safety of the aircraft or any persons or cargo carried in the aircraft; or

(b) any part of the aircraft in which goods or stores are being carried and to which proper means of access is provided.

(2) A person may, with the permission of CASA given in respect of:

(a) a particular flight;

(b) flights of a particular kind; or

(c) flights included in a series of flights;

be carried, during a flight in respect of which the permission is given, on or in a part of an aircraft that is not designed for the accommodation of the crew or passengers, or on or in anything attached to an aircraft.

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(3) CASA may, when granting a permission referred to in subregulation (2), specify conditions subject to which a person may be carried.

(4) A person must not contravene a condition to which a permission is subject.

Penalty: 50 penalty units.

(5) An offence against subregulation (1), (1A) or (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 (1) or (1A) if the person had CASA's permission under subregulation (2).

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

251 Seat belts and safety harness

(1) Subject to this regulation, seat belts shall be worn by all crew members and passengers:

(a) during take-off and landing;

(b) during an instrument approach;

(c) when the aircraft is flying at a height of less than 1,000 feet above the terrain; and

(d) at all times in turbulent conditions.

Penalty: 10 penalty units.

(2) Subregulation (1) does not apply in relation to an authorised officer of CASA undertaking examinations, inspections or checks of the work of an aircraft's crew or the operation of an aircraft or its equipment under regulation 262.

(3) CASA may direct that a type of safety harness specified in the direction shall be worn in place of a seat belt in the circumstances set out in the direction.

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(4) The pilot in command shall ensure that a seat belt or safety harness is worn at all times during flight by at least one of the pilot crew members.

Penalty: 25 penalty units.

(5) Subject to subregulation (6), the operator of an aircraft shall detail a member of the crew to ensure that a seat belt or safety harness is worn by each occupant of the aircraft during the times specified in subregulation (1) and to ensure that each belt or harness is adjusted to fit the wearer without slack.

Penalty: 10 penalty units.

(6) CASA may, for the purpose of ensuring the safety of air navigation, give directions requiring the owner or operator of an aircraft to install in the aircraft an approved communications system to enable the pilot in command to notify passengers when a seat belt or safety harness is to be worn.

(6A) A person must not contravene a direction.

Penalty: 10 penalty units.

(7) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(8) An offence against subregulation (1), (4), (5) or (6A) is an offence of strict liability.

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

(9) It is a defence to a prosecution under paragraph (1)(c) if CASA directed that seat belts need not be worn in that circumstance.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3(3) of the *Criminal Code*).

252 Provision of emergency systems etc

(1) CASA may give directions with respect to the provision in Australian aircraft of such emergency systems and equipment, and such life-saving equipment, as CASA considers necessary to safeguard the aircraft and persons on board the aircraft.

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(1A) A person must not contravene a direction.

Penalty: 50 penalty units.

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

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

(2) In giving a direction under subregulation (1), CASA shall have regard to the type of operation in which the aircraft is to be used.

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

252A Emergency locator transmitters

(1) The pilot in command of an Australian aircraft that is not an exempted aircraft may begin a flight only if the aircraft:

(a) is fitted with an approved ELT:

(i) that is in working order; and

(ii) whose switch is set to the position marked 'armed', if that switch has a position so marked; or

(b) carries, in a place readily accessible to the operating crew, an approved portable ELT that is in working order.

Penalty: 25 penalty units.

Note: For the maintenance requirements for emergency locator transmitters, see Part 4A. See also subsection 20AA(4) of the Act.

(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) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if:

(a) the flight is to take place wholly within a radius of 50 miles from the aerodrome reference point of the aerodrome from which the flight is to begin; or

(b) the flight is, or is incidental to, an agricultural operation; or

(c) CASA has given permission for the flight under regulation 21.197 of CASR; or

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(d) the aircraft is new and the flight is for a purpose associated with its manufacture, preparation or delivery; or

(e) the flight is for the purpose of moving the aircraft to a place to have an approved ELT fitted to the aircraft, or to have an approved ELT that is fitted to it repaired, removed or overhauled.

(3) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if, when the flight takes place:

(a) an approved ELT fitted to the aircraft, or an approved portable ELT usually carried in the aircraft, has been temporarily removed for inspection, repair, modification or replacement; and

(b) an entry has been made in the aircraft's log book, or approved alternative maintenance record, stating:

(i) the ELT's make, model and serial number; and

(ii) the date on which it was removed; and

(iii) the reason for removing it; and

(c) a placard stating 'ELT not installed or carried' has been placed in the aircraft in a position where it can be seen by the aircraft's pilot; and

(d) not more than 90 days have passed since the ELT was removed.

(4) For an emergency locator transmitter, emergency position indicating radio beacon or personal locator beacon to be an eligible ELT, it must meet the following requirements:

(a) it must, if activated, operate simultaneously:

(i) in the frequency band 406 MHz–406.1 MHz; and

(ii) on 121.5 MHz;

(b) it must be registered with the Australian Maritime Safety Authority;

(c) if it is fitted with a lithium-sulphur dioxide battery—the battery must be of a type authorised by the FAA in accordance with TSO-C142 or TSO-C142a.

(5) To be an approved ELT, an eligible ELT must meet the following requirements:

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(a) it must be automatically activated on impact;

(b) it must be of one of the following types:

(i) a type authorised by the FAA in accordance with:

(A) TSO-C91a for operation on 121.5 MHz; and

(B) TSO-C126 for operation in the frequency band 406 MHz–406.1 MHz;

(ii) a type that CASA is satisfied:

(A) is operationally equivalent to a type mentioned in subparagraph (i); and

(B) performs at a level that is at least equivalent to the level of performance of a type mentioned in subparagraph (i).

(6) To be an approved portable ELT, an eligible ELT must meet the following requirements:

(a) it must be portable;

(b) it must be of one of the following types:

(i) an emergency position indicating radio beacon of a type that meets the requirements of AS/NZS 4280.1:2003;

(ii) a personal locator beacon of a type that meets the requirements of AS/NZS 4280.2:2003;

(iii) a type authorised by the FAA in accordance with:

(A) TSO-C91a for operation on 121.5 MHz; and

(B) TSO-C126 for operation in the frequency band 406 MHz–406.1 MHz;

(iv) a type that CASA is satisfied:

(A) is operationally equivalent to a type mentioned in subparagraph (i), (ii) or (iii); and

(B) performs at a level that is at least equivalent to the level of performance of a type mentioned in subparagraph (i), (ii) or (iii).

(7) In this regulation:

approved ELT means an eligible ELT that meets the requirements mentioned in subregulation (5).

approved portable ELT means an eligible ELT that meets the requirements mentioned in subregulation (6).

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AS/NZS 4280.1:2003 means:

(a) the standard AS/NZS 4280.1:2003, *406 MHz satellite distress beacons, Part 1: Marine emergency position-indicating radio beacons (EPIRB) (IEC 61097-2:2002, MOD)*, as in force from time to time; or

(b) a later edition of the standard mentioned in paragraph (a), as in force from time to time.

AS/NZS 4280.2:2003 means:

(a) the standard AS/NZS 4280.2:2003, *406 MHz satellite distress beacons, Part 2: Personal locator beacons (PLBs)*, as in force from time to time; or

(b) a later edition of the standard mentioned in paragraph (a), as in force from time to time.

eligible ELT means an emergency locator transmitter, emergency position indicating radio beacon or personal locator beacon that meets the requirements mentioned in subregulation (4).

exempted aircraft means:

(a) a high-capacity regular public transport aircraft; or

(b) a high-capacity charter aircraft; or

(c) a single seat aircraft; or

(d) a turbojet-powered aircraft; or

(e) a balloon; or

(f) an airship; or

(g) a glider.

high-capacity, in relation to an aircraft, means permitted, by the aircraft's certificate of type approval:

(a) to have a maximum seating capacity of more than 38 seats; or

(b) to carry a maximum payload of more than 4,200 kilograms.

single seat aircraft means an aircraft that is equipped to carry only one person.

(8) In this regulation, a reference to a particular TSO is a reference to:

(a) the particular TSO, as in force from time to time; or

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(b) a later version of the particular TSO, as in force from time to time.

253 Emergency and life-saving equipment

(1) An operator shall not assign a person to act as a crew member of an aircraft, and a person shall not act as a crew member of an aircraft, unless the person is competent in the use of the emergency and life-saving equipment carried in the aircraft.

(2) An operator shall ensure that crew members are periodically tested as to competency in the use of the emergency and life-saving equipment carried in the aircraft to which they are assigned.

(3) The operator of an aircraft which is used in over-water flights shall ensure that each crew member is instructed in ***ditching*** and ***abandon ship*** procedures in so far as is practicable and that he or she is periodically tested as to his or her knowledge of those procedures.

(4) The operator of an aircraft shall detail a crew member to ensure that passengers are made familiar with the location of emergency exits in the aircraft in which they are travelling and the location and use of emergency equipment carried in the aircraft.

(5) The training and testing of crew members and the familiarization of passengers as required under the provisions of this regulation shall be carried out in such manner as CASA specifies to be satisfactory.

(6) CASA may issue directions as to the carriage in aircraft, and the use in such circumstances and subject to such conditions as CASA specifies, of medicinal preparations and drugs, including morphine and compounds of morphine or other opium alkaloids.

(6A) A person must not contravene a direction.

Penalty: 10 penalty units.

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

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

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(7) Any medicinal preparations or drugs may be carried and used in aircraft in accordance with a direction given by CASA in pursuance of subregulation (6) without any licence, authority or other permission prescribed or required by or under the law of a State or Territory of the Commonwealth.

254 Exits and passageways not to be obstructed

(1) Unless CASA otherwise approves, this regulation applies to all passageways and exits in an aircraft that are for use by passengers or crew.

(2) When an aircraft is in flight, the pilot in command must ensure that all passageways and exits to which this regulation applies are kept free from obstruction.

Penalty: 10 penalty units.

(3) When an aircraft is in flight, the pilot in command must ensure that all exits to which this regulation applies are fastened in a way that permits their immediate use in an emergency.

Penalty: 25 penalty units.

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

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

255 Smoking in aircraft

(1) Subject to subregulation (1A), a person must not smoke:

(a) in a part of an aircraft in which a notice is permanently displayed indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited;

(b) anywhere in an aircraft during take-off, landing or refuelling or during a period:

(i) in which a notice is temporarily displayed indicating that smoking is prohibited; or

(ii) which is specified in a permanently displayed notice as a period during which smoking is prohibited; or

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(c) in a berth of a sleeper aircraft.

Penalty: 5 penalty units.

(1A) A person must not smoke in an aircraft toilet.

Penalty: 50 penalty units.

(2) The owner or operator of an aircraft and the pilot in command shall ensure:

(a) that provision is made in the aircraft by which a notice indicating that smoking is prohibited may be displayed during the periods when smoking is prohibited or, where the permission of CASA has been obtained, that a notice is permanently displayed in the aircraft specifying the periods during which smoking is prohibited; and

(b) that a notice indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited is displayed:

(i) in such parts of the aircraft as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and

(ii) in the case of a sleeper aircraft, in each of the berths of the aircraft.

Penalty: 25 penalty units.

(3) The pilot in command of an aircraft must, if the permission of CASA has not been obtained under paragraph (2)(a) for the display of a permanent notice, ensure that the notice indicating that smoking is prohibited is displayed:

(a) during take-off, landing and refuelling;

(b) during such periods as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and

(c) during a period in which the pilot considers that smoking should be prohibited in the interests of safety.

Penalty: 25 penalty units.

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

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

(4) A notice required to be displayed in pursuance of this regulation shall be legible and shall be displayed in a conspicuous place.

256 Intoxicated persons not to act as pilots etc or be carried on aircraft

(1) A person shall not, while in a state of intoxication, enter any aircraft.

Penalty: 5 penalty units.

(2) A person acting as a member of the operating crew of an aircraft, or carried in the aircraft to act as a member of the operating crew, shall not, while so acting or carried, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

Penalty: 50 penalty units.

(3) A person shall not act as, or perform any duties or functions preparatory to acting as, a member of the operating crew of an aircraft if the person has, during the period of 8 hours immediately preceding the departure of the aircraft consumed any alcoholic liquor.

Penalty: 50 penalty units.

(4) A person who is on board an aircraft as a member of the operating crew, or as a person carried in the aircraft for the purpose of acting as a member of the operating crew, shall not consume any alcoholic liquor.

Penalty: 50 penalty units.

(5) A person shall not, while acting in any capacity in either air traffic control or Flight Service, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

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Penalty: 50 penalty units.

(6) A person shall not act in any capacity in either air traffic control or Flight Service if the person has, during the period of 8 hours immediately preceding the commencement of the period of duty in which he or she so acts, consumed any alcoholic liquor.

Penalty: 50 penalty units.

(7) A person who is on duty in either air traffic control or Flight Service shall not consume any alcoholic liquor.

Penalty for a contravention of this subregulation: 50 penalty units.

(8) An offence against subregulation (1), (2), (3), (4), (5), (6) or (7) is an offence of strict liability.

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

256AA Offensive and disorderly behaviour

(1) A person in an aircraft must not behave in an offensive and disorderly manner.

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*.

256A Carriage of animals

(1) Subject to subregulation (8), the operator of an aircraft may permit a live animal to be in the aircraft only if:

(a) the animal is in a container and is carried in accordance with this regulation; or

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

Penalty: 25 penalty units.

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

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Regulation 256A

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

(2) Subregulation (1) does not apply to a dog accompanying a visually impaired or hearing impaired person as a guide or an assistant if the dog is:

(a) carried in the passenger cabin of the aircraft; and

(b) placed on a moisture-absorbent mat as near to the person as practicable; and

(c) restrained in a way that will prevent the dog from moving from the mat.

(3) More than one animal must not be kept in the same container if doing so would be likely to affect adversely the safety of the aircraft.

(4) A container must be so constructed that:

(a) an animal kept in the container cannot escape from the container; and

(b) any water or excreta in the container is not likely to escape from the container in normal flying conditions; and

(c) the container will withstand being damaged in a way that may allow an animal, or water or excreta, in the container to escape.

(5) A container in which an animal is kept must not be in the passenger cabin of an aircraft.

(6) If:

(a) an animal is carried in an aircraft in a container; and

(b) if the animal is not restrained it could move around inside the container in a way that may alter the distribution of the load of the aircraft; and

(c) the safety of the aircraft may be affected adversely by that movement;

the animal must be restrained in the container to prevent that movement.

(7) The means of restraint must be strong enough to withstand being damaged in a way that may allow the animal to escape.

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(8) An animal must not be carried on an aircraft if carrying the animal would be likely to affect a person on the aircraft in a way that may affect adversely the safety of the aircraft.

(9) In this regulation, ***animal*** means any member of the animal kingdom other than man.

257 Aerodrome meteorological minima

(1) CASA may, in respect of an aircraft operation, determine the meteorological minima for the landing or taking-off of an aircraft at an aerodrome.

(2) A determination under subregulation (1) must be published in AIP or NOTAMS.

(3) If an element of the meteorological minima for the take-off of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not take-off from that aerodrome.

Penalty: 50 penalty units.

(4) If an element of the meteorological minima for the landing of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not land at that aerodrome.

Penalty: 50 penalty units.

(4A) 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*.

(5) Subregulation (4) does not apply if an emergency arises that, in the interests of safety, makes it necessary for an aircraft to land at an aerodrome where the meteorological minima is less than that determined for that aircraft operation at that aerodrome.

(6) This regulation does not prevent a pilot from:

(a) making an approach for the purpose of landing at an aerodrome; or

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(b) continuing to fly towards an aerodrome of intended landing specified in the flight plan;

if the pilot believes, on reasonable grounds, that the meteorological minima determined for that aerodrome will be at, or above, the meteorological minima determined for the aerodrome at the time of arrival at that aerodrome.

258 Flights over water

(1) The pilot in command of the aircraft must not fly over water at a distance from land greater than the distance from which the aircraft could reach land if the engine, or, in the case of a multi-engined aircraft, the critical engine (being the engine the non-operation of which when the other engines are in operation gives the highest minimum speed at which the aircraft can be controlled) were inoperative.

Penalty: 10 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) It is a defence to a prosecution under subregulation (1) if the flight was:

(a) in accordance with directions issued by CASA; or

(b) in the course of departing from or landing at an aerodrome in accordance with a normal navigational procedure for departing from or landing at that aerodrome.

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

259 Manned free balloons

(1) A person must not fly a free balloon if the person does not have the express permission of CASA and then only in accordance with the terms of that permission.

Penalty: 10 penalty units.

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

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

(2) This regulation does not apply to an unmanned free balloon to which Part 101 of CASR applies.

260 Manned fixed balloons and kites

(1) Despite regulation 157, a person may fly a fixed balloon or kite at a height not exceeding 300 feet.

(2) A person must not fly a fixed balloon or kite within 4 000 metres of an aerodrome or at a height of more than 300 feet if the following requirements are not satisfied:

(a) the person has CASA's permission to fly the balloon or kite at that height;

(b) the flight is in accordance with the terms of that permission.

Penalty: 10 penalty units.

(3) A person flying a fixed balloon or kite must fly it in V.M.C.

Penalty: 10 penalty units.

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

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

(5) This regulation does not apply to an unmanned fixed balloon or kite to which Part 101 of CASR applies.

262 Carriage of examiners

(1) CASA may authorise officers of CASA to undertake examinations, inspections or checks of the work of an aircraft's crew, the operation of an aircraft or its equipment or of the ground organisation provided by the operator of an aircraft for use by aircraft.

(2) An operator must provide an authorised officer with accommodation on aircraft in the following circumstances:

(a) on receipt of 7 days' notice prior to a flight from the officer of his or her intention to travel on that flight;

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(b) on immediate demand from the officer of his or her intention to travel, if his or her carriage in the aircraft does not mean the off-loading of a passenger or of cargo being carried in the aircraft on the particular flight concerned;

(c) on immediate demand from the officer of his or her intention to travel irrespective of whether his or her carriage in the aircraft means the off-loading of a passenger or of goods, if the officer considers the circumstances of the case so warrant.

Penalty: 10 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) In every case where the carriage of an officer in the circumstances specified in paragraph (2)(a) or (c) entails a loss of revenue to the owner of the aircraft due to the necessity of providing accommodation which would otherwise have been used for the carriage of a paying passenger or of cargo for which freight would have been charged, the owner shall be paid an amount equivalent to the loss of revenue.

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Division 5—Airborne collision avoidance systems—turbine-powered commercial aeroplanes

Subdivision 1—Definitions for Division 5

262AA Definitions for Division 5

In this Division:

ACAS means an airborne collision avoidance system for an aircraft that is used to provide information to a pilot of the aircraft for avoiding a collision with another aircraft.

approved TCAS means an approved TCAS II or TCAS II Version 7.1.

approved TCAS II means a TCAS that complies with TSO-C119b or EASA CS ETSO-C119b.

approved TCAS II Version 7.1 means a TCAS that complies with TSO-C119c or EASA CS ETSO-C119c.

resolution advisory means information that:

(a) is provided to a pilot of an aircraft by a TCAS that is fitted to the aircraft; and

(b) is about a manoeuvre for averting a collision with another aircraft that the TCAS recognises as a threat.

TCAS means a type of ACAS that:

(a) interrogates, and receives replies from, a secondary surveillance radar transponder; and

(b) uses those replies to provide:

(i) resolution advisories in the vertical plane; or

(ii) traffic advisories.

traffic advisory means information that:

(a) is provided to a pilot of an aircraft by a TCAS that is fitted to the aircraft; and

(b) is about another aircraft that the TCAS recognises as a threat.

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turbine-powered commercial aeroplane means an aeroplane that:

(a) is propelled by turbojet, turbofan or turboprop engines; and

(b) is being used to conduct a public transport service.

Subdivision 2—Airborne-collision avoidance systems—Australian turbine-powered commercial aeroplanes

262AB Application of Subdivision 2

This Subdivision applies to an Australian aircraft that is a turbine-powered commercial aeroplane.

262AC ACAS requirements—larger capacity aeroplanes: flights before 1 January 2014

(1) This regulation applies to a flight of an aeroplane if:

(a) the aeroplane:

(i) has a maximum take-off weight of more than 15 000 kg; or

(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats; and

(b) the flight is conducted before 1 January 2014.

(2) The pilot in command of the aeroplane commits an offence if, when the aeroplane begins the flight:

(a) the aeroplane is not fitted with an approved TCAS that is serviceable; and

(b) the flight is not permitted under subregulation (3) or (4).

Penalty: 25 penalty units.

(3) For paragraph (2)(b), the flight is permitted if the purpose of the flight is to move the aeroplane to a place to fit the aeroplane with an approved TCAS II Version 7.1.

(4) For paragraph (2)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS that is unserviceable; and

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(b) either:

(i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or

(ii) when the aeroplane begins the flight, the approved TCAS fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.

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

262AD ACAS requirements—larger capacity aeroplanes: flights on or after 1 January 2014

(1) This regulation applies to a flight of an aeroplane if:

(a) the aeroplane:

(i) has a maximum take-off weight of more than 15 000 kg; or

(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats; and

(b) the flight is conducted on or after 1 January 2014.

(2) The pilot in command commits an offence if, when the aeroplane begins the flight:

(a) the aeroplane is not fitted with an approved TCAS II Version 7.1 that is serviceable; and

(b) the flight is not permitted under subregulation (3), (4), or (5).

Penalty: 25 penalty units.

(3) For paragraph (2)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS II that was fitted before 1 January 2014; and

(b) that TCAS is serviceable.

(4) For paragraph (2)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS II that:

(i) was fitted before 1 January 2014; and

(ii) is not serviceable; and

(b) one of the following circumstances applies:

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(i) the purpose of the flight is to move the aeroplane to a place to fit it with an approved TCAS II Version 7.1;

(ii) the purpose of the flight is to move the aeroplane to a place to repair or overhaul the approved TCAS II;

(iii) when the aeroplane begins the flight, the approved TCAS II fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.

(5) For paragraph (2)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS II Version 7.1 that is unserviceable; and

(b) either:

(i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or

(ii) when the aeroplane begins the flight, the TCAS II Version 7.1 fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.

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

262AE ACAS requirements—certain other aeroplanes

(1) This regulation applies to an aeroplane if:

(a) the aeroplane:

(i) has a maximum take-off weight of more than 5 700 kg but less than 15 000 kg; or

(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19 but less than 31; and

(b) the aeroplane is first registered, in Australia or elsewhere, on or after 1 January 2014.

(2) The pilot in command of the aeroplane commits an offence if, when the aeroplane begins a flight:

(a) the aeroplane is not fitted with an approved TCAS II Version 7.1 that is serviceable; and

(b) the flight is not permitted under subregulation (3) or (4).

Penalty: 25 penalty units.

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(3) For paragraph (2)(b), the flight is permitted if the purpose of the flight is to move the aeroplane to a place to fit the aeroplane with an approved TCAS II Version 7.1.

(4) For paragraph (2)(b), the flight is permitted if:
  (a) the aeroplane is fitted with an approved TCAS II Version 7.1 that is unserviceable; and
  (b) either:
    (i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or
    (ii) when the aeroplane begins the flight, the approved TCAS fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.

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

262AF Serviceable ACAS must be activated during flight

(1) This regulation applies to an aeroplane if the aeroplane:
  (a) either:
    (i) has a maximum take-off weight of more than 5 700 kg; or
    (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and
  (b) is fitted with an approved TCAS that is serviceable.

(2) The pilot in command of the aeroplane commits an offence if the approved TCAS is not activated during a flight.

Penalty: 25 penalty units.

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

262AG Reporting unserviceable ACAS during flight

(1) This regulation applies to an aeroplane if the aeroplane:
  (a) either:
    (i) has a maximum take-off weight of more than 5 700 kg; or

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(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and

(b) is fitted with an approved TCAS that becomes unserviceable during a flight in, or into, Australian territory.

(2) The pilot in command of the aeroplane commits an offence if the pilot in command does not tell air traffic control of the unserviceability:

(a) if the aeroplane is in controlled airspace—as soon as practicable after the approved TCAS becomes unserviceable; or

(b) if the aeroplane is not in controlled airspace—before entering controlled airspace.

Penalty: 5 penalty units.

(3) Strict liability applies to paragraph (2)(b).

262AH Reporting unserviceable ACAS before flight

(1) This regulation applies to an aeroplane if the aeroplane:

(a) either:

(i) has a maximum take-off weight of more than 5 700 kg; or

(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and

(b) is not fitted with an approved TCAS that is serviceable.

(2) The pilot in command of the aeroplane commits an offence if, before beginning the flight, the pilot in command does not tell air traffic control:

(a) that the aeroplane is beginning the flight without an approved TCAS that is serviceable; and

(b) the purpose for which, or the circumstances in which, the flight is being conducted.

Penalty: 5 penalty units.

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

Subdivision 3—Airborne collision avoidance systems—foreign turbine-powered commercial aeroplanes

262AI Application of Subdivision 3

This Subdivision applies to a foreign registered aircraft if the aeroplane:

(a) is a turbine-powered commercial aeroplane; and

(b) either:

(i) has a maximum take-off weight of more than 5 700 kg; or

(ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19.

262AJ ACAS requirements—turbine-powered commercial aeroplanes

(1) The pilot in command of an aeroplane commits an offence if:

(a) when the aeroplane begins a flight in Australian territory, the aeroplane is not fitted with an approved TCAS that is serviceable; and

(b) the flight is not permitted under subregulation (2) or (3).

Penalty: 25 penalty units.

(2) For paragraph (1)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS that is unserviceable; and

(b) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the approved TCAS.

(3) For paragraph (1)(b), the flight is permitted if:

(a) the aeroplane is fitted with an approved TCAS that is unserviceable; and

(b) when the aeroplane begins the flight:

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(i) the unserviceability is permitted for the aeroplane under a law of the country in which the aeroplane is registered; and

(ii) the approved TCAS has been unserviceable for not more than 10 days; and

(iii) the aeroplane has been in Australian territory for a total of not more than 72 hours since the approved TCAS became unserviceable.

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

262AJA Serviceable ACAS must be activated during flight

(1) This regulation applies to an aeroplane if the aeroplane is fitted with an approved TCAS that is serviceable.

(2) The pilot in command of the aeroplane commits an offence if the approved TCAS is not activated during a flight in Australian territory.

Penalty: 25 penalty units.

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

262AJB Reporting unserviceable ACAS during flight

(1) This regulation applies to an aeroplane if the aeroplane is fitted with an approved TCAS that becomes unserviceable during a flight in, or into, Australian territory.

(2) The pilot in command of the aeroplane commits an offence if the pilot in command does not tell air traffic control of the unserviceability:

(a) if the aeroplane is in controlled airspace—as soon as practicable after the TCAS becomes unserviceable; or

(b) if the aeroplane is not in controlled airspace—before entering controlled airspace.

Penalty: 5 penalty units.

(3) Strict liability applies to paragraph (2)(b).

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262AJC Reporting unserviceable ACAS before flight

(1) This regulation applies to an aeroplane if the aeroplane is to begin a flight in Australian territory and is not fitted with an approved TCAS that is serviceable.

(2) The pilot in command of the aeroplane commits an offence if, before beginning the flight, the pilot in command does not tell air traffic control:

(a) that the aeroplane is beginning the flight without an approved TCAS that is serviceable; and

(b) the purpose for which, or the circumstances in which, the flight is being conducted.

Penalty: 5 penalty units.

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

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Division 6—Operating limitations for aircraft certificated in certain categories and experimental aircraft

262AK Application of this Division

This Division applies to an aircraft for which a special certificate of airworthiness has been issued under Part 21 of CASR.

Note: The kinds of aircraft to which this Division may apply include:
(a) restricted, intermediate and primary category aircraft; and
(b) provisionally certificated aircraft; and
(c) experimental aircraft; and
(d) light sport aircraft.

262AL Restricted category aircraft—operating limitations

(1) A person may operate a restricted category aircraft only in:
(a) a special purpose operation for which a special certificate of airworthiness in the restricted category is in force for the aircraft under regulation 21.185 of CASR; or
(b) an operation permitted under subregulation (2).

Penalty: 50 penalty units.

(2) A restricted category aircraft may be used for any of the following operations in support of a special purpose operation for which it is type certificated under regulation 21.025 of CASR:
(a) participation in an air display;
(b) taking the aircraft to or from a place where a demonstration or display of the aircraft is to take place or has taken place during an air display;
(c) practice in flying the aircraft for participation in an air display;
(d) taking the aircraft to or from a place where maintenance on the aircraft may be done, or has been done;
(e) testing the aircraft after maintenance;
(f) training a person to qualify for an aircraft class or type rating for an aircraft of the type or category in which the aircraft is included;

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(g) pilot proficiency training or practice in flying the aircraft, or training in a special purpose operation for which the aircraft is certificated;
(h) carrying out a demonstration or test of the aircraft for sale;
(i) delivering the aircraft to a person under a contract of sale;
(j) an operation necessary to accomplish the special purpose operation.

(3) A person must not operate a restricted category aircraft for a purpose mentioned in paragraph 206(1)(b) or (c).

Penalty: 50 penalty units.

(4) Subregulation (3) does not prohibit the following:
(a) carrying a person on a special purpose operation for which the aircraft is type certificated, if the person performs an essential function in the operation or is needed to accomplish the work activity directly associated with the special purpose;
(b) carrying a flight crew member for the purpose of giving the flight crew member training in carrying out a special purpose operation for which the aircraft is type certificated;
(c) carrying material on a special purpose operation for which the aircraft is type certificated, if the material is needed to carry out the special purpose operation or the work activity associated with it.

(5) The operator and the pilot in command of a restricted category aircraft must not permit a person to be carried on the aircraft if the person is not a person mentioned in subregulation (6).

Penalty: 50 penalty units.

(6) Subregulation (5) does not apply to the following:
(a) a flight crew member;
(b) a flight crew member under training;
(c) a person who performs an essential function in a special purpose operation for which the aircraft is type certificated;
(d) a person who is needed to accomplish the work activity directly associated with the special purpose.

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Regulation 262AN

(7) A person must not operate a restricted category aircraft if a shoulder harness is not installed for each seat located at a flight crew member station, and each seat located beside a seat at a flight crew member station.

Penalty: 25 penalty units.

(8) An offence against subregulation (1), (3), (5) or (7) is an offence of strict liability.

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

262AN Limited category aircraft—approved organisations

(1) CASA may, in writing, approve an organisation (a ***limited category organisation***) to perform functions in relation to limited category aircraft if CASA is satisfied that the organisation:

(a) is suitable, and has enough suitably qualified and competent personnel, to ensure that the administration of relevant aircraft operations, airworthiness assessments and continuing airworthiness procedures can be properly carried out; and

(b) has suitable practices, procedures, limitations and conditions to control the operation of limited category aircraft and ensure that the operational and airworthiness activities that it is to administer are conducted safely; and

(c) has a chief executive who has authority and responsibility for ensuring that all activities carried out by the organisation are done with a reasonable degree of care and diligence.

(2) However, CASA may approve an organisation only if it has a manual that:

(a) is consistent with these Regulations; and

(b) documents the practices, procedures, limitations and conditions mentioned in paragraph (1)(b).

(3) In particular, the manual must include procedures for the following:

(a) approving adventure flight procedures;

(b) authorising individuals for the purposes of regulation 132.185 (authorisations to give approvals,

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certificates and advice for limited category aircraft) of CASR;

(c) giving notice under regulation 132.230 (notice to CASA—certain proposed actions by limited category organisation) of CASR;

(d) giving the following in relation to limited category aircraft:

(i) certificates of airworthiness;

(ii) an approval mentioned in regulation 132.030 (approval of modifications and repairs for limited category aircraft) of CASR;

(iii) a certificate mentioned in subregulation 132.105(3) (operation of an aircraft that has a major modification or repair for an adventure flight subject to limitations) of CASR;

(iv) a certificate stating an airframe life for the aircraft's airframe given by the administering authority for the aircraft;

(v) advice under regulation 132.175 (advice about modifications, repairs, damage etc.) of CASR;

(vi) an approval or certificate prescribed by the Part 132 Manual of Standards for the purposes of this paragraph.

(4) An approval of a limited category organisation is subject to the condition that the organisation must keep the manual up-to-date.

(5) CASA must not approve an organisation for the purposes of this regulation unless the organisation is an individual or a body corporate.

262AO Provisionally certificated aircraft—operating limitations

(1) A person must not operate a provisionally certificated aircraft if the person is not the holder of the provisional certificate of airworthiness for that aircraft.

Penalty: 50 penalty units.

(2) A person must not operate a provisionally certificated aircraft in another country's airspace if the operation is not in accordance with the approval of the appropriate authority of the country.

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Penalty: 10 penalty units.

(3) A person must not operate a provisionally certificated aircraft for a purpose mentioned in paragraph 206(1)(b) or (c).

Penalty: 50 penalty units.

(4) A person may operate a provisionally certificated aircraft only if:
(a) to obtain type or supplemental type certification for the aircraft; or
(b) for training flight crews, including simulated operations of the type mentioned in paragraph 206(1)(b) or (c); or
(c) for a demonstration flight by the manufacturer for prospective purchasers; or
(d) for market surveys by the manufacturer; or
(e) for flight checking of instruments, accessories, and items of equipment that do not affect the basic airworthiness of the aircraft; or
(f) for service testing of the aircraft.

Penalty: 50 penalty units.

(5) A person operating a provisionally certificated aircraft must operate within the limitations displayed in the aircraft or stated in the provisional aircraft flight manual or other appropriate document.

(6) However, when operating the aircraft during its type certification or supplemental type certification, the person must operate under the limitations applying to experimental aircraft under regulation 262AP and, when flight testing it, must comply with regulation 262AS.

Penalty: 50 penalty units.

(7) A person operating a provisionally certificated aircraft must establish approved procedures for:
(a) use by, and guidance of, flight and ground personnel in operating under this regulation; and
(b) landing at and taking-off from aerodromes where take-offs or approaches over populated areas are necessary.

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Penalty: 50 penalty units.

(8) A person operating a provisionally certificated aircraft must comply with the approved procedures.

Penalty: 50 penalty units.

(9) A person operating a provisionally certificated aircraft must ensure that each flight crew member is properly licensed and rated, and has adequate knowledge of and familiarity with, the aircraft and procedures to be used by the crew member.

Penalty: 50 penalty units.

(10) A person operating a provisionally certificated aircraft must maintain it in accordance with a maintenance program approved under regulation 21.081 or 21.083 of CASR.

Penalty: 50 penalty units.

(11) A person operating a provisionally certificated aircraft:

(a) must not carry anyone in the aircraft who does not have a proper interest in the operations allowed by this regulation, or who is not specifically authorised by both the manufacturer, and by CASA or an authorised person, to be carried; and

(b) must tell each person carried that the aircraft is provisionally certificated.

Penalty: 50 penalty units.

(12) An offence against subregulation (1), (2), (3), (4), (6), (7), (8), (9), (10) or (11) is an offence of strict liability.

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

262AP Experimental aircraft—operating limitations

(1) A person must not operate an aircraft for which a special certificate of airworthiness is in force under regulation 21.195A of CASR, if the operation is not one of the following kinds:

(a) an operation for a purpose for which the certificate is issued;

(b) an operation permitted by subregulation (2).

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Penalty: 50 penalty units.

(2) An experimental aircraft may be used for any of the following operations in support of an operation for which the special certificate of airworthiness was issued:

(a) taking the aircraft to or from a place where maintenance on the aircraft can be done, or has been done;

(b) testing the aircraft after maintenance;

(c) training a person to qualify for an aircraft class or type rating on the aircraft;

(d) practice in flying the aircraft;

(e) carrying out a demonstration or test of the aircraft for sale;

(f) delivering the aircraft to a person under a contract of sale;

(g) for an amateur-built or kit-built aircraft—flying training given in the aircraft to its owner.

(3) A person must not operate an experimental aircraft outside the area assigned for the purpose by CASA or an authorised person, and must not carry persons other than essential crew in the aircraft, until it is shown that it:

(a) is controllable throughout its normal range of speeds and throughout all the manoeuvres to be executed; and

(b) has no hazardous operating characteristics or design features.

Penalty: 50 penalty units.

(4) A person must not operate an experimental aircraft over the built-up area of a city or town unless authorised to do so under subregulation (5).

Penalty: 50 penalty units.

(5) CASA or an authorised person may authorise a particular aircraft to be operated over the built-up area of a city or town subject to the conditions and limitations CASA or the authorised person considers necessary for the safety of other airspace users and persons on the ground or water.

(6) A person operating an experimental aircraft must operate it only:

(a) by day and under V.F.R; or

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(b) otherwise in accordance with an approval by CASA or an authorised person.

Penalty: 50 penalty units.

(7) A person must not operate an experimental aircraft for a purpose mentioned in paragraph 206(1)(b) or (c).

Penalty: 50 penalty units.

(8) A person must not operate an experimental aircraft carrying a passenger if each of the following requirements is not satisfied:

(a) no more than 6 (or a greater number approved by CASA or an authorised person) people are on board;

(b) the operator or the pilot in command ensures that each person carried is told before boarding the aircraft that:

(i) the design, manufacture, and airworthiness of the aircraft is not required to meet any standards recognised by CASA; and

(ii) persons fly in the aircraft at their own risk;

(c) a placard bearing the warning stated in subregulation (9) is displayed inside the aircraft in a way that is conspicuous to, and can be easily read by, each person in the aircraft.

Penalty: 50 penalty units.

(9) For paragraph (8)(c), the warning is:

‘WARNING

PERSONS FLY IN THIS AIRCRAFT AT THEIR OWN RISK

THIS AIRCRAFT IS NOT OPERATED TO THE SAME SAFETY STANDARDS AS A NORMAL COMMERCIAL PASSENGER FLIGHT

CASA DOES NOT SET AIRWORTHINESS STANDARDS FOR EXPERIMENTAL AIRCRAFT’.

(11) A person must not operate an experimental aircraft in another country’s airspace if it is not in accordance with the approval of the appropriate authority of the country.

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Penalty: 10 penalty units.

(12) A person must not operate an experimental aircraft for a purpose mentioned in paragraph 206(1)(a) if the person is not the holder of an appropriate AOC.

Penalty: 10 penalty units.

(13) An offence against subregulation (1), (3), (4), (6), (7), (8), (11) or (12) is an offence of strict liability.

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

262APA Light sport aircraft—operating limitations

(1) A person must not operate a light sport aircraft covered by regulation 21.186 of CASR unless:

(a) the aircraft is being operated for:

(i) private operations; or

(ii) conducting or undergoing flying training; or

(iii) glider towing; and

(b) maintenance has been carried out on the aircraft in accordance with maintenance procedures issued by its manufacturer; and

(c) the aircraft has been inspected, in accordance with inspection procedures issued by its manufacturer, at least once:

(i) in the case of an aircraft that is let on hire for a purpose mentioned in subparagraph (a)(i), (ii) or (iii)—every 100 hours TIS or every 12 months, whichever occurs first; and

(ii) in any other case—every 12 months; and

(d) all modifications on the aircraft have been authorised by its manufacturer; and

(e) the person who operates the aircraft ensures that each person who boards the aircraft is told about the warning in subregulation (2) before the person boards the aircraft; and

(f) a placard bearing the warning in subregulation (2) is displayed inside the aircraft in a place where it is conspicuous to, and can easily be read by, each person in the aircraft.

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Penalty: 50 penalty units.

(2) For paragraphs (1)(e) and (f), the warning is:

‘THIS AIRCRAFT WAS MANUFACTURED IN ACCORDANCE WITH LIGHT SPORT AIRCRAFT AIRWORTHINESS STANDARDS AND DOES NOT CONFORM TO STANDARD CATEGORY AIRWORTHINESS REQUIREMENTS’.

(3) Unless otherwise approved by its manufacturer, a person must not operate a light sport aircraft covered by regulation 21.186 of CASR contrary to:

(a) the aircraft operating instructions issued for the aircraft (including instructions for necessary equipment in the aircraft’s equipment list); or

(b) a safety direction or requirement issued by its manufacturer.

Penalty: 50 penalty units.

(4) A person must not operate a light sport aircraft covered by regulation 21.186 of CASR contrary to any additional operating limitation determined, in writing, by CASA for the aircraft in the interests of aviation safety.

Penalty: 50 penalty units.

(5) CASA must give a copy of a determination referred to in subregulation (4) to the registered operator of the aircraft concerned.

(6) An offence against subregulation (1), (3) or (4) is an offence of strict liability.

(7) In the case of an aircraft whose manufacturer no longer exists or can no longer provide instructions for the continuing airworthiness of the aircraft, anything required by a provision of this regulation to be done by its manufacturer can be done by a person appointed by CASA to perform the functions of the manufacturer in relation to the continuing airworthiness of the aircraft.

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262AQ Primary category aircraft—operating limitations

(1) A person must not operate a primary category aircraft in aerial work operations (other than flying training) or for a purpose mentioned in paragraph 206(1)(b) or (c).

Penalty: 50 penalty units.

(2) A person may make a primary category aircraft of a particular kind available for rental only:

(a) if it is maintained by:

(i) the holder of an aircraft engineer licence; or

(ii) the holder of a certificate of approval that covers maintenance for aircraft of that kind; or

(iii) an approved maintenance organisation, within the meaning given by Part 3 of the CASR Dictionary, that is approved to provide maintenance services for aircraft of that kind; and

(b) for personal use or flying training.

Penalty: 50 penalty units.

(3) A person may operate a primary category aircraft, of a particular type and model, that is not maintained by a person mentioned in paragraph (2)(a) only if:

(a) the aircraft is maintained by the pilot-owner of the aircraft under a special inspection and preventive maintenance program that is part of the aircraft's type design or supplemental type design; and

(b) the pilot-owner of the aircraft holds a certificate of competency issued under paragraph 21.163(2)(b) of CASR for that type and model of aircraft; and

(c) the aircraft is operated by the pilot-owner or a person nominated by the pilot-owner; and

(d) the pilot-owner is not paid and does not receive other compensation for the use of the aircraft.

Penalty: 50 penalty units.

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

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

262AR Intermediate category aircraft—operating limitations

(1) A person must not operate an intermediate category aircraft for a purpose mentioned in paragraph 206(1)(b) or (c) if the person is not the holder of an appropriate AOC.

Penalty: 50 penalty units.

(2) A person may make an intermediate category aircraft of a particular kind available for rental only:

(a) if it is maintained by:

(i) the holder of an aircraft engineer licence; or

(ii) the holder of a certificate of approval that covers maintenance for aircraft of that kind; or

(iii) an approved maintenance organisation, within the meaning given by Part 3 of the CASR Dictionary, that is approved to provide maintenance services for aircraft of that kind; and

(b) for personal use or flying training.

Penalty: 50 penalty units.

(3) A person may operate an intermediate category aircraft, of a particular type and model, that is not maintained by a person mentioned in paragraph (2)(a) only if:

(a) the aircraft is maintained by the pilot-owner of the aircraft under a special inspection and preventive maintenance program that is part of the aircraft's type design or supplemental type design; and

(b) the pilot-owner of the aircraft holds a certificate of competency issued under paragraph 21.163(4)(b) of CASR for that type and model of aircraft; and

(c) the aircraft is operated by the pilot-owner or a person nominated by the pilot-owner; and

(d) the pilot-owner does not receive payment for the use of the aircraft.

Penalty: 50 penalty units.

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(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*.

262AS Where aircraft may be flight tested

(1) A person may flight test an aircraft only:

(a) over open water or a sparsely populated area; and

(b) where there is no more than light air traffic.

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*.

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Part 16—Refusal to grant, and suspension and cancellation of, approvals, authorities, certificates and licences

263 Interpretation

(1) In this Part, unless the contrary intention appears:

approval means:

(a) an approval under regulation 262AN; or

(b) an approval issued under regulation 145.030 or 147.030 of CASR.

authority means:

(a) an airworthiness authority; or

(b) an aircraft welding authority;

under Division 3 of Part 4.

certificate means:

(a) a certificate under Division 3 of Part 4; or

(b) a certificate of validation; or

(c) a CAR certificate of validation within the meaning of subregulation 5.01(1).

licence means:

(a) an aircraft engineer licence; or

(b) a flight crew licence, rating or endorsement; or

(c) any of the following within the meaning of subregulation 5.01(1):

(i) a balloon class endorsement;

(ii) a balloon flight crew rating;

(iii) a commercial (balloon) pilot licence;

(iv) a flight radiotelephone operator licence.

(2) A reference in this Part to a licence or an authority shall be read as including a reference to a rating or other endorsement on a licence

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or an authority by virtue of which the holder of a licence or an authority so endorsed has under these Regulations specific privileges or authority to exercise or perform specific functions or duties in relation to the operation or maintenance of aircraft.

(3) A reference in this Part to variation of a licence or an authority shall be read as including a reference to the inclusion, deletion or alteration of an endorsement on a licence or an authority.

264 Refusal to grant certificate under Division 3 of Part 4

CASA must not refuse to grant a certificate under Division 3 of Part 4 except on one or more of the following grounds:

(a) that the applicant has failed to satisfy a requirement prescribed by or specified under these Regulations in relation to the grant of the certificate;

(b) that the applicant has made in, or in connection with, the application a statement that was false or misleading in a material particular;

(c) that a court has made an order under section 30A of the Act in relation to the applicant;

(d) in relation to the initial issue of a certificate:

(i) that the applicant was the holder of a certificate that was previously cancelled; or

(ii) that the applicant is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of the certificate.

265 Suspension of licence or authority for purpose of examination

(1) If:

(a) CASA requires the holder of a licence to undergo an examination under regulation 299; or

(c) CASA requires the holder of an authority to undergo an examination under regulation 33;

CASA may suspend the licence or authority by giving the holder of the licence or authority written notice of the suspension.

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(2) Where the result of the examination does not show any ground on which the licence or authority may be suspended or cancelled, CASA shall forthwith terminate the suspension of the licence or authority and, by notice in writing served on the holder of the licence or authority, notify the holder that the suspension has been so terminated.

(3) Where CASA, upon the result of the examination becoming known, does not terminate the suspension in accordance with subregulation (2) but gives to the holder of the licence or authority a notice under subregulation 269(3), the licence or authority shall remain suspended during the time specified by CASA in that notice as the time within which the holder of the licence or authority may show cause why the licence or authority should not be varied, suspended or cancelled under regulation 269.

267 Variation of authority, certificate or licence at request of holder

(1) Subject to subregulation (2), CASA may vary a licence or certificate or an authority (other than an aircraft welding authority) in accordance with a request made by the holder of the licence, certificate or authority.

(2) Nothing in subregulation (1) shall be taken to require CASA to vary a licence or certificate or an authority in accordance with a request made under that subregulation.

269 Variation, suspension or cancellation of approval, authority, certificate or licence

(1) Subject to this regulation, CASA may, by notice in writing served on the holder of an approval, authority, certificate or licence (an ***authorisation***), vary, suspend or cancel the authorisation if CASA is satisfied that one or more of the following grounds exists, namely:

(a) that the holder of the authorisation has contravened, a provision of the Act or these Regulations, including these regulations as in force by virtue of a law of a State;

(b) that the holder of the authorisation fails to satisfy, or to continue to satisfy, any requirement prescribed by, or

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specified under, these Regulations in relation to the obtaining or holding of such an authorisation;

(c) that the holder of the authorisation has failed in his or her duty with respect to any matter affecting the safe navigation or operation of an aircraft;

(d) that the holder of the authorisation is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of such an authorisation;

(e) that the holder of the authorisation has contravened, a direction or instruction with respect to a matter affecting the safe navigation and operation of an aircraft, being a direction or instruction that is contained in Civil Aviation Orders.

(1A) CASA must not cancel an authorisation under subregulation (1) because of a contravention mentioned in paragraph (1)(a) unless:

(a) the holder of the authorisation has been convicted by a court of an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention; or

(b) the person was charged before a court with an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention and was found by the court to have committed the offence, but the court did not proceed to convict the person of the offence.

(2) A notice under subregulation (1) shall set out the grounds for the decision.

(3) Before taking action under this regulation to vary, suspend or cancel an authorisation, CASA must:

(a) give notice, in writing, to the holder of the authorisation of the facts and circumstances that, in the opinion of CASA, warrant consideration being given to the variation, suspension or cancellation of the authorisation under this regulation; and

(b) allow the holder of the authorisation to show cause, within such time as CASA specifies in that notice, why the authorisation should not be varied, suspended or cancelled under this regulation.

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(4) The time specified by CASA in the notice under subregulation (3) as the time within which the holder of the authorisation may show cause why the authorisation should not be varied, suspended or cancelled under this regulation shall be a time that is reasonable in all of the circumstances of the particular case.

(5) A reference in this regulation to these Regulations is a reference to these Regulations other than Subparts 99.C and 99.E of CASR.

270 Effect of effluxion of time for suspension of approval, authority, certificate or licence

(1) Where an approval, authority, certificate or licence (an ***authorisation***) is suspended under this Part, the authorisation has no force or effect for the duration of the suspension, but the period of currency of the authorisation continues to run.

(2) Where the period for which an authorisation is suspended is a period expiring after the expiration of the current period of the authorisation, the holder of the authorisation is not eligible for renewal of the authorisation until the period of suspension has expired.

272A Effect of suspension of approval, authority, certificate or licence

If CASA suspends an approval, authority, certificate or licence (an ***authorisation***), its holder is taken not to be the holder of the authorisation during the period of the suspension.

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Part 17—Penal provisions and prosecutions

Division 1—Penal provisions

282 Offences in relation to licences, certificates and authorities

(1) A person shall not, if the person is not specially permitted by or under these Regulations, perform any duty or exercise any function or do any act for which:

(a) a licence;

(b) a certificate; or

(c) a rating or other endorsement on a licence or certificate;

is required under these Regulations, without holding:

(d) the appropriate licence or certificate; or

(e) a licence or certificate containing the appropriate rating or other endorsement.

Penalty: 50 penalty units.

(2) Where a licence or certificate is suspended, or a rating or other endorsement on a licence or certificate is suspended or cancelled, under these Regulations, the person to whom the licence or certificate was granted shall not, for the purposes of subregulation (1) be deemed to be the holder of the licence or certificate or a licence or certificate containing the rating or other endorsement, as the case may be, during the period of suspension or cancellation.

(3) A person shall not purport to give a certificate, or to issue a document, for the purposes of these Regulations if he or she is not authorised under these Regulations to do so.

Penalty: 50 penalty units.

(4) The holder of a licence, a certificate, an airworthiness authority or an aircraft welding authority shall not:

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(a) negligently perform a duty that he or she is qualified to perform under the terms of the licence, certificate, airworthiness authority or aircraft welding authority; or

(b) issue a certificate that he or she is required or empowered to issue under these Regulations without ensuring that all matters certified therein are true and correct in every material particular.

Penalty: 25 penalty units.

(5) An offence against subregulation (1) or (2) or paragraph (4)(b) is an offence of strict liability.

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

286 Stowaways

(1) A person must not secrete himself or herself in an aircraft, or travel in an aircraft without the consent of the operator or pilot in command.

Penalty: 10 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*.

287 Power of Court to order returns etc to be furnished

Where any person is convicted of an offence under these Regulations for failure to furnish any return or to comply with a notice to surrender a document, the Court before which he or she is convicted may, in addition to imposing any pecuniary or other penalty, order the defendant to furnish the return or surrender the document, as the case may be.

288 Detention of aircraft

(1) Where it appears to CASA that any aircraft is intended or likely to be flown in such circumstances that the flight would involve an offence against these Regulations or be a cause of danger to persons in the aircraft or to persons or property on the ground, CASA may take such action by way of detention of the aircraft or

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such other action as is necessary for the purpose of causing the circumstances relating to the flight to be investigated or the aircraft to be inspected.

(2) Where an aircraft has been detained in pursuance of subregulation (1), the aircraft shall not be used until CASA, being satisfied that these Regulations are being complied with, approves, or until such alterations or repairs as CASA considers necessary to render the aircraft fit for flight have been made.

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*.

289 Creation of fire hazard

(1) Subject to these Regulations, a person shall not smoke or do any act to procure a naked flame within 15 metres of an aircraft or in any part of an aerodrome in which a notice indicates that smoking is prohibited.

Penalty: 10 penalty units.

(2) A person shall not do any act likely to create a fire hazard endangering an aircraft or an aerodrome.

Penalty: 10 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) Nothing in this regulation applies in relation to an act done at a Federal airport.

290 Firearms—Federal airports

An authorised person may, for a purpose relating to the safety of air navigation, discharge a firearm upon or over any part of a Federal airport.

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291 Stationary aircraft within precincts of an aerodrome

(1) A person may leave a stationary aircraft standing within the precincts of an aerodrome at which air traffic control is in operation, only if:

(a) the aircraft is standing in an area that is designated to be an area for the parking of aircraft of a kind to which that aircraft belongs; or

(b) air traffic control has given permission for the aircraft to be left standing in that area.

Penalty: 5 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*.

292 Aircraft on movement area to be reported

(1) If, for any reason, an aircraft:

(a) is left standing on the movement area of an aerodrome; or

(b) is left standing on any other area of an aerodrome so as to constitute a hazard to aircraft operations;

the pilot in command of the aircraft shall forthwith report the fact that the aircraft is standing on the movement area or other area of the aerodrome to air traffic control or the nearest radio communication station.

Penalty: 10 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 report under subregulation (1) shall be in addition to a notification or report required under the Air Navigation Regulations.

(3) In this regulation, ***radio communication station*** means a radio station established or authorised for the purpose of radio communication with aircraft and designated by CASA as a radio communication station in Aeronautical Information Publications.

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(4) A reference in this regulation to an aerodrome shall be read as including a reference to an aerodrome under the control of a part of the Defence Force, being an aerodrome in respect of which an arrangement under section 20 of the Act is in force.

293 Removal of aircraft from movement area

(1) Where, in the opinion of CASA, it is necessary, in the interests of safety or to expedite or maintain an orderly flow of air traffic, to remove an aircraft from any part of an aerodrome or to move an aircraft from one part of the movement area of an aerodrome to another, CASA may authorise a person, with such assistance (if any) as is necessary and reasonable, to so remove or move the aircraft, and the officer shall remove or move the aircraft accordingly.

(2) CASA or a person who assists in the removal of an aircraft under subregulation (1) shall not be liable for any damage which occurs to the aircraft by reason of its removal in pursuance of an authorisation given under that subregulation.

(3) A reference in this regulation to an aerodrome shall be read as including a reference to an aerodrome under the control of a part of the Defence Force, being an aerodrome in respect of which an arrangement under section 20 of the Act is in force.

294 Prohibition of entry etc on prohibited area

(1) A person must not:
  (a) enter or remain within a prohibited area in an aerodrome;
  (b) bring or leave any property on a prohibited area within an aerodrome;
  (c) operate any vehicle on a prohibited area within an aerodrome;
  (d) bring any animal or bird on to a prohibited area within an aerodrome; or
  (e) permit any animal or bird under his or her possession or control to trespass on a prohibited area within an aerodrome.

Penalty: 5 penalty units.

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(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) Where:

(a) a person contravenes paragraph (1)(a), (b), (c) or (d); or

(b) any property, vehicle, animal or bird is found in contravention of paragraph (1)(b), (c), (d) or (e);

any authorised person may apprehend and remove that person, property, vehicle, animal or bird, as the case may be, without being deemed guilty of any act of trespass.

(3) In this regulation:

authorised person means an officer or employee of CASA, a member of the Defence Force, a constable, an aerodrome operator, a person authorised by the aerodrome operator, or the pilot in command of an aircraft.

prohibited area, in relation to an aerodrome, means any part of the aerodrome upon which is posted a notice relating to that part of the aerodrome, being a notice to the effect that trespassing upon that part of the aerodrome is prohibited and purporting to have been posted with the authority of CASA.

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Division 2—Prosecutions

296 Time for commencing prosecutions

(1) A prosecution in respect of any offence against these Regulations may be commenced at any time within 3 years after the commission of the offence.

(2) For the purposes of subregulation (1), time shall be deemed not to run during any period after the commission of an offence and before the institution of proceedings in respect thereof for which the defendant is outside Australian territory.

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Division 3—Infringement notices

296A Definitions for Division 3 of Part 17

In this Division:

infringement notice means a notice served under regulation 296B.

prescribed offence means an offence under these Regulations.

Note: Subregulation 2C(1) provides that CASR is to be read with, and as if it formed part of, CAR.

prescribed penalty, for a prescribed offence, means:

(a) if the maximum penalty for the offence is 5 or 10 penalty units—a penalty of 1 penalty unit; or

(b) if the maximum penalty for the offence is 15, 20 or 25 penalty units—a penalty of 3 penalty units; or

(c) if the maximum penalty for the offence is more than 25 penalty units—a penalty of 5 penalty units.

296B When can an infringement notice be served?

If an authorised person has reason to believe that a person has committed a prescribed offence, he or she may serve on the person an infringement notice in accordance with this Division.

296C Can an infringement notice be withdrawn?

(1) An authorised person may withdraw an infringement notice served on a person (in this regulation called ***the recipient***) by serving written notice of the withdrawal on the recipient:

(a) within 28 days after the date of service of the infringement notice; or

(b) if an authorised person allows the recipient a further period of time in which to pay the prescribed penalty for the offence mentioned in the notice—before the end of the further period.

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(2) Without limiting the generality of subregulation (1), the authorised person may withdraw the infringement notice after taking into account:

(a) whether the recipient has previously been convicted of an offence against these Regulations; or

(b) the circumstances in which the offence specified in the notice is alleged to have been committed; or

(c) whether an infringement notice has previously been served on the recipient in relation to an offence of the same type as the offence specified in the notice and in relation to which the recipient paid the prescribed penalty; or

(d) any other relevant matter.

(3) If:

(a) the recipient pays the prescribed penalty within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and

(b) the notice is withdrawn after the recipient pays the penalty;

CASA must refund to the recipient an amount equal to the amount paid.

296D How are infringement notices and withdrawals of notices to be served?

An authorised person may serve an infringement notice, or a notice of withdrawal of an infringement notice:

(a) on an individual:

(i) by giving it to the individual personally; or

(ii) by leaving it at, or by sending it by post to, the address of the place of residence or business of the individual that is last known to the authorised person; or

(iii) by giving it, at the place of residence or business of the individual that is last known to the authorised person, to a person who is, or is reasonably believed by the authorised person to be, above the age of 16 years and

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apparently an occupant of, or employed at, the place; and

(b) on a body corporate:

(i) by sending it by post to the head office, registered office, principal office or other postal address of the body corporate; or

(ii) by giving it to a person who is, or is reasonably believed by the authorised person to be:

(A) an officer of, or in the service of, the body corporate; and

(B) above the age of 16 years;

at the head office, registered office, principal office or other place of business of the body corporate.

296E What must be included in an infringement notice?

(1) An infringement notice must:

(a) specify the name of the authorised person by whom, or on whose behalf, the notice is served; and

(b) state the name and address of the person on whom the notice is served; and

(ba) state the prescribed offence that the person is alleged to have committed, identifying the provision of these Regulations that the person is alleged to have contravened; and

(c) specify when and where the offence is alleged to have been committed; and

(ca) state the amount of the prescribed penalty for the offence; and

(d) notify the person on whom it is served that, if he or she does not wish the matter to be dealt with by a court, he or she may pay the amount of the prescribed penalty within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and

(e) specify where and how the prescribed penalty may be paid.

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(2) An infringement notice may contain any other matters that CASA considers necessary.

296F What happens if you pay the prescribed penalty?

If:

(a) an infringement notice is served on a person; and

(b) the person pays the prescribed penalty for the offence mentioned in the notice within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and

(c) the infringement notice is not withdrawn;

then:

(d) any liability of the person in respect of the offence specified in the notice is taken to be discharged; and

(e) further proceedings cannot be taken against the person for the offence; and

(f) the person is not regarded as having been convicted of the offence.

296G Evidentiary matters

(1) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person that states:

(a) that the authorised person did not allow further time under paragraph 296F(b) for payment of the prescribed penalty for the offence; and

(b) that the penalty has not been paid in accordance with the notice within 28 days after the date of service of the notice;

is evidence of those matters.

(2) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person and stating:

(a) that the authorised person allowed, under paragraph 296F(b), the further time specified in the certificate for payment of the

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prescribed penalty for the offence mentioned in the notice; and

(b) that the penalty has not been paid in accordance with the notice or within the further time allowed;

is evidence of those matters.

(3) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person and stating that the notice was withdrawn on a day specified in the certificate is evidence of that fact.

(4) A certificate that purports to have been signed by an authorised person is taken to have been signed by that person unless the contrary is proved.

296H Can there be more than one infringement notice for the same offence?

This Division does not prevent the service of more than one infringement notice on a person for the same offence, but regulation 296F applies to the person if the person pays the prescribed penalty in accordance with one of the infringement notices.

296I What if payment is made by cheque?

If a cheque is offered to CASA as payment of all or part of the amount of a prescribed penalty, payment is taken not to have been made unless the cheque is honoured upon presentation.

296J This Division does not prevent a matter being prosecuted in a court and does not mean that an infringement notice must be served in all cases

Nothing in this Division:

(a) requires an infringement notice to be served on a person in relation to a prescribed offence; or

(b) affects the liability of a person to be prosecuted for a prescribed offence if the person does not comply with an infringement notice; or

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(c) affects the liability of a person to be prosecuted for a prescribed offence if an infringement notice is not served on the person in relation to a prescribed offence; or

(d) limits the amount of the fine that may be imposed by a court on a person convicted of a prescribed offence.

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Part 18—Evidence

297 Evidence

(1) CASA may, in writing, certify that:

(a) a document required to be surrendered to CASA in accordance with a notice in writing under regulation 301 has not been so surrendered;

(b) a document annexed to the certificate is a true copy of the text of the Convention or of an annex adopted in pursuance of the Convention; or

(c) a document annexed to the certificate is a true copy of a Civil Aviation Order, AIP, NOTAM, licence, certificate, permit, direction, authority, notice, order, approval or other document published, given or issued under these Regulations.

(2) CASA, in a certificate under paragraph (1)(c), may certify that the document of which the document annexed to the certificate is certified to be a true copy was, on a specified date or between specified dates, posted to:

(a) the defendant in a prosecution for an offence against these Regulations or in any proceedings for the recovery of moneys under these Regulations; or

(b) the applicant or other specified person in any review, investigation or inquiry conducted or made under these Regulations.

(3) CASA, or the officer having custody of the appropriate records of CASA, may, in writing, certify that, during a specified period or on a specified date:

(a) a person was or was not licensed;

(b) an aircraft was or was not registered;

(c) a certificate of airworthiness of an aircraft had or had not been issued, was valid or invalid for the purposes of these Regulations or was subject to specified conditions;

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(e) a place was or was not licensed for use as an aerodrome or was or was not authorised for use as an aerodrome;

(f) a permit, direction, authority, notice, order or approval required under these Regulations had or had not been issued under these Regulations; or

(g) a licence or certificate issued under these Regulations was or was not suspended, cancelled or endorsed with a specified endorsement.

(4) In all courts and in any review, investigation or inquiry conducted or made under these Regulations, a certificate purporting to have been given under this regulation:

(a) shall, unless the contrary is proved, be deemed to be a certificate given by a person empowered by this regulation to give the certificate; and

(b) is evidence of the facts stated in the certificate, and, in the case of a certificate certifying that a document was posted to the defendant in a prosecution for an offence against these Regulations or an applicant or a specified person in any review, investigation or inquiry conducted or made under these Regulations, is evidence that the document was received by the defendant, applicant or specified person on or about the time at which it would have been received in the ordinary course of post.

(5) For the purposes of establishing liability to charges as defined by section 66 of the Act, a flight by an aircraft may be identified by documentation that includes:

(a) a flight strip summary, being a document known by that description issued by CASA for the purpose of enabling officers of CASA to compile records of aircraft movements in relation to aerodromes;

(b) messages extracted from the message switching system known as the Aeronautical Fixed Telecommunication Network as referred to in Annex 10 to the Chicago Convention;

(c) the flight plan submitted to air traffic control by the pilot in command of the aircraft; and

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(d) an invoice, being an invoice containing a printout of computerised records of each flight to which the invoice relates.

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Part 19—Miscellaneous

297A Review of decisions

Decisions made by CASA

(1) An application may be made to the Administrative Appeals Tribunal for the review of a decision of CASA mentioned in table 297A.

Table 297A Reviewable decisions

Item	A decision...
1	under regulation 30A refusing to approve a change to a certificate of approval
2	under regulation 33B: (a) refusing to issue an airworthiness authority; or (b) issuing an airworthiness authority subject to conditions
3	under regulation 33D refusing to grant an aircraft welding authority
4	under regulation 33G refusing to renew an aircraft welding authority
5	under regulation 33H refusing to approve a change to an aircraft welding authority
6	under regulation 33I imposing a condition on an aircraft welding authority
7	under regulation 42M refusing to approve a system of maintenance
8	under regulation 42R refusing to approve a change to an approved system of maintenance
9	under regulation 42R modifying a change to an approved system of maintenance and approving the modified change
10	under regulation 42ZG refusing to approve a system of certification of completion of maintenance
11	under regulation 42ZK refusing to approve a change to a system of certification of completion of maintenance

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Table 297A	**Reviewable decisions**
Item	**A decision...**
12	under regulation 42ZS: (a) refusing to grant an exemption from, or a variation of, a requirement to which Division 7 of Part 4A applies; or (b) granting or approving the exemption or variation subject to conditions
13	under regulation 42ZW: (a) refusing to approve the appointment of a person as a maintenance controller; or (b) approving the appointment of a person as a maintenance controller subject to conditions
14	under regulation 42ZX suspending or cancelling the approval of a person's appointment as a maintenance controller
15	under regulation 5.14 refusing to issue or renew a balloon flight crew rating
16	under regulation 5.20 revoking a person's approval to give balloon flying training for the issue of a balloon flight crew rating
18	under regulation 5.23 refusing to issue a balloon class endorsement (within the meaning given by subregulation 5.01(1))
22	under regulation 5.58 revoking an approval of a person's appointment as a chief balloon flying instructor
24	under regulation 135A refusing to issue a special flight authorisation
25	under regulation 181G refusing to approve an application for an RVSM airworthiness approval
26	under regulation 181I suspending an RVSM airworthiness approval
27	under regulation 181J cancelling an RVSM airworthiness approval
28	under regulation 181M refusing to approve an application for an RVSM operational approval
29	under regulation 181O suspending an RVSM operational approval
30	under regulation 181P cancelling an RVSM operational approval
31	under regulation 262AN refusing to approve an organisation in relation to a limited category aircraft
32	under regulation 265 suspending a licence or authority (within the meaning given by subregulation 263(1))

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Table 297A	Reviewable decisions
Item	**A decision...**
33	under regulation 269 varying, suspending or cancelling an approval, authority, certificate or licence (within the meaning given by subregulation 263(1))
34	under subregulation 298A(4) that CASA is satisfied that a person has committed an act mentioned in subregulation 298A(1)

Decisions made by authorised persons

(2) An application may be made to the Administrative Appeals Tribunal for the review of a decision that is:

(a) mentioned in item 7, 8, 11 or 12 of table 297A; and

(b) made by a person who is an authorised person for the provision under which the decision is made.

Note 1: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person, whose interests are affected by the decision, notice of:

(a) the making of the decision; and

(b) the person's right to have the decision reviewed.

Note 2: A decision mentioned in this regulation that is made by a delegate of CASA is reviewable under this regulation: see subsection 25(3A) of the *Administrative Appeals Tribunal Act 1975*.

298A Cheating by examination candidates

(1) CASA may give written notice to a person who attempted a prescribed examination if it believes on reasonable grounds that the person has committed any of the following acts without CASA's permission:

(a) copied any part of the examination paper;

(b) removed:

(i) any part of the examination paper; or

(ii) a copy of any part of the examination paper;

from the place where the person attempted the examination;

(c) given to another person:

(i) any part of the examination paper; or

(ii) a copy of any part of the examination paper; or

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(iii) any information about the questions contained in the examination paper, being information that might give anyone an unfair advantage in the examination;

(d) before the examination—knowingly received from another person, or otherwise knowingly obtained possession of:

(i) any part of the examination paper; or

(ii) a copy of any part of the examination paper; or

(iii) any information about the questions contained in the examination paper, being information that might give the person an unfair advantage in the examination;

(e) before or during the examination—knowingly received from another person, or otherwise knowingly obtained possession of:

(i) any part of the model answer; or

(ii) a copy of any part of the model answer; or

(iii) any information about the content of the model answer;

(f) during the examination:

(i) helped another person to complete any part of the examination; or

(ii) received help from another person to complete any part of the examination; or

(iii) used any material or aid that CASA does not permit to be used; or

(iv) read the examination work of another person attempting the examination;

(g) caused or assisted the commission of, or attempted, any act referred to in paragraph (a), (b), (c), (d), (e) or (f).

Note: For definitions of expressions used in this subregulation see subregulation (8).

(2) CASA must set out in a notice under subregulation (1):

(a) the act which CASA believes the person has committed; and

(b) the grounds for the belief.

(3) If CASA notifies a person under subregulation (1), the person may, within the period of 14 days after the day on which the person received the notice, make reasonable representations to CASA

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explaining why the person believes that he or she has not committed the act mentioned in the notice.

(4) If:

(a) CASA notifies a person under subregulation (1); and

(b) the period of 14 days after the day on which the person received the notice has ended; and

(c) after taking into account any representations, CASA is satisfied that the person has committed the act mentioned in the notice;

CASA must notify the person of its decision.

Note: Regulation 297A provides that a decision by CASA that it is satisfied as mentioned in subregulation 298A(4) is reviewable by the Administrative Appeals Tribunal.

(5) If CASA notifies a person under subregulation (4), the person:

(a) is taken not to have passed the examination; and

(b) is not permitted to attempt any prescribed examination for a period of one year from the day of the first-mentioned examination.

(6) For the purposes of subregulation (1), a person attempts a written examination if the person:

(a) attends the place where the examination is held at any time during the examination; and

(b) receives the examination paper, or any part of it, from the person conducting the examination.

(7) For the purposes of subregulation (1), a person attempts a practical examination if the person:

(a) attends the place where the examination is held; and

(b) begins carrying out an activity required by the examination.

(8) In this regulation:

authorisation means an airworthiness authority or an aircraft welding authority.

certificate means:

(a) a certificate under Division 3 of Part 4; or

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(b) a certificate under Part 8; or
(c) a certificate of validation; or
(d) a CAR certificate of validation within the meaning of subregulation 5.01(1).

endorsement means:
(a) an endorsement under Division 3 of Part 4; or
(b) a flight crew endorsement; or
(ba) a balloon class endorsement within the meaning of subregulation 5.01(1); or
(c) an endorsement under Part 65 of CASR.

examination paper means all of the documents provided by the person conducting a written examination to persons attempting the examination.

licence means:
(a) a licence under Division 3 of Part 4; or
(b) a flight crew licence; or
(ba) a balloon flight crew licence within the meaning of subregulation 5.01(1); or
(c) a licence under Part 65 of CASR.

model answer, in relation to an examination, means a document which sets out the correct, or suggested, answers to the questions set out in the examination paper.

practical examination means an examination that requires a person to demonstrate his or her ability to carry out a particular activity to a particular standard.

prescribed examination means an examination conducted for the purpose of the issue or renewal of a licence, certificate, authorisation, rating or endorsement.

rating means:
(a) a flight crew rating; or
(aa) a balloon flight crew rating within the meaning of subregulation 5.01(1); or
(b) a rating under Part 65 of CASR.

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written examination means an examination that requires answers to be given in writing and includes an examination that sets out multiple choice answers to each question.

298B Examination misconduct by persons other than examination candidates

(1) Without the approval of CASA, a person, other than an examination candidate to whom subregulation 298A(1) applies, must not:

(a) copy any part of an examination paper or model answer; or

(b) give to any person:

(i) any part of an examination paper or model answer; or

(ii) a copy of any part of an examination paper or model answer; or

(iii) any information about the questions contained in an examination paper, being information that might give anyone an unfair advantage in an examination; or

(iv) any information about the content of a model answer; or

(c) receive from any person, or otherwise obtain possession of:

(i) any part of an examination paper or model answer; or

(ii) a copy of any part of an examination paper or model answer; or

(iii) any information about the questions contained in an examination paper, being information that might give anyone an unfair advantage in an examination; or

(iv) any information about the content of a model answer; or

(d) help another person to complete any part of an examination during the examination; or

(e) cause or assist the commission of, or attempt, any act referred to in paragraph (a), (b), (c) or (d).

Penalty: 50 penalty units.

(1A) Strict liability applies to paragraphs (1)(a), (b) and (d).

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

(2) In this regulation:

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examination paper has the same meaning as in regulation 298A.

model answer has the same meaning as in regulation 298A.

298C Personation at examinations

(1) A person must not personate an examination candidate at a prescribed examination.

Penalty: 50 penalty units.

(2) If a person is charged with an offence against subregulation (1), both the personator and the candidate are taken not to have passed the examination.

(3) If a person is charged with an offence against subregulation (1):

(a) the personator; and

(b) unless CASA is satisfied that the personation took place without the candidate's knowledge or consent—the candidate;

are not permitted to attempt any prescribed examination:

(c) unless the person is acquitted of the offence; or

(d) unless the charge is withdrawn; or

(e) until a period of one year has passed from the date of the examination to which the charge related;

whichever happens first.

(4) In spite of subregulation (2), if:

(a) a person who attempted an examination is charged with an offence against subregulation (1); and

(b) either:

(i) the person is acquitted of that offence; or

(ii) the charge is withdrawn; and

(c) the mark obtained by the person in the examination is more than, or equal to, the pass mark for the examination;

the person is taken to have passed the examination.

(5) In this regulation:

offence against subregulation (1) includes:

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(a) an offence against section 11.1 or 11.4 of the *Criminal Code* in relation to an offence against that subregulation; and

(b) an offence against subregulation (1) because of the operation of section 11.2 or 11.3 of the *Criminal Code*.

(6) In this regulation:

personator means a person alleged to have personated a candidate.

prescribed examination has the same meaning as in regulation 298A.

298D Person not permitted to sit examination until Tribunal decides

(1) If a person applies under subregulation 297A(2) for review of CASA's decision that it is satisfied as mentioned in subregulation 298A(4), the person is not permitted to attempt any prescribed examination:

(a) unless the Administrative Appeals Tribunal decides the application in favour of the applicant; or

(b) until a period of one year passes from the date of the examination to which the application relates;

whichever happens first.

(2) In this regulation:

prescribed examination has the same meaning as in regulation 298A.

298E Sitting examination when not permitted

(1) If:

(a) a person is not permitted to attempt a prescribed examination because of subregulation 298A(5), 298C(3) or 298D(1); and

(b) the person attempts a prescribed examination;

the person is taken not to have passed the examination.

(2) In this regulation:

prescribed examination has the same meaning as in regulation 298A.

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299 Further examination of holders of flight crew licences etc.

(1) This regulation applies to the holder of any of the following:

(a) a flight crew licence, rating or endorsement;

(b) a certificate of validation;

(c) any of the following within the meaning of subregulation 5.01(1):

(i) a balloon class endorsement;

(ii) a balloon flight crew rating;

(iii) a CAR certificate of validation;

(iv) a commercial (balloon) pilot licence;

(v) a flight radiotelephone operator licence.

(2) If CASA considers it necessary in the interests of the safety of air navigation, CASA may give the holder a notice in writing:

(a) requiring the holder to undertake an examination specified by CASA to demonstrate that the holder continues to possess the aeronautical skills and aeronautical knowledge appropriate to the licence, rating, endorsement or certificate; and

(b) setting out the reasons for CASA's decision; and

(c) setting out the time and place of the examination.

Note: A decision to require a person to undertake an examination is reviewable by the Administrative Appeals Tribunal: see regulation 297A.

(3) CASA must not set out a time under paragraph (2)(c) that is within 21 days after the date of the notice.

(4) A person who is given a notice under subregulation (2) commits an offence if the person:

(a) refuses to undertake an examination; or

(b) fails to attend at the time and place set out in the notice.

Penalty: 50 penalty units.

(5) An offence against this regulation is an offence of strict liability.

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301 Surrender of documents

(1) The holder of a licence, certificate or other document issued, or required to be kept, under these Regulations, or a person having the custody of a licence, certificate or other document issued, or required to be kept, under these Regulations, shall, if CASA by notice in writing so requires, surrender the licence, certificate or document to CASA within such time as is specified in the notice.

Penalty: 5 penalty units.

(1A) In subregulation (1), a reference to a document that is required to be kept under these Regulations includes a document that is required to be kept under:

(a) a Civil Aviation Order; or

(b) a Manual of Standards; or

(c) another document that is required to be kept under these Regulations.

(2) A person must not engage in conduct that results in the destruction, mutilation or defacement of a document that the person is required to surrender to CASA.

Penalty: 10 penalty units.

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

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

302 Production of licences

(1) Any person required under these Regulations to be the holder of a licence, other than a flight crew licence, shall, on demand by an authorised person, produce the licence for inspection by the authorised person.

Penalty: 5 penalty units.

(2) The owner or pilot in command of any aircraft shall, on demand, produce or cause to be produced for inspection by an authorised person, any certificates, licences, log books or other documents relating to the aircraft and, if it carries passengers or cargo, the list

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of names of the passengers or the bills of lading and the manifest, as the case may be.

Penalty: 5 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*.

303 Conditions subject to which licences or certificates are granted

(1) Wherever CASA is empowered under these Regulations to grant or issue a licence or certificate upon or subject to conditions, CASA may, unless the contrary intention appears, specify and notify in Civil Aviation Orders any such conditions that are to be of general application to a specified class of licences or certificates (which may include licences or certificates granted or issued before the notification) and any conditions so notified shall be deemed to be conditions of every licence or certificate of that class.

(2) In this regulation:

licence includes:

(a) a flight crew rating or endorsement; or

(b) a balloon flight crew rating or balloon class endorsement within the meaning of subregulation 5.01(1).

304 Directions and instructions—section 23 of the Act

(1) CASA may give or issue directions or instructions to all or any of the persons holding permissions under section 23 of the Act, being directions or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft.

(2) A person must not contravene a direction or instruction.

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*.

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305 Access of authorised persons

(1) Subject to any aviation security requirements, an authorised person shall, at all reasonable times, have access to any place to which access is necessary for the purpose of carrying out any powers and functions vested in him or her in pursuance of these Regulations, and, in particular:

(a) must have access at all times to an aerodrome for the purpose of inspecting the aerodrome; and

(b) must have access at all times during working hours to:

(i) premises at which an activity authorised by a civil aviation authorisation is being carried out; and

(ii) any documents or drawings associated with the activity; and

(c) shall, at all reasonable times, have access to any aircraft for the purpose of inspecting the aircraft.

(1A) A person must not prevent, or hinder, access by an authorised person to any place to which access is necessary for the purpose of carrying out any of the authorised person's powers or functions under these Regulations.

Penalty: 50 penalty units.

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

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

(2) An authorised person must produce his or her identity card for inspection:

(a) while acting as an authorised person; and

(b) if asked to do so by the occupier or person in charge, or apparently in charge, of the place or thing to which access is sought.

(3) Where an authorised person:

(a) is acting as an authorised person; and

(b) seeks or is allowed access to a place or thing specified in subregulation (1); and

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

that person is not authorised to access under that subregulation and, if access has been given to that person, that access is to be terminated.

306 Liability for damage to aircraft during official tests

CASA or an officer shall not be liable for any loss or damage to an aircraft which occurs while the aircraft is in the custody of CASA for the purpose of official flying trials or other official tests, or in the course of transit to and from the place fixed for those trials or tests, or during any inspection by an officer in pursuance of these Regulations.

309 Powers of pilot in command

(1) The pilot in command of an aircraft, with such assistance as is necessary and reasonable, may:

(a) take such action, including the removal of a person from the aircraft or the placing of a person under restraint or in custody, by force, as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft; and

(b) detain the passengers, crew and cargo for such period as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft.

(2) A person who, on an aircraft in flight, whether within or outside Australian territory, is found committing, or is reasonably suspected of having committed, or having attempted to commit, or of being about to commit, an offence against the Act or these Regulations may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a constable and shall be dealt with in the same manner as a person so arrested by a constable.

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309A Instructions about activities on board aircraft

(1) Subject to subregulation (2), the operator, or pilot in command, of an Australian aircraft may give an instruction, either orally or in writing, prohibiting or limiting the doing of an act on board the aircraft during flight time in the aircraft.

(2) The operator, or pilot in command, must not give an instruction unless he or she is satisfied on reasonable grounds that the instruction is necessary in the interests of the safety of air navigation.

(3) An instruction does not bind a person unless it is communicated to the person.

(4) A person who is bound by an instruction must comply with the instruction.

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*.

(6) It is a defence to a prosecution under subregulation (4) if the person 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*).

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Part 20—Transitional provisions

Division 1—Transitional provisions—miscellaneous

311 Transitional

(1) If:

(a) an instrument (other than an Air Navigation Order or an instrument delegating powers or functions) made, granted or issued by a person under or for the purposes of a provision of the *Air Navigation Regulations 1947* (the ***ANR***) was in effect immediately before 30 June 1988; and

(b) that provision is one to which a provision of these Regulations corresponds;

the instrument continues to have effect on and after that day as if it had been made, granted or issued by the appropriate person under or for the purposes of that corresponding provision.

(2) If:

(a) an Air Navigation Order issued under the ANR for the purposes of a provision of those Regulations was in effect immediately before 30 June 1988; and

(b) that provision is one to which a provision of these Regulations corresponds;

the Air Navigation Order continues to have effect on and after that day as if it had been issued by CASA for the purposes of that corresponding provision.

(3) If:

(a) any act done, step taken or decision made (not being the making, granting or issuing of an instrument) by a person under or for the purposes of a provision of the ANR was in effect immediately before 30 June 1988; and

(b) that provision is one to which a provision of these Regulations corresponds;

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the act, step or decision continues to have effect on and after that day as if it had been done, taken or made by the appropriate person under or for the purposes of that corresponding provision.

(4) An Air Navigation Order referred to in subregulation (2) is, in its operation on and after 30 June 1988, taken to be a Civil Aviation Order.

(5) If any act done, step taken or decision made by a person under or for the purposes of an Air Navigation Order referred to in subregulation (2) was in effect immediately before 30 June 1988, the act, step or decision continues to have effect on and after that day as if it had been done, taken or made by the appropriate person under or for the purposes of that Air Navigation Order as continued in effect after that day as a Civil Aviation Order.

(6) In an instrument (including an Air Navigation Order) that, by virtue of this regulation, continues to have effect in the manner provided in this regulation:

(a) a reference to the Secretary to the Department is to be read as a reference to CASA; and

(b) a reference to the Department (other than a reference mentioned in paragraph (a)) is to be read as a reference to CASA; and

(c) a reference to a provision of the *Air Navigation Act 1920* is to be read as a reference to the corresponding provision of the Act; and

(d) a reference to a provision of the ANR shall be read as a reference to the corresponding provision of these Regulations; and

(e) a reference to an Air Navigation Order that, by virtue of this regulation, continues to have effect as a Civil Aviation Order is to be read as a reference to that Civil Aviation Order.

312 Definition

In this Part:

original regulations means these Regulations as in force immediately before 1 October 1998.

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313 Transitional: certificates of type approval

(3) A certificate of type approval for an aircraft component (other than an aircraft engine or propeller) that was in force under regulation 22 immediately before 1 October 1998 continues in force, and has the effect it would have if the original regulations were still in force.

(4) A certificate of type approval continued in force under this regulation remains subject to any condition to which it was subject immediately before 1 October 1998.

(5) If the suspension of a certificate of type approval continued in force under this regulation was in force under regulation 22D immediately before 1 October 1998, the suspension continues as if the original regulations were still in force.

(6) If an application for a certificate of type approval for an aircraft component (other than an aircraft engine or propeller) was made before 1 October 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

(8) The original regulations apply as if they were still in force to a certificate of type approval for an aircraft component (other than an aircraft engine or propeller) issued on an application mentioned in subregulation (6).

314 Transitional: certificates of airworthiness

(5) If an application for the validation of a certificate of airworthiness issued by the appropriate authority of a Contracting State was made before 1 October 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

315 Transitional: suspension of a certificate of airworthiness

If the suspension of a certificate of airworthiness was in force under regulation 26 immediately before 1 October 1998, the

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suspension continues as if the original regulations were still in force.

318 Transitional: certificates of approval

(1) A certificate of approval for the manufacture of aircraft, aircraft components or aircraft materials that was in force under regulation 30 on 30 November 1998:

(a) continues in force for 5 years after 30 November 1998; and

(b) has the effect during that period that it would have if the original regulations were still in force; and

(c) for Subparts 21.H and 21.L of CASR—has the same effect during that period as a production certificate issued under regulation 21.134 of CASR.

(2) A certificate of approval for manufacture continued in force under subregulation (1) remains subject to any condition to which it was subject immediately before 1 December 1998.

(3) If an application for a certificate of approval for the manufacture of aircraft, aircraft components or aircraft materials was made under subregulation 30(1) before 1 December 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

(4) If a request under regulation 30A for approval of a proposed change to any of the particulars stated in a certificate that has been continued under subregulation (1) was made before 1 December 1998 but CASA had not decided the request before that day, CASA must deal with the request as if the original regulations were still in force.

319 Transitional: approval to manufacture amateur-built aircraft

(1) An approval to manufacture an amateur-built aircraft that was in force under subparagraph 24(2)(b)(ii) immediately before 1 December 1998 continues in force, and has the effect that it would have if the original regulations were still in force.

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(2) An approval continued in force under subregulation (1) remains subject to any condition to which it was subject immediately before 1 December 1998.

(3) If an application for approval to manufacture an amateur-built aircraft mentioned in subparagraph 24(2)(b)(ii) was made before 1 December 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

320 Transitional: suspension of certificate of approval

If the suspension of a certificate of approval for manufacture was in force under regulation 265, 268 or 269 immediately before 1 December 1998, the suspension continues as if the original regulations were still in force.

321 Transitional: notices of events

A notice under regulation 30B that was in force immediately before 1 December 1998 continues in force, and has the effect that it would have if the original regulations were still in force.

323AA Transitional—certain directions under regulation 166

A direction issued by CASA in accordance with subparagraph 166(1)(d)(i) as in force immediately before the commencement of this regulation has effect after the commencement as if it were a direction issued for subparagraph 166(2)(e)(i) of CAR as in force on and from the commencement of this regulation.

323A Transitional—determinations under regulation 178

(1) A determination under paragraph 178(1)(b) of the old regulations that was in force immediately before 1 October 2003 has effect on and after that day as if it were a determination under subregulation 178(6) of the amended regulations.

(2) A determination under subregulation 178(5) of the old regulations that was in force immediately before 1 October 2003 has effect

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after that day as if it were a determination under subregulation 178(6) of the amended regulations.

(3) In this regulation:

amended regulations means CAR as in force and as amended on and after 1 October 2003.

old regulations means CAR as in force immediately before 1 October 2003.

324 Transitional: certain warnings

The requirement in paragraph 262AP(8)(c) is taken to be complied with if a placard bearing the warning stated in subregulation 262AP(9) (as in force immediately before 1 December 1999):

(a) is displayed in accordance with paragraph 262AP(8)(c); and

(b) was so displayed immediately before 1 December 1999.

325 References to Parts, Divisions or Subdivisions renumbered by *Civil Aviation Amendment Regulations 1999 (No. 6)*

A reference in an instrument made before 22 December 1999 to a Part, Division or Subdivision renumbered by the *Civil Aviation Amendment Regulations 1999 (No. 6)* is a reference to the Part, Division or Subdivision as so renumbered.

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Division 2—Transitional provisions relating to Parts 42, 66, 145 and 147 of CASR

328 Application of Part 4A to aircraft

Part 4A does not apply to an aircraft to which Part 42 of CASR applies.

330 Application of Part 4B to aircraft

Subject to regulation 331, Part 4B does not apply to an aircraft:

(a) to which Part 42 of CASR applies; and

(b) for which maintenance services are being provided by a Part 145 organisation.

331 Application of Part 4B to Part 145 organisations—dealing with defects

If:

(a) a person who is the holder of a certificate of approval that covers maintenance for an aircraft makes a report to CASA under regulation 51, 51A or 52 in relation to a defect in the aircraft; and

(b) after making the report, the person becomes a Part 145 organisation;

Part 4B continues to apply to the person in relation to the defect.

332 Application of regulation 133 to aircraft

Paragraphs 133(1)(c) and (d) do not apply to an aircraft to which Part 42 of CASR applies.

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Division 3—Transitional provisions—amendments made by the Civil Aviation Legislation Amendment Regulation 2013 (No. 1) (substitution of Part 5)

333 Certain civil aviation authorisations not affected by substitution of Part 5 on 1 September 2014

(1) Subregulation (2) applies to a balloon-related civil aviation authorisation issued under Part 5 if the authorisation was in force immediately before 1 September 2014.

(2) Despite the substitution of Part 5 on 1 September 2014, the authorisation continues in force according to its terms as if the substitution had not occurred.

(3) Subregulation (4) applies to a balloon-related civil aviation authorisation if the authorisation was under suspension immediately before 1 September 2014.

(4) Despite the substitution of Part 5 on 1 September 2014, the authorisation is not repealed, and its suspension continues according to its terms, as if the substitution had not occurred.

334 Civil Aviation Orders for Part 5—balloons

(1) This regulation applies to a Civil Aviation Order made under a provision mentioned in subregulation (2) if the Order:
  (a) was in force immediately before 1 September 2014; and
  (b) related to balloons.

(2) For subregulation (1) the provisions are the following:
  (a) regulation 5.14;
  (b) regulation 5.17;
  (c) regulation 5.19;
  (d) regulation 5.20;
  (e) regulation 5.52;
  (f) regulation 5.58;
  (g) regulation 5.59.

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(3) Despite the substitution of Part 5 on 1 September 2014, the Civil Aviation Order continues in force according to its terms to the extent that it relates to balloons as if the substitution had not occurred.

335 Civil Aviation Orders—flight time limitations

(1) This regulation applies to a Civil Aviation Order made under regulation 5.55 if the Order was in force immediately before 1 September 2014.

(2) The Civil Aviation Order continues in force according to its terms as if it had been made on 1 September 2014 under regulation 210A.

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Division 4—Transitional provisions—amendments made by the Civil Aviation Legislation Amendment (Maintenance and Other Matters) Regulation 2013

Subdivision 1—Transitional provisions

336 References to certification of completion of maintenance and authorised release certificates (regulation 42W)

(1) For paragraphs 42W(4)(a) and (b), a reference to the completion of maintenance being certified in accordance with regulation 42ZE or 42ZN is taken to include a reference to a certificate of release to service having been issued for the maintenance.

(2) For paragraphs 42W(4)(d) and (e), a reference to an authorised release certificate is taken to include, for a component on which maintenance has been carried out under CASR, a reference to a certificate of release to service for the component in relation to the maintenance that is issued under Division 42.H.4 of CASR and is in the approved form.

337 Application of regulation 214 (Training of maintenance personnel)

Regulation 214 does not apply to an operator in relation to an aircraft for which a Part 145 organisation is:

(a) providing maintenance services; or

(b) undertaking CAR maintenance activities.

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Subdivision 2—Part 145 organisations approved to undertake CAR maintenance activities

338 Definition of *approved system of certification of completion of maintenance*

The definition of ***approved system of certification of completion of maintenance*** in subregulation 2(1) is taken to include, for a Part 145 organisation that is approved to undertake CAR maintenance activities, the system of certification of completion of maintenance set out in the organisation's exposition.

339 Compliance with regulation 42G (Flight control system: additional requirements)

A Part 145 organisation that carries out maintenance to which regulation 42G applies is taken to have complied with that regulation in relation to the maintenance if the organisation:

(a) is approved to undertake CAR maintenance activities for the aircraft on which the maintenance is carried out; and

(b) carries out the maintenance in accordance with Division 42.D.5 (Requirements for independent inspection of critical control system maintenance) of CASR.

340 Compliance with Division 4 of Part 4A (How maintenance is to be carried out)

A Part 145 organisation that carries out maintenance on an aircraft is taken to have complied with Division 4 of Part 4A in relation to the maintenance if the organisation:

(a) is approved to undertake CAR maintenance activities for the aircraft; and

(b) carries out the maintenance in accordance with Divisions 42.D.4 (Requirements for carrying out maintenance) and 42.E.3 (Requirements for controlling unserviceable and unsalvageable parts) of CASR.

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Regulation 341

341 Who may carry out maintenance for regulation 42ZC (Maintenance on Australian aircraft in Australian territory)

(1) Subregulation 42ZC(3) is taken to permit the following persons to carry out maintenance on a class A aircraft in Australian territory:

(a) a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft;

(b) an individual carrying out maintenance on behalf of a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft.

(2) Subregulation 42ZC(4) is taken to permit the following persons to carry out maintenance on a class B aircraft in Australian territory:

(a) a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft;

(b) an individual carrying out maintenance on behalf of a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft.

342 Application of regulations 42ZF to 42ZM (which deal with approved systems of certification of completion of maintenance)

Regulations 42ZF to 42ZM do not apply to a Part 145 organisation that is approved to undertake CAR maintenance activities.

Note: For an approved system of certification of completion of maintenance for a Part 145 organisation that is approved to undertake CAR maintenance activities, see regulation 338.

343 Compliance with Part 4B (Defect reporting)

A Part 145 organisation that carries out maintenance on an aircraft is taken to have complied with Part 4B in relation to a defect in the aircraft if the organisation:

(a) is approved to undertake CAR maintenance activities for the aircraft; and

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(b) complies with Subdivision 42.D.6.2 (Reporting defects) of CASR in relation to the defect.

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Regulation 351

Division 6—Transitional—approved organisations for limited category aircraft (amendments made by the Civil Aviation Legislation Amendment (Part 132) Regulation 2016)

351 Approved organisations—approval held by Australian Warbirds Association Limited

(1) This regulation applies if, immediately before the commencement of this regulation, the Australian Warbirds Association Limited held an approval under regulation 262AN that was in force.

(2) The approval has effect, on and after the commencement of this regulation, as if it were an approval under regulation 262AN as substituted by the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

(3) This Division is repealed at the start of the day that is 6 months after the day this regulation commences.

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