



# Civil Aviation Safety Regulations 1998

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**Volume 1: regulations 1.001–42.1105**

Volume 2: regulations 45.005–92.205

Volume 3: regulations 99.005–135.465

Volume 4: regulations 137.005–175.500

Volume 5: regulations 200.005–202.900

Dictionary and Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Civil Aviation Safety Regulations 1998* that shows the text of the law as amended and in force on 15 July 2022 (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](http://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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 1—Preliminary

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### 1.001 Name of Regulations

These Regulations are the *Civil Aviation Safety Regulations 1998*.

### 1.003 Harmonisation with FARs

- (1) These Regulations contain provisions based on the FARs.
- (2) An object of these Regulations is to harmonise certain parts of Australia's aviation safety law with the FARs.
- (3) The words '*Source* FARs' below a regulation indicate that the regulation is based on the section of the FARs, as in force on 1 January 1997, stated after the words and, if the section number is followed by the word 'modified', the word indicates that the FARs section has been modified for the regulation.

Example:

#### **21.013 Eligibility**

Any person is eligible to apply to CASA for a type certificate or type acceptance certificate.

*Source* FARs section 21.13 modified.

The words set out below the regulation in this example indicate that the regulation is based on section 21.13 of the FARs as in force on 1 January 1997 and that the FARs section has been modified for the regulation.

- (4) If a word or expression is used in both a regulation and the FARs section on which the regulation is based, the meaning of the word or expression in the FARs section may be taken into account in interpreting the word or expression in the regulation, unless the contrary intention appears.

### 1.004 Dictionary

- (1) The Dictionary at the end of these Regulations consists of 2 parts.
- (2) Part 1 contains:
  - (a) definitions of certain expressions; and
  - (b) signpost references to expressions that are explained in Part 2 or elsewhere in these Regulations.

## Regulation 1.006

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Note: A signpost reference to a definition or an explanation of an expression that is elsewhere than in the Dictionary (for example, '*ATSO authorisation*—see paragraph 21.601(2)(b)') is not included in the Dictionary unless the definition or explanation of the expression applies outside the regulation in which it occurs. Many expressions are defined for the purposes of a particular Part, Subpart or Division, and signpost references to such definitions are generally not included in the Dictionary.

- (3) Part 2 consists of numbered clauses that explain certain other expressions otherwise than by means of definitions.
- (4) Unless the contrary intention appears, the definition or explanation of an expression in these Regulations applies to each use of the expression in these Regulations.
- (5) The Dictionary is part of these Regulations.

### 1.006 Status of tables of contents

Tables of contents do not form part of these Regulations.

### 1.008 Manuals of Standards

- (1) In this regulation:  
*MOS* has the same meaning as in Subpart 11.J.
- (2) If there is an inconsistency between a MOS and a provision of the Act or these Regulations, the provision of the Act or these Regulations prevails to the extent of the inconsistency.
- (3) To avoid doubt, a MOS may not do the following:
  - (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in these Regulations;
  - (e) directly amend the text of these Regulations.

Note: A MOS (Manual of Standards) is a document that supports CASR by providing detailed technical material, such as technical specifications or standards. See generally 'Incorporated Manuals' (paragraphs 52 and 53) in the Guide.

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## Part 11—Regulatory administrative procedures

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## **Subpart 11.A—Preliminary**

### **11.005 Purpose of Part**

This Part sets out administrative provisions for the regulation of civil aviation, including in relation to:

- (a) authorisations; and
- (b) exemptions from provisions of these Regulations and the Civil Aviation Orders; and
- (c) directions; and
- (d) delegation of CASA's powers; and
- (e) the issuing of Manuals of Standards.

### **11.010 What is in this Part**

- (1) Subpart 11.A contains preliminary matters and definitions.
- (2) Subpart 11.B contains rules that apply to CASA in administering applications for certain authorisations granted under these Regulations.
- (3) In particular, Subpart 11.B sets out what CASA can or must do in the course of processing an application for such an authorisation, including what documents and matters CASA can or must take into account in making its decision.
- (3A) Subpart 11.BA contains rules about granting authorisations, including the duration of, and the imposition of conditions on, authorisations.
- (4) Subpart 11.C provides for the form of authorisation documents and other matters related to such documents.
- (5) Subpart 11.D is about variation, suspension or cancellation of an authorisation at the holder's request.
- (6) Subpart 11.E is about renewal of a time-limited authorisation.
- (7) Subpart 11.F is about exemptions from the provisions of these Regulations.
- (8) Subpart 11.G provides for the issue, by CASA, of temporary directions in relation to matters affecting the safety of air navigation.
- (9) Subpart 11.H deals with delegation of CASA's powers under these Regulations.
- (10) Subpart 11.J sets out the procedure for issuing or amending Manuals of Standards.

### **11.015 Definitions for Part**

In this Part:



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**authorisation** means:

- (a) a civil aviation authorisation other than:
  - (i) an AOC; or
  - (ii) a delegation; or
  - (iii) the appointment of an authorised person; or
  - (iv) an authorisation issued by an ASAO; or
- (b) an approval or qualification of a document or thing under these Regulations, other than a material, part, process or appliance to which regulation 21.305A applies; or
- (c) a certificate capable of being granted to a person under these Regulations.

Note: For the definition of *civil aviation authorisation*, see section 3 of the Act.

**corporation** means a legal person that is not an individual.

**medical** includes psychological and psychiatric.

**officer**, of a corporation, means:

- (a) in the case of a corporation that is a company (within the meaning of the *Corporations Act 2001*), a director, secretary, executive officer or employee of the corporation; or
- (b) in the case of a corporation of any other kind:
  - (i) a person exercising responsibility, in relation to the corporation, as nearly as possible the same as that of a director, secretary or executive officer of a company (within the meaning of the *Corporations Act 2001*); or
  - (ii) an employee or staff member of the corporation; or
- (c) a receiver and manager, appointed under a power contained in an instrument, of property of the corporation.

**time-limited authorisation** means:

- (a) an authorisation that, under another provision of these Regulations, ceases after a particular period; or
- (b) an authorisation granted by CASA for a specified period.

### 11.018 Approval of forms

- (1) If another provision of these Regulations provides for a document, other than an application for an authorisation, to be in an approved form, CASA may, in writing, approve a form for that document.
- (2) If, under subregulation (1), CASA has approved a form for a document, the document is not taken to have been completed unless it:
  - (a) is in the approved form; and
  - (b) includes all of the information required by the form.

Note: For the form of an application for an authorisation, see regulation 11.030.

## Subpart 11.B—Applications for authorisations

### 11.020 Effect of this Subpart

The requirements of this Subpart in relation to an application for a particular kind of authorisation are in addition to any requirements of the Part or Subpart that deals with the kind of authorisation.

### 11.025 Application of Part 11 to authorised persons

If these Regulations allow an application for an authorisation to be made to an authorised person, a reference in this Part to CASA includes, in relation to such an application, a reference to the authorised person to whom the application is made.

### 11.026 Application of Part 11 to approved design organisations

- (1) If these Regulations allow an application for an authorisation to be made to an approved design organisation, a reference in this Part to CASA includes a reference to the approved design organisation to which the application is made:
  - (a) in relation to such an application; and
  - (b) if the organisation grants the authorisation—in relation to the following:
    - (i) imposing conditions on, and varying conditions of, the authorisation under regulation 11.067;
    - (ii) the conditions mentioned in regulations 11.070 to 11.074;
    - (iii) imposing a requirement under regulation 11.074 or 11.075;
    - (iv) an application for variation of the authorisation under Subpart 11.D.
- (2) Subregulation (3) applies to an approved design organisation that conducts a certification activity.
- (3) The following regulations apply to the approved design organisation as if each reference in them to CASA considering the application were a reference to the organisation satisfying itself about the matter to which the certification activity relates:
  - (a) regulation 11.040 (Other things CASA can ask applicant to do—provide more information);
  - (b) regulation 11.047 (Other things CASA can ask applicant to do—statutory declarations to verify applications).
- (4) In this regulation:  
*certification activity*: see regulation 21.233.

### **11.027 Application of Part 11 to relevant approved organisations**

If these Regulations allow an application for an authorisation to be made to a limited category organisation:

- (a) a reference in this Subpart to CASA includes, in relation to the application, a reference to the limited category organisation to which the application is made; and
- (b) a reference in Subpart 11.BA (granting authorisations etc), other than regulation 11.068 (conditions imposed on class of authorisations), to CASA includes a reference to the limited category organisation; and
- (c) a reference in Subpart 11.D (variation, suspension and cancellation of authorisations at holder's request) to CASA includes a reference to the limited category organisation.

### **11.028 Application of Part 11 to examiners, instructors and approval holders**

If these Regulations allow an application for an authorisation to be made to an examiner or instructor, or the holder of an approval under regulation 61.040, 141.035 or 142.040, a reference in this Part to CASA includes, in relation to such an application, a reference to the examiner, instructor or approval holder to whom the application is made.

### **11.030 When application taken to be complete**

- (1) An application for an authorisation is not taken to have been made unless:
  - (a) it is made in the manner approved by CASA for that purpose; and
  - (aa) if CASA has approved a form for the application—it is in the approved form and includes all of the information required by the form; and
  - (ab) if the application is for an authorisation covered by subregulation 11.033(2), and is made by a person (the *agent*) on behalf of the applicant for the authorisation—it is accompanied by a declaration by the agent under subregulation 11.033(1); and
  - (b) it includes all the information required by these Regulations; and
  - (c) it is accompanied by every document required by these Regulations; and
  - (d) if a fee is payable for the application—that fee has been paid; and
  - (e) if unmanned aircraft levy is payable for the application—that levy has been paid.
- Note: It is an offence to make a false statement in, or supply a false or misleading document with, an application—see the *Criminal Code*, sections 137.1 and 137.2.
- (2) If another provision of these Regulations requires a holder of an authorisation to have an approved manual, an application for such an authorisation is not taken to have been made until the applicant gives to CASA a copy of a draft of an appropriate manual.
- (3) For paragraph (1)(aa), CASA may, in writing, approve a form for an application for an authorisation.

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### 11.032 Application for authorisation after previous authorisation cancelled

- (1) Subject to subregulation (2), if:
  - (a) a person who applies for an authorisation at a particular time (the **current time**) has previously held an authorisation of the same kind (the **earlier authorisation**); and
  - (b) the earlier authorisation was cancelled, other than at the request of the holder;the applicant must include with the application any available evidence to show that the applicant could properly undertake the activity authorised by the authorisation at the current time.
- (2) For an authorisation mentioned in an item in the following table, subregulation (1) applies only if the authorisation was cancelled for a reason mentioned in the item.

Item	Authorisation	Reason for cancellation
1	ATC licence or flight service licence	A reason mentioned in subregulation 65.265(1)
2	Approval as an ARFFS provider	A reason mentioned in subregulation 139.1020(1)
3	Approval as an ATS training provider	A reason mentioned in regulation 143.225
4	Approval as an ATS provider	A reason mentioned in regulation 172.315

### 11.033 Applications by agents

- (1) If a person (the **agent**) applies on behalf of an applicant for an authorisation covered by subregulation (2), the application must include a declaration from the agent stating that:
  - (a) the agent has received from the applicant the signed declaration required by paragraph 11.034(1)(b); and
  - (b) the application has been prepared in accordance with the information provided by the applicant.

Note: Sections 136.1, 137.1 and 137.2 of the *Criminal Code* create offences for making false or misleading statements in applications and providing false or misleading information or documents.

- (2) For the purposes of subregulation (1), this subregulation covers the following authorisations:
  - (a) a remote pilot licence under Division 101.F.3 authorising the holder to operate an RPA;
  - (b) an authorisation of a kind determined under subregulation (3) for the purposes of this paragraph.
- (3) For the purposes of subsection 98(5A) of the Act and paragraph (2)(b) of this regulation, CASA may, by instrument, determine kinds of authorisations.

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Note: For the application of the *Legislation Act 2003* to an instrument under this subregulation, see subsections 98(5AA) to (5D) of the *Civil Aviation Act 1988*.

- (4) A person (the **agent**) commits an offence of strict liability if:
- (a) the agent is subject to a requirement to include a declaration in an application in accordance with subregulation (1); and
  - (b) the agent fails to comply with the requirement.

Penalty: 30 penalty units.

### 11.034 Requirements for applications made by agents

#### *Requirements for the applicant*

- (1) If a person (the **applicant**) authorises another person (the **agent**) to make an application on the applicant's behalf for an authorisation covered by subregulation 11.033(2), the applicant must give the agent:
- (a) any information and documents required by the agent to make the application; and
  - (b) a signed declaration stating that:
    - (i) the applicant has authorised the agent to make the application on the applicant's behalf; and
    - (ii) the information provided by the applicant to the agent for the making of the application (including information in any documents so provided) is true and correct.

Note: Sections 136.1, 137.1 and 137.2 of the *Criminal Code* create offences for making false or misleading statements in applications and providing false or misleading information or documents.

- (2) A person (the **applicant**) commits an offence of strict liability if:
- (a) the applicant is subject to a requirement to give a signed declaration to an agent in accordance with subregulation (1); and
  - (b) the applicant fails to comply with the requirement.

Penalty: 30 penalty units.

#### *Requirement to keep declarations (or copy)—agents and applicants*

- (3) A person, other than CASA, who makes, or receives, a declaration under regulation 11.033 or this regulation must keep the declaration, or a copy of the declaration, at least for the following period, beginning on the day the declaration is made:
- (a) if CASA has determined a period under subregulation (4) for the purposes of this paragraph that applies to the declaration—that period; or
  - (b) otherwise—5 years.
- (4) For the purposes of subsection 98(5A) of the Act and paragraph (3)(a) of this regulation, CASA may, by instrument, determine periods of not more than 5 years:
- (a) in relation to classes of declarations; or

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(b) in relation to particular declarations.

Note: For the application of the *Legislation Act 2003* to an instrument under this subregulation, see subsections 98(5AA) to (5D) of the *Civil Aviation Act 1988*.

- (5) A person commits an offence of strict liability if:
- (a) the person is subject to a requirement under subregulation (3); and
  - (b) the person fails to comply with the requirement.

Penalty: 30 penalty units.

### *Requirement to produce declarations (or copy)—agents and applicants*

- (6) A person (the **agent or applicant**), other than CASA, who makes, or receives, a declaration under regulation 11.033 or this regulation must produce the declaration, or a copy of the declaration, for inspection on a demand made, within the period that applies to the declaration under subregulation (3), by a person covered by subregulation (7).
- (7) For the purposes of subregulation (6), this subregulation covers the following persons:
- (a) an authorised person;
  - (b) a member or special member of the Australian Federal Police;
  - (c) a member of a police force or a police service of a State or Territory.
- (8) An agent or applicant commits an offence of strict liability if:
- (a) the agent or applicant makes, or receives, a declaration under regulation 11.033 or this regulation; and
  - (b) a person makes a demand of the agent or applicant under subregulation (6); and
  - (c) the agent or applicant fails to comply with the demand.

Penalty: 5 penalty units.

## **11.035 Other things CASA can ask applicant to do—test or interview**

- (1) In this regulation:
- test** includes a written, oral or on-line examination and a practical assessment.
- (2) If CASA reasonably needs to interview or test an applicant who is an individual (including a member of a partnership) for the purpose of satisfying itself about a matter mentioned in subregulation 11.055(1A), CASA may by written notice ask the applicant to:
- (a) undertake a test of knowledge, skill or competence relevant to the application; or
  - (b) come to a specified CASA office at a specified time to be interviewed.
- (3) If CASA reasonably needs to interview or test an officer of an applicant that is a corporation for the purpose of satisfying itself about a matter mentioned in

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subregulation 11.055(1A), CASA may, by written notice, ask the applicant to have the officer:

- (a) undertake a test of knowledge, skill or competence relevant to the application; or
  - (b) come to a specified CASA office at a specified time to be interviewed.
- (4) The time of interview and the CASA office specified in a notice under paragraph (2)(b) or (3)(b) must be reasonable in the circumstances.
- (5) CASA must give to the applicant a copy of the record of any test (including the testing officer's assessment of the competence of the person tested), or the record of any interview, conducted under subregulation (2) or (3).
- (6) However, subregulation (5) does not require CASA to return marked examination papers or give copies of marked examination papers.

**11.040 Other things CASA can ask applicant to do—provide more information**

- (1) If CASA reasonably needs more information or another document to allow it to consider an application, CASA may by written notice ask the applicant to give to it information, or a copy of a document, specified in the request.

Example: The person or body to whom an application for a certificate of airworthiness for an aircraft is made may ask the applicant for any other information reasonably needed by it to enable it to impose any conditions on the certificate or operational limitations on the operation of the aircraft that are necessary in the interests of the safety of other airspace users or persons on the ground or water.

- (2) CASA may ask an applicant to provide evidence as to the applicant's financial standing and financial capacity if there would be likely to be an adverse effect on the safety of air navigation if the applicant were granted the authorisation applied for and either did not have the resources to carry out the functions of the authorisation or were afterwards unable to continue trading.
- (3) If CASA asks an applicant:
- (a) to provide information or a copy of a document under subregulation (1); or
  - (b) to provide evidence under subregulation (2);
- CASA need not begin to consider, or may stop considering, the application until CASA receives the information, document or evidence.

**11.045 Other things CASA can ask applicant to do—demonstrate a service or facility**

- (1) If another provision of these Regulations says that this regulation applies in relation to a particular kind of authorisation, CASA may by written notice ask an applicant for an authorisation of that kind:
- (a) to give a practical demonstration of its ability to provide the relevant service; or
  - (b) to demonstrate the operation of a facility or item of equipment to be used in the course of providing the service; or

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- (c) to allow CASA to inspect any relevant facility or equipment (whether or not it is operating).
- (2) If CASA asks an applicant to give a demonstration or allow an inspection under subregulation (1), CASA need not begin to consider, or may stop considering, the application until the applicant gives the demonstration or allows the inspection.

### **11.047 Other things CASA can ask applicant to do—statutory declarations to verify applications**

- (1) CASA may ask an applicant to verify, by statutory declaration, any statement made by the applicant in an application.
- (2) If CASA asks an applicant to verify a statement under subregulation (1), CASA need not begin to consider, or may stop considering, the application until CASA receives the statutory declaration.

### **11.050 Material that CASA may or must take into account**

- (1) In making a decision on an application, CASA may take into account:
  - (a) anything in the application or in any other document submitted, or information provided, by the applicant; and
  - (b) the record or results of any test or interview under regulation 11.035; and
  - (c) anything else in its records about the applicant; and
  - (d) the results of any demonstration or inspection under regulation 11.045.
- (2) However, if CASA proposes to take into account anything adverse to an applicant in its records, CASA must, before making a decision adverse to the applicant (including a decision to grant the application sought but to do so subject to a condition not sought by the applicant):
  - (a) tell the applicant in writing that it intends to take the material into account, and the substance of what it intends to take into account; and
  - (b) invite the applicant in writing to make, within a specified reasonable time, a written submission about the matter.
- (3) Subject to subregulation (3B), if the applicant makes such a submission within the specified time, CASA must take the submission into account.
- (3A) CASA may ask the applicant to verify, by statutory declaration, any statement made by the applicant in a submission.
- (3B) If CASA asks an applicant to verify a statement under subregulation (3A), CASA need not begin to consider, or may stop considering, the application until CASA receives the statutory declaration.
- (4) When deciding whether to grant a new authorisation to an applicant who or that held, or was otherwise connected with, an authorisation (or a right, licence or permission similar to an authorisation granted under the law of another country)



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that was cancelled otherwise than at the request of the holder, CASA must take into account:

- (a) the fact of the cancellation; and
  - (b) the reasons for the cancellation, as given by the cancelling authority at the time of the cancellation; and
  - (c) any evidence that the applicant submits about the applicant's capacity to exercise the powers or privileges or carry out the functions that would be conferred by the authorisation applied for, if it were granted.
- (5) For subregulation (4), an applicant was connected with an authorisation (including a right, licence or permission similar to an authorisation granted under the law of another country) if:
- (a) where the applicant is an individual (including a member of a partnership)—the applicant was a member or officer of the holder of the authorisation; or
  - (b) where the applicant is a corporation—an officer of the applicant was a member or officer of the holder of the authorisation.
- (6) When considering an application referred to in subregulation (4), CASA is not obliged to reconsider, or inquire into the circumstances of, the cancellation.

## Subpart 11.BA—Granting authorisations etc

### 11.055 Grant of authorisation

- (1) This regulation applies despite any other provision of these Regulations that provides for the grant or issue of an authorisation, but subject to section 30A and paragraphs 30DY(2)(b), 30DZ(2)(b) and 30EC(2)(b) of the Act.

Note 1: Under section 30A of the Act, the Court may make an order excluding a person from a particular aviation activity for a specified period (the *exclusion period*). Under subsection 30A(4), during the exclusion period any authorisation granted to the person for the activity is of no effect and a new authorisation to undertake the activity is not to be granted to the person.

Note 2: Under section 30DY of the Act, CASA must give the holder of an authorisation a demerit suspension notice if the holder has incurred at least 12 demerit points in relation to authorisations of the same class in a 3 year period. Under paragraph 30DY(2)(b), the holder is not entitled to be granted a new authorisation of that class during the period of the suspension.

Note 3: Under section 30DZ of the Act, CASA must give the holder of an authorisation a demerit suspension notice if the holder has incurred at least 6 demerit points in relation to authorisations of the same class in a 3 year period and has previously been given a demerit suspension notice in relation to that class of authorisations. Under paragraph 30DZ(2)(b), the holder is not entitled to be granted a new authorisation of that class during the period of the suspension.

Note 4: Under section 30EC of the Act, CASA must give the holder of an authorisation a demerit cancellation notice if the holder has incurred at least 6 demerit points in relation to authorisations of the same class in a 3 year period and has twice previously been given a demerit suspension notice in relation to that class of authorisations. Under paragraph 30EC(2)(b), the holder is not entitled to be granted a new authorisation of that class for 3 years from the date of the notice.

- (1A) Subject to subregulations (1B) and (1C), if a person has applied for an authorisation in accordance with these Regulations, CASA may grant the authorisation only if:
- (a) the person meets the criteria specified in these Regulations for the grant of the authorisation; and
  - (b) any other requirements in relation to the person that are specified in these Regulations for the grant of the authorisation are met; and
  - (c) any other requirements in relation to the thing in respect of which the application is made that are specified in these Regulations for the grant of the authorisation are met; and
  - (d) these Regulations do not forbid CASA granting the authorisation in the particular case; and
  - (e) granting the authorisation would not be likely to have an adverse effect on the safety of air navigation.
- (1B) If another provision of these Regulations provides that this subregulation applies to the granting of the authorisation, CASA may grant the authorisation only if:
- (a) the requirements of paragraphs (1A)(a) to (d) are satisfied; and

- (b) granting the authorisation will preserve a level of aviation safety that is at least acceptable.
- (1C) If the authorisation is an experimental certificate, CASA may grant the authorisation only if:
- (a) the requirements of paragraphs (1A)(a) to (d) are satisfied; and
  - (b) granting the authorisation would not be likely to have an adverse effect on the safety of other airspace users or persons on the ground or water.
- (2) In paragraph (1A)(a), a reference to meeting the criteria for the grant of an authorisation includes (in the case of an applicant who is an individual):
- (a) having any qualifications required by or under these Regulations for the grant of the authorisation; and
  - (b) having any experience required by or under these Regulations for that grant; and
  - (c) having successfully completed any training required by or under these Regulations for that grant; and
  - (d) if there is a requirement as to recency or currency of the applicant's training or experience—meeting that requirement; and
  - (e) if a standard of medical fitness is required by or under these Regulations for that grant:
    - (i) having attained that standard; and
    - (ii) having been granted any medical certificate required; and
  - (f) if particular attributes of character are required by or under these Regulations for that grant—having those attributes; and
  - (g) if a standard of proficiency in an activity is required by or under these Regulations for that grant—meeting that standard of proficiency.
- (3) If these Regulations limit in any way the number of authorisations of the relevant kind that may be granted, CASA may refuse to grant the authorisation if the limit will be exceeded if the authorisation is granted.
- (4) For paragraphs (1A)(e) and (1B)(b), CASA may take into account:
- (a) the applicant's record of compliance with regulatory requirements (in Australia or elsewhere) relating to aviation safety and other transport safety; and
  - (b) the applicant's demonstrated attitude towards compliance with regulatory requirements (in Australia or elsewhere) relating to aviation safety and other transport safety; and
  - (c) the applicant's experience (if any) in aviation; and
  - (d) the applicant's knowledge of the regulatory requirements applicable to civil aviation in Australia; and
  - (e) the applicant's history, if any, of serious behavioural problems; and
  - (f) any conviction (other than a spent conviction, within the meaning of Part VIIC of the *Crimes Act 1914*) of the applicant (in Australia or elsewhere) for a transport safety offence; and
  - (g) any evidence held by CASA that the applicant has contravened:

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- (i) the Act or these Regulations; or
    - (ii) a law of another country relating to aviation safety; or
    - (iii) another law (of Australia or of another country) relating to transport safety; and
  - (h) in the case of an authorisation referred to in subregulation 11.040(2), the applicant's financial standing and financial stability; and
  - (i) any other matter relating to the fitness of the applicant to hold the authorisation.
- (5) For the application of paragraphs (4)(a) to (i) in relation to an applicant that is a corporation, references to the applicant include each of the officers (other than employees) of the applicant.
- (6) For the application of paragraphs (4)(a) to (i) in relation to an applicant that is a member of a partnership, references to the applicant include each of the other members of the partnership.
- (7) CASA may grant the authorisation in respect of only some of the matters sought in the application.

### **11.056 Authorisation may be granted subject to conditions**

- (1) CASA may grant an authorisation subject to any condition that CASA is satisfied is necessary:
- (a) for an authorisation, other than an authorisation to which subregulation 11.055(1B) applies or an experimental certificate—in the interests of the safety of air navigation; or
  - (ab) for an authorisation to which subregulation 11.055(1B) applies—in the interests of preserving a level of aviation safety that is at least acceptable; or
  - (ac) for an authorisation that is an experimental certificate—in the interests of the safety of other airspace users or persons on the ground or water; or
  - (b) to ensure that, as far as practicable, the environment is protected from:
    - (i) the effects of the operation and use of aircraft; and
    - (ii) the effects associated with the operation and use of aircraft.
- Note: Other conditions applicable to authorisations are set out in these Regulations—see in particular regulations 11.070 to 11.075.
- (2) A condition imposed under this regulation must be set out in, or attached to, the authorisation.

### **11.060 Notice of decision**

- (1) After making a decision on an application, CASA must give the applicant written notice of the decision, including:
- (a) if the decision was to grant the authorisation applied for:

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- (i) if these Regulations provide for a certificate or other document to be issued to the applicant as evidence that he or she holds the authorisation—that document; and
- (ii) if the decision included a decision to impose a condition that was not sought by the applicant—the reasons for the decision; or
- (b) if the decision was to refuse to grant the authorisation—the reasons for the decision.

Note: Most decisions in relation to authorisations are reviewable by the Administrative Appeals Tribunal—see section 31 of the Act, regulation 201.004 and regulation 297A of CAR. Section 27A of the *Administrative Appeals Tribunal Act 1975* requires that a person affected by a reviewable decision be given notice of the existence of the right of review.

- (2) A notice or document mentioned in subregulation (1) may state the date on which the authorisation comes into effect.
- (3) The date must not be before the date of the notice or document.
- (4) A failure by CASA to comply with subparagraph (1)(a)(ii) or paragraph (1)(b) in relation to a decision does not invalidate the decision.

### **11.065 When authorisation comes into effect**

An authorisation comes into effect:

- (a) on a day stated for that purpose in a document that is evidence of the holding of the authorisation, or in any relevant notice under subregulation 11.060(1); or
- (b) if no day is so stated—on the date of the document or notice.

Note: Some kinds of authorisation continue indefinitely unless cancelled. Others cease (unless sooner cancelled) at a time set by another provision of these Regulations. Yet others cease (unless sooner cancelled) at a time set by CASA, subject to a maximum duration.

### **11.067 Imposing and varying conditions after grant of authorisation**

- (1) After the grant of an authorisation, CASA may, in accordance with this regulation, impose a condition on the authorisation or vary a condition of the authorisation.
- (1A) CASA may impose or vary a condition only if CASA considers that it is necessary:
  - (a) for an authorisation, other than an authorisation to which subregulation 11.055(1B) applies or an experimental certificate—in the interests of the safety of air navigation; or
  - (b) for an authorisation to which subregulation 11.055(1B) applies—in the interests of preserving a level of aviation safety that is at least acceptable; or
  - (c) for an authorisation that is an experimental certificate—in the interests of the safety of other airspace users or persons on the ground or water.

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- (2) If CASA proposes, under subregulation (1), to impose a condition on an authorisation or vary a condition of an authorisation, CASA must give written notice of the proposed condition or variation to the holder of the authorisation.
- (3) The notice must specify a reasonable period within which the holder may make a submission in relation to the proposed condition or variation.
- (4) If the holder makes a submission under subregulation (3) within the period specified in the notice, CASA must take the submission into account in determining whether it is necessary to impose or vary the condition:
  - (a) for an authorisation, other than an authorisation to which subregulation 11.055(1B) applies or an experimental certificate—in the interests of the safety of air navigation; or
  - (b) for an authorisation to which subregulation 11.055(1B) applies—in the interests of preserving a level of aviation safety that is at least acceptable; or
  - (c) for an authorisation that is an experimental certificate—in the interests of the safety of other airspace users or persons on the ground or water.
- (5) If:
  - (a) after the end of the period specified under subregulation (3); and
  - (b) having taken account of any submission made by the holder within that period;CASA is satisfied that it is necessary, for the reason mentioned in paragraph (4)(a), (b) or (c), CASA may impose or vary the condition.
- (6) CASA must give the holder of the authorisation written notice of its decision.
- (7) A condition imposed, or a variation of a condition, under this regulation takes effect on the date of the notice under subregulation (6) or at a later time specified in the notice.
- (8) This regulation does not apply to the imposition of a condition on a class of authorisations under regulation 11.068.

### **11.068 Conditions imposed on class of authorisations**

- (1) For subsection 98(5A) of the Act, CASA may issue a legislative instrument that imposes a condition relating to a matter mentioned in that subsection on a specified class of authorisations.
- (2) The class of authorisations may include authorisations granted before the imposition of the condition.
- (3) A condition imposed by a legislative instrument issued under subregulation (1) is taken to be a condition of every authorisation of the class mentioned in the instrument.
- (4) A condition imposed by a legislative instrument issued under subregulation (1) takes effect:

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- (a) for an authorisation that takes effect before the day on which the instrument comes into force:
  - (i) when the instrument comes into force; or
  - (ii) if a later time is stated in the instrument—at that time; and
- (b) for an authorisation granted on or after the day on which the instrument comes into force:
  - (i) when the authorisation comes into effect; or
  - (ii) if a later time is stated in the instrument—at that time.

**11.070 Conditions of authorisations—change of name or address**

- (1) It is a condition of an authorisation that its holder must, within the period mentioned in subregulation (3), tell CASA, in writing, of a change of either of the following kinds:
  - (a) the holder changes his, her or its name;
  - (b) the holder changes any of the following addresses:
    - (i) if the holder is an individual—his or her residential address;
    - (ii) if the holder is a corporation—the address of its registered office;
    - (iii) if the holder has given CASA an address to which notices may be sent—that address;
    - (iv) any other address that was required to be stated in the application for the authorisation.
- (2) A person commits an offence if:
  - (a) the person is the holder of an authorisation; and
  - (b) a change mentioned in paragraph (1)(a) or (b) happens in relation to the person; and
  - (c) the person does not tell CASA, in writing, of the change within the period mentioned in subregulation (3).

Penalty: 50 penalty units.

- (3) The period is:
  - (a) within 14 days after the change happens; or
  - (b) if another provision of these Regulations allows, in relation to that kind of authorisation, a different period within which the person must tell CASA of the change—within that period.
- (4) An offence against subregulation (2) is an offence of strict liability.

**11.071 Conditions of authorisations—change of nationality**

- (1) It is a condition of an authorisation upon which is noted the nationality of its holder that the holder must, within the period mentioned in subregulation (3), tell CASA, in writing, of a change of his or her nationality.

Note: The holder's nationality is noted on a flight crew licence and aircraft maintenance engineer licence. This requirement is imposed by ICAO.

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- (2) A person commits an offence if the person:
- (a) is the holder of an authorisation on which is noted his or her nationality;  
and
  - (b) changes his or her nationality; and
  - (c) does not tell CASA, in writing, of the change within the period mentioned in subregulation (3).
- Penalty: 50 penalty units.
- (3) The period is:
- (a) within 14 days after the change happens; or
  - (b) if another provision of these Regulations allows, in relation to that kind of authorisation, a different period within which the person must tell CASA of the change—within that period.
- (4) An offence against subregulation (2) is an offence of strict liability.

### **11.072 Conditions of authorisations—change of business status**

- (1) It is a condition of an authorisation used in connection with an aviation-related activity of a business that its holder must tell CASA, in writing, of a change of any of the following kinds within the period mentioned in subregulation (3):
- (a) if the holder carries on the business under a name that is registered as a trading or business name under the law of a State or Territory—the holder changes that name, ceases to use that name, or begins to use another name;
  - (b) the person changes the place at which he or she carries on the business;
  - (c) the holder ceases to be entitled to occupy the premises from which he or she carries on the business;
  - (d) the holder ceases temporarily or permanently to carry on the business;
  - (e) if the holder is an individual—the holder:
    - (i) is declared bankrupt; or
    - (ii) enters into an arrangement with his or her creditors under Part X of the *Bankruptcy Act 1966*; or
    - (iii) applies to take the benefit of any other law for the protection of debtors; or
    - (iv) becomes aware that he or she has an illness likely to render him or her unable to carry on the business for a period that is likely to exceed 3 months;
  - (f) if the holder is a member of a partnership—an event mentioned in paragraph (e) happens to any of the members;
  - (g) if the holder is a corporation:
    - (i) the holder:
      - (A) becomes a Chapter 5 body corporate (within the meaning given by section 9 of the *Corporations Act 2001*); or
      - (B) applies to take the benefit of any other law for the protection of insolvent corporations; or



- (ii) an event mentioned in paragraph (e) happens to any of the holder's key personnel.
- (2) A person commits an offence if:
  - (a) the person is the holder of an authorisation; and
  - (b) the person uses the authorisation in connection with an aviation-related activity of a business; and
  - (c) a change mentioned in subregulation (1) happens in relation to the person; and
  - (d) the person does not tell CASA, in writing, of the change within the period mentioned in subregulation (3).

Penalty: 50 penalty units.

- (3) The period is:
  - (a) within 14 days after the change happens; or
  - (b) if another provision of these Regulations allows, in relation to that kind of authorisation, a different period within which the person must tell CASA of the change—within that period.
- (4) An offence against subregulation (2) in relation to a change mentioned in paragraph (1)(a), (b), (c) or (d), subparagraph (1)(e)(i), (ii) or (iii) or subparagraph (1)(g)(i) is an offence of strict liability.
- (5) In this regulation:

**key personnel**, in relation to a corporation that holds an authorisation, means the people holding, or carrying out the duties of, any positions that the holder is required by these Regulations to have in its organisation.

### **11.073 Conditions of authorisations—notice of death, dissolution etc**

- (1) It is a condition of an authorisation held by a member of a partnership that, if any of the members dies, another of the members must tell CASA in writing within a reasonable period after the member's death.
- (2) It is a condition of an authorisation held by a member of a partnership that, if the partnership is dissolved, a former member must tell CASA in writing within 14 days after the partnership is dissolved.
- (3) It is a condition of an authorisation held by a corporation that, if the corporation is placed in liquidation, the liquidator must tell CASA in writing within 14 days after the corporation is placed in liquidation.
- (4) A person commits an offence if:
  - (a) he or she is the liquidator of a corporation that holds an authorisation; and
  - (b) he or she does not, within 14 days after the corporation is placed in liquidation, tell CASA, in writing, that the corporation has been placed in liquidation.

Penalty: 50 penalty units.

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- (5) It is a condition of an authorisation held by a corporation that, if the corporation is placed in administration, the administrator must tell CASA in writing within 14 days after the corporation is placed in administration.
- (6) A person commits an offence if:
  - (a) he or she is the administrator of a corporation that holds an authorisation; and
  - (b) he or she does not, within 14 days after the corporation is placed in administration, tell CASA, in writing, that the corporation has been placed in administration.

Penalty: 50 penalty units.

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

### **11.074 Conditions of authorisations—notice required by CASA**

- (1) Subject to subregulation (2), CASA may, by written notice given to the holder of an authorisation, require the holder to notify CASA of the happening of an event specified in the notice within a specified period.
- (2) An event specified in the notice must be an event that CASA is satisfied might adversely affect the carrying out of the activity authorised by the authorisation.
- (3) It is a condition of the authorisation that the holder must comply with the notice.
- (4) A person commits an offence if:
  - (a) the person is the holder of an authorisation; and
  - (b) under subregulation (1), CASA requires the person to notify CASA of the happening of an event within a specified period; and
  - (c) the event happens; and
  - (d) the person does not tell CASA, in writing, of the event within the specified period.

Penalty: 50 penalty units.

- (5) Strict liability applies to paragraph (4)(d).

### **11.075 Conditions of authorisations—provision of information**

- (1) CASA may, by written notice, require the holder of an authorisation to give CASA specified information, or a specified document, that relates to the activity, document or thing to which the authorisation relates.
- (2) It is a condition of an authorisation that its holder must comply with a notice given under subregulation (1):
  - (a) within 14 days after receiving the notice; or
  - (b) if a different period is specified in the notice—within that period.
- (3) A person commits an offence if:
  - (a) the person is the holder of an authorisation; and

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- (b) CASA requires the person, under subregulation (1), to give CASA information or a document; and
- (c) the person does not give CASA the information or document:
  - (i) within 14 days after receiving the notice; or
  - (ii) if a different period is specified in the notice—within that period.

Penalty: 50 penalty units.

- (4) Strict liability applies to paragraph (3)(c).

**11.077 Breach of conditions—offence**

- (1) A person commits an offence if:
  - (a) the person holds an authorisation that is subject to a condition imposed under regulation 11.056, 11.067 or 11.068; and
  - (b) the person contravenes the condition.

Penalty: 50 penalty units.

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

**11.080 Authorisations not transferable**

An authorisation is not transferable, unless a provision in these Regulations provides otherwise.

- Note: For authorisations that are transferable, see the following provisions:
- (a) regulation 21.047 (type certificates);
  - (b) regulation 21.179 (certificates of airworthiness);
  - (c) regulation 21.219 (Class II provisional certificates of airworthiness);
  - (d) regulation 21.450 (modification/repair design approvals and approvals mentioned in regulation 21.475).

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## Subpart 11.C—Authorisation documents, certificates and related matters

### 11.090 Authorisation document—authorisations to which Chicago Convention, Annex 1 applies

- (1) This regulation applies to an authorisation to which Annex 1, *Personnel Licensing*, to the Chicago Convention applies.
- (2) The authorisation must comply with Chapter 5 of that Annex.

### 11.095 Authorisation document—maintenance operation authorisations

- (1) This regulation applies to a maintenance operation authorisation (within the meaning given by Annex 6, *Operation of Aircraft*, to the Chicago Convention).
- (2) The authorisation must comply with paragraph 8.7.1.2 of that Annex.

### 11.100 Registration certificate (Chicago Convention, Annex 7)

- (1) This regulation applies to a certificate of registration for an aircraft.
- (2) The certificate must be in a form that complies with section 7.1 of Annex 7, *Aircraft Nationality and Registration Marks*, to the Chicago Convention.

### 11.105 Certificate of Airworthiness (Chicago Convention, Annex 8)

- (1) This regulation applies to a certificate of airworthiness for an aircraft.
- (2) The certificate must be in a form that complies with section 7 of Annex 8, *Airworthiness of Aircraft*, to the Chicago Convention.

### 11.110 Authorisation document—other authorisations

- (1) This regulation applies to an authorisation to which none of regulations 11.090 to 11.105 apply.
- (2) The authorisation must set out:
  - (a) what the authorisation is; and
  - (b) any conditions applicable to it; and
  - (c) when it came into effect, and, if it will cease (either under a provision of these Regulations or on a day set by CASA) if not sooner cancelled—the day when it will cease; and
  - (d) any other information CASA thinks should be included.

### 11.115 Replacement documents

CASA may issue a replacement authorisation document in place of one:

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- (a) that contains anything that is not, or is no longer, correct; or
- (b) from which anything has been omitted; or
- (c) that has been lost or destroyed.

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## **Subpart 11.D—Applications for variation, suspension and cancellation of authorisations**

### **11.120 What Subpart 11.D is about**

This Subpart provides for applications that may be made by the holder of an authorisation for:

- (a) the variation of the authorisation, including imposing, removing or varying a condition of the authorisation; or
- (b) the suspension or cancellation of the authorisation.

Note: See Part 13 in regard to suspension, variation or cancellation of an authorisation for other reasons.

### **11.125 Application of Subparts 11.B and 11.BA to variation of authorisation**

- (1A) The holder of an authorisation may apply, in writing, for a variation of the authorisation.
- (1B) The application may be made to a person to whom the application for the authorisation could have been made.
- (1) Subpart 11.B applies in relation to an application, to which this Subpart applies, to vary an authorisation as if each reference in Subpart 11.B to an application for an authorisation were a reference to an application to vary the authorisation.
- (2) However, if the applicant has previously given to CASA information or a document relevant to the application, the applicant need not do so again unless the information or document has changed.
- (3) Regulations 11.055, 11.056, 11.060 and 11.065 apply to a variation of an authorisation as if each reference in those regulations to an authorisation were a reference to a variation of an authorisation.

### **11.130 Suspension or cancellation of authorisation**

- (1) The holder of an authorisation may apply to CASA, in writing, for the authorisation to be suspended or cancelled.

Note: In relation to the cancellation of the registration of an aircraft, see also regulation 47.131B.

- (1A) CASA must, by written notice to the holder, suspend or cancel the authorisation.
- (2) Suspension or cancellation under this Subpart has effect:
  - (a) at the time the holder specifies in the application as the time for the suspension or cancellation to have effect; or
  - (b) if the holder does not specify such a time—when the holder is given written notice by CASA of the suspension or cancellation.

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- (3) Suspension of an authorisation under this Subpart ceases to have effect:
- (a) at the time, if any, that the holder specifies in the application as the time that the suspension is to cease to have effect; or
  - (b) if the holder does not specify a time for that purpose—at the time CASA directs, by written notice to the holder.

**11.132 Effect of suspension**

- (1) If a person's authorisation is suspended under this Subpart:
- (a) the person is taken, for the purpose of any provision of these Regulations under which the holding of the authorisation is a requirement for the grant of another authorisation, not to be the holder of the authorisation during the period of suspension; and
  - (b) the authorisation is not in force during the period of suspension.
- (2) If a time-limited authorisation is suspended under this Subpart, the period for which the authorisation was granted continues to run.

## Subpart 11.E—Time-limited authorisations

### 11.135 Purpose of Subpart

This Subpart sets out provisions relating to time-limited authorisations.

### 11.140 Continuation of authorisation until application decided

- (1) This regulation applies in relation to a time-limited authorisation (the *old authorisation*) if:
  - (a) at least:
    - (i) in the case of an authorisation held by a corporation, 90 days; or
    - (ii) in any other case, 21 days;before the time when the old authorisation would otherwise cease, its holder applies to CASA for the issue of a new time-limited authorisation that confers the same privileges, or authorises the holder to carry out the same functions or duties, as the old authorisation; and
  - (b) at the time when the old authorisation would otherwise cease, CASA has not made a decision on the application.
- (2) For subregulation (1), an applicant has applied for the new authorisation only if:
  - (a) the applicant has given to CASA the necessary application, in the form required by these Regulations; and
  - (b) the application is taken to be complete, in accordance with regulation 11.030; and
  - (c) the applicant has given to CASA any other documents required by these Regulations to be given to CASA with the application.

Note: The applicant does not need to give to CASA information or a document that CASA already has—see regulation 11.145.
- (3) In spite of any other provision of these Regulations, but subject to subregulation (4), the old authorisation continues in force until:
  - (a) CASA makes a decision on the application; and
  - (b) if the decision is to grant the new authorisation—the new authorisation comes into force.
- (4) If CASA asks for further information or a document or invites the applicant to make a submission, under a provision of Subpart 11.B as applied by regulation 11.145, and the applicant does not do so within the period specified by CASA under that provision, then, despite subregulation (3), the old authorisation is taken to cease at the end of that period.

### 11.145 Application of Subparts 11.B and 11.BA

- (1) Subparts 11.B and 11.BA apply to an application referred to in paragraph 11.140(1)(a).



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- (2) However, if the applicant has previously given to CASA information or a document relevant to the application, the applicant need not do so again unless the information or document has changed.
- (3) If these Regulations allow an application for an authorisation to be made to an authorised person, a reference in Subpart 11.B or 11.BA or this Subpart to CASA includes, in relation to an application mentioned in paragraph 11.140(1)(a), an authorised person to whom such an application is made.

**11.150 Conditions on new authorisation**

Unless another provision of these Regulations says otherwise, if CASA grants the new authorisation, CASA is not obliged:

- (a) to impose the same conditions, restrictions or limitations on the new authorisation as applied to the old one; or
- (b) to grant the new authorisation for the same duration as for the old one.

## **Subpart 11.F—Exemptions from provisions of these Regulations and Civil Aviation Orders**

### **Division 11.F.1—Grant of standard exemptions**

#### **11.155 Purpose of Division**

This Division provides for the granting of exemptions from particular provisions of these Regulations or the Civil Aviation Orders.

Note: Division 11.F.2 provides separately for exemptions in exceptional circumstances, such as a natural disaster.

#### **11.160 What exemptions can be granted under this Division**

- (1) For subsection 98(5A) of the Act, CASA may, by instrument, grant an exemption under this Division from compliance with:
  - (a) a provision of these Regulations; or
  - (b) a provision of a Civil Aviation Order;in relation to a matter mentioned in that subsection.
- (2) CASA may grant an exemption under this Division to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.
- (3) CASA may grant an exemption under this Division either on application or on its own initiative.

Note 1: For the application of the *Legislation Act 2003* to an instrument granting an exemption under this Division, see subsections 98(5AA), (5AB), (5B) and (5BA) of the Act.

Note 2: For review of a decision refusing to grant an exemption under this Division, see regulation 201.004.

#### **11.165 Applications for exemptions**

- (1) A person may apply to CASA, in accordance with this regulation, for an exemption under this Division.
- (2) The application must be in writing.
- (3) The application must set out:
  - (a) the applicant's name and address; and
  - (b) details of any relevant authorisation; and
  - (c) references to the relevant provisions of these Regulations; and
  - (d) details of any aircraft or aeronautical product, or type of aircraft or aeronautical product, or material or kind of material, or service or kind of service, to be affected by the exemption; and

- (e) if the exemption will affect a particular kind of operation, the kind of operation; and
  - (f) the reasons why the exemption is necessary; and
  - (g) details of how the applicant proposes to ensure that an acceptable level of safety will be provided when operating in accordance with the exemption; and
  - (h) the date on which the applicant requires the exemption to commence; and
  - (i) how long the applicant requires the exemption to remain in effect.
- (4) Unless CASA agrees otherwise, the applicant must give the application to CASA at least 3 months before the day on which the applicant requires the exemption to commence.

### **11.170 Consideration of applications**

- (1) Regulations 11.035 to 11.050 apply in relation to an application under this Division.
- (2) For that application, a reference to an authorisation is taken to be a reference to an exemption.
- (3) In making its decision, CASA must regard the preservation of a level of aviation safety that is at least acceptable as paramount.

### **11.175 Renewal of exemptions under this Division**

- (1) CASA must not grant an exemption under this Division to a person in the same or similar terms as an exemption previously granted under this Division to the person unless the person:
  - (a) applies, in accordance with regulation 11.165, for the new exemption; and
  - (b) includes with the application a statement of the additional reasons why the exemption is necessary, or the reasons why the continuation of the exemption is necessary.
- (2) Regulations 11.035 to 11.050 apply in relation to the consideration of an application mentioned in subregulation (1).
- (3) For that application, a reference to an authorisation is taken to be a reference to an exemption.
- (4) In making its decision, CASA must:
  - (a) take into account the reasons given by the applicant for the new exemption, or the continuation of the exemption, and the fact that the applicant has previously been granted a similar exemption; and
  - (b) regard the preservation of a level of aviation safety that is at least acceptable as paramount.

## Division 11.F.2—Grant of exemptions in exceptional circumstances

### 11.180 Purpose of Division

This Division provides for the granting of exemptions in exceptional circumstances.

### 11.185 Exemptions in exceptional circumstances

- (1) For subsection 98(5A) of the Act, in exceptional circumstances CASA may, by instrument, grant an exemption under this Division from compliance with:

- (a) a provision of these Regulations; or
- (b) a provision of a Civil Aviation Order;

in relation to a matter mentioned in that subsection.

- (2) In subregulation (1):

***exceptional circumstances*** means the circumstances of a major natural disaster, some other large-scale emergency, or an emergency to which a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*) relates, that requires the use of air transport, or some other aviation activity, in a way that is not reasonably possible in compliance with these Regulations.

Example: Following the destruction of Darwin by Cyclone Tracy, airliners were permitted to operate when severely overloaded to allow evacuation of the city as rapidly as possible.

- (3) To avoid doubt, it is not necessary for subregulation (1) that a state of emergency or natural disaster need have been declared.
- (4) CASA may grant an exemption under this Division to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.
- (5) CASA may grant an exemption under this Division either on application or on its own initiative.

Note 1: For the application of the *Legislation Act 2003* to an instrument granting an exemption under this Division, see subsections 98(5AA), (5AB), (5B) and (5BA) of the Act.

Note 2: For review of a decision refusing to grant an exemption under this Division, see regulation 201.004.

### 11.190 Application

An application for an exemption under this Division may be made in any way that is reasonable in the circumstances.

### **11.195 Consideration by CASA**

In considering whether to grant an exemption under this Division, CASA must regard as paramount the preservation of the highest level of aviation safety that is practicable in the circumstances.

## **Division 11.F.3—Exemptions generally**

### **11.200 Purpose of Division**

This Division sets out general provisions applying to exemptions under this Subpart.

### **11.205 Conditions**

- (1) CASA may impose, on an exemption under this Subpart, any condition necessary in the interests of the safety of air navigation.
- (2) The condition must be set out in the instrument of exemption.

### **11.210 Offence: failure to comply with condition**

- (1) If a condition of an exemption under this Subpart imposes an obligation on a person, the person must comply with the obligation.

Penalty: 50 penalty units.

- (2) A contravention of subregulation (1) is an offence of strict liability.

### **11.220 Notice of grant of exemption**

- (1) In the case of an exemption that was applied for, CASA must give written notice to the applicant of:
  - (a) its decision; and
  - (b) if the decision was to refuse to grant the exemption, or to impose a condition not sought by the applicant—the reasons for the decision.
- (2) In the case of an exemption that was applied for, if CASA grants the exemption applied for and sends to the applicant the instrument of exemption, subregulation (1) does not require CASA to send to the applicant a separate notice of its decision.

### **11.225 Publication of exemption**

CASA must, as soon as practicable, publish on the Internet details (including any condition) of an exemption under this Subpart.

Note: The Internet address for CASA's website is <http://www.casa.gov.au>.

### **11.230 When exemptions cease**

- (1) An exemption under Division 11.F.1 ceases:
  - (a) at the end of the day (no longer than 3 years after the day on which it commences) specified in the instrument of exemption as the day on which it ceases; or

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- (b) if no day is specified for that purpose in the instrument—3 years after it commences.
- (2) An exemption under Division 11.F.2 ceases:
  - (a) at the end of the day (no longer than 12 months after the day on which it commences) specified in the instrument of exemption as the day on which it ceases; or
  - (b) if no day is specified for that purpose in the instrument—12 months after it commences.
- (3) If an exemption is granted in relation to a particular aircraft, and, before the time at which the exemption would cease under subregulation (1) or (2), the aircraft ceases to be owned by the person who owned it at the time the exemption was granted, the exemption ceases at the time when the aircraft ceases to be owned by that person.

**11.235 Exemptions not transferable**

An exemption under this Subpart is not transferable.

## Subpart 11.G—Directions

### 11.240 Purpose of Subpart

This Subpart provides for the issue by CASA of directions in relation to matters affecting the safety of air navigation.

### 11.245 CASA may issue directions

- (1) For subsection 98(5A) of the Act, CASA may, by instrument, issue a direction about any matter affecting:

- (a) the safe navigation and operation of aircraft; or
- (b) the maintenance of aircraft; or
- (c) the airworthiness of, or design standards for, aircraft.

Note 1: For the application of the *Legislation Act 2003* to an instrument containing a direction under this regulation, see subsections 98(5AA), (5AB), (5B) and (5BA) of the Act.

Note 2: See also Part 39 in relation to CASA's powers to issue airworthiness directives.

- (2) However, CASA may issue such a direction:

- (a) only if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation; and
- (b) only if the direction is not inconsistent with the Act; and
- (c) only for the purposes of CASA's functions.

Note: CASA's functions are set out in section 9 of the Act.

### 11.250 Period of effect of direction

A direction under regulation 11.245 ceases to be in force:

- (a) if it specifies a day on which it ceases to be in force—on the specified day; or
- (b) if it does not specify a day for that purpose—1 year after the day it commences.

### 11.255 Contravention of direction

- (1) A person must not contravene a direction under regulation 11.245 that is applicable to the person.

Penalty: 50 penalty units.

- (2) A contravention of subregulation (1) is an offence of strict liability.



## **Subpart 11.H—Delegation of CASA's powers**

### **11.260 Delegation**

- (1) The Director may, by written instrument, delegate to an officer a power of CASA under these Regulations.
- (1A) The Director may, by written instrument, delegate to a person a power of CASA under these Regulations for, or in connection with, the performance of a function conferred on CASA under subsection 9(1) of the Act.
- (2) However, the following powers of CASA must be exercised by the Director personally:
  - (b) the power to issue a type acceptance certificate subject to a condition under subregulation 21.029B(2);
  - (c) the power to refuse to issue a type acceptance certificate under subregulation 21.029C(1);
  - (d) the power to suspend or cancel a type acceptance certificate under subregulation 21.051(4).
- (3) A delegation may be subject to conditions stated in the instrument of delegation.
- (4) A delegate is subject to any written direction of the Director in the exercise of a power, or the performance of a function, delegated under this regulation.

## Subpart 11.J—Manuals of Standards—procedures

### 11.265 Purpose of Subpart

This Subpart sets out the procedures for consultation before CASA issues a Manual of Standards.

Note: Manuals of Standards are documents which support these Regulations by providing detailed technical material, such as technical specifications or standards. Manuals of Standards are legislative instruments and are subject to registration and disallowance under the *Legislation Act 2003*.

### 11.267 Application of Subpart to amendment or revocation of Manual of Standards

The procedures in this Subpart apply to the amendment or revocation of a MOS in the same way as the procedures apply to the issue of a MOS.

### 11.270 Definition—*MOS*

In this Subpart:

*MOS* means Manual of Standards.

### 11.275 Notice of intention to issue Manuals of Standards not required in certain circumstances

- (1) CASA must comply with the procedures set out in this Subpart before issuing a MOS unless the Director determines, in writing, that:
  - (a) it is necessary to issue the MOS as soon as practicable in the interests of aviation safety; or
  - (b) the MOS is required to give effect to a specific undertaking given by the Minister; or
  - (c) the MOS is required to give effect to an obligation under an international treaty or an intergovernmental agreement; or
  - (d) the MOS is of a minor or machinery nature that does not substantially alter existing arrangements; or
  - (e) following the procedures would endanger aviation security or be otherwise contrary to the public interest.
- (2) If the Director makes such a determination, CASA must publish it, and a statement of the reasons for it, on the Internet within 28 days after the determination is made.

Note: The URL for CASA's web site is <http://www.casa.gov.au>.

- (3) If CASA issues a MOS on the basis of a determination under paragraph (1)(a) (an *urgent MOS*), CASA must, within 28 days after the determination is made,

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publish on the Internet a notice about the MOS giving the information set out in paragraphs 11.280(2)(a) to (d).

Note: Certain provisions of these Regulations require copies of such a notice to be given to all providers of certain services.

- (4) Regulations 11.285 and 11.290 apply in relation to an urgent MOS as if it were a draft MOS.

**11.280 Notice of intention to issue Manuals of Standards**

- (1) If CASA intends to issue a MOS, CASA must publish a notice of its intention to do so on the Internet.

Note 1: The URL for CASA's web site is <http://www.casa.gov.au>.

Note 2: Certain provisions of these Regulations require copies of such a notice to be given to all providers of certain services.

- (2) A notice must include the following information about the draft MOS:
- (a) its title and a description of its contents;
  - (b) how to obtain a copy of it;
  - (c) the period during which comments on it may be lodged;
  - (d) how comments are to be made and lodged.
- (3) Subject to subregulation (4), for paragraph (2)(c), the period must be reasonable in the circumstances but not less than 28 days.
- (4) For paragraph (2)(c), the period during which comments on an amendment of a MOS that is of a minor or machinery nature may be lodged must be reasonable in the circumstances but not less than 14 days.

**11.285 Comments on draft Manuals of Standards**

A person may comment on a draft MOS in the way set out in the notice published under regulation 11.280 in relation to the MOS.

**11.290 CASA to consider comments on draft Manuals of Standards**

Before issuing a MOS, CASA:

- (a) must consider any comments it has received on the draft MOS; and
- (b) may consult with any person on issues arising out of the comments.

**11.295 Failure to comply with procedures not to affect validity of Manuals of Standards**

- (1) A failure to comply with the procedures in this Subpart in relation to a MOS does not affect the validity of the MOS.
- (2) However, if CASA issues a MOS (other than on the basis of a determination under paragraph 11.275(1)(a)) without complying with those procedures, CASA must, within 28 days after issuing the MOS, publish a notice of consultation in

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relation to the MOS as if it were a notice of intention published under regulation 11.280.

- (3) Regulations 11.285 and 11.290 apply in relation to such a MOS as if it were a draft MOS.

## Part 13—Enforcement procedures

Note: Subparts 13.A to 13.J are reserved for future use.

### Subpart 13.K—Voluntary reporting and demerit points schemes

#### Division 13.K.1—Aviation Self Reporting Scheme

##### 13.320 Definitions

In this Division:

**Aviation Self Reporting Scheme** or **ASRS** means the voluntary reporting scheme established under subregulation 13.335(1) for reporting reportable contraventions.

**Executive Director** means the person for the time being holding, occupying or performing the duties of the position of Executive Director of Transport Safety Investigation referred to in section 12 of the *Transport Safety Investigation Act 2003*.

##### 13.325 Contraventions that are not reportable

For the purposes of paragraph (d) of the definition of **reportable contravention** in section 30DL of the Act, contraventions of the following provisions of CAR are prescribed:

- (a) regulation 282;
- (b) subregulation 288(2);
- (c) regulation 298A;
- (d) regulation 298B;
- (e) regulation 298C;
- (f) regulation 301;
- (g) regulation 302;
- (h) subregulation 305(1A).

##### 13.330 Prescribed person (Act s 30DM)

For the purposes of Division 3C (Protection from administrative action for voluntary reporting) of Part III of the Act, the Executive Director is prescribed.

##### 13.335 Establishment and purposes of scheme (Act s 30DN)

- (1) There is established a scheme (to be known as the **Aviation Self Reporting Scheme**) for the voluntary reporting of reportable contraventions.
- (2) The scheme is to be administered by the Executive Director.

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- (3) The purposes of the scheme are:
- (a) to enable holders of civil aviation authorisations to voluntarily report reportable contraventions without administrative action being taken against them; and
  - (b) to strengthen the foundation of aviation human factors safety research; and
  - (c) to identify deficiencies and problems in the Australian aviation safety system; and
  - (d) to provide data for planning and improvements to the Australian aviation safety system.

### 13.340 Powers and functions of Executive Director

Without limiting the generality of the powers and functions of the Executive Director as administrator of ASRS, the Executive Director has the following powers and functions:

- (a) to process and accept reports;
- (b) to give receipts for reports;
- (c) to review information contained in reports in order to identify potential safety deficiencies and lessen the likelihood of accidents and serious incidents;
- (d) to issue information briefs or alert bulletins that the Executive Director considers are necessary in the interests of aviation safety;
- (e) to publish details of reviews made under paragraph (c).

Note: Regulation 13.360 affects the powers and functions of the Executive Director relating to information contained in reports.

### 13.345 Manner in which reports to be made (Act s 30DN(2)(b))

- (1) A holder of a civil aviation authorisation who has committed a reportable contravention may make a written report of the reportable contravention under ASRS.
- (2) The report must be made to the Executive Director, in a form approved by the Executive Director, not later than 10 days after the reportable contravention.
- (3) The report must include the following information:
  - (a) the name, postal address and daytime telephone number of the authorisation holder making the report;
  - (b) if applicable—the Aviation Reference Number of the authorisation holder;
  - (c) the class or classes of civil aviation authorisation held by the authorisation holder;
  - (d) the time, date, place and nature of the contravention;
  - (e) a description of the circumstances of the contravention;
  - (f) so far as is practicable, the regulations contravened by the authorisation holder.

Note 1: A copy of the approved form is available from ATSB's website (<http://www.atsb.gov.au>) or by contacting 1-800-020-505.

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- Note 2: A report made by an authorisation holder under this regulation does not satisfy the reporting obligations under:
- (a) the *Transport Safety Investigation Act 2003*; or
  - (b) any other provision of these Regulations relating to the reporting of defects or service difficulties on aircraft or aeronautical products.

### 13.350 Processing of reports

- (1) A report purportedly made in accordance with regulation 13.345 must be accepted by the Executive Director, unless it appears on the face of the report that the contravention for which the report is made is not a reportable contravention.

Note: Under section 30DL of the Act, the following contraventions are not reportable contraventions:

  - (a) a contravention of these Regulations that is deliberate;
  - (b) a contravention of these Regulations that is fraudulent;
  - (c) a contravention of these Regulations that causes or contributes to an accident or to a serious incident (whether before or after the contravention is reported);
  - (d) a contravention of a regulation prescribed under regulation 13.325.
- (2) If the Executive Director accepts a report, the Executive Director must:
  - (a) ensure that the report is given a unique receipt number and stamped, on the front page, with the receipt number and the date when the report was made; and
  - (b) give to the holder of a civil aviation authorisation who made the report a receipt that sets out:
    - (i) the authorisation holder's name; and
    - (ii) the date the report was made; and
    - (iii) the date and nature of the contravention; and
  - (c) having regard to subregulation 13.360(2), determine what information contained in the report is to be included in the files or databases primarily kept for the purposes of ASRS; and
  - (d) return the report to the authorisation holder who made the report.
- (3) If the Executive Director does not accept a report, he or she must, subject to regulation 13.355, return the report to the authorisation holder.

### 13.355 Reports relating to unlawful interference

If a report relates to an act of unlawful interference (within the meaning of ICAO Document 9713, '*International Civil Aviation Vocabulary*', as in force from time to time), the Executive Director must send it to the Aviation Security Duty Officer in the Department.

### 13.360 Use of information contained in reports (Act s 30DN(2)(c))

- (1) The Executive Director must not keep a copy of a report made under ASRS.
- (2) The Executive Director must ensure that, to the extent practicable, information that identifies the authorisation holder who made the report (or any person

**Part 13** Enforcement procedures

**Subpart 13.K** Voluntary reporting and demerit points schemes

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referred to in the report) is not included in any file or database primarily kept for the purposes of ASRS.

- (3) Information contained in a report of a reportable contravention (other than information that is personal information within the meaning of the *Privacy Act 1988*) may be disclosed by the Executive Director without the consent of the authorisation holder who made the report but only if the information is to be used for a purpose mentioned in subregulation 13.335(3).

**13.365 Delegation by Executive Director**

- (1) The Executive Director may, in writing, delegate to a person engaged to perform duties in the Department (whether as an APS employee, SES employee or under any other arrangement) a power (except this power of delegation), function or duty of the Executive Director under this Division.
- (2) In exercising powers, functions and duties under a delegation, the delegate must comply with any directions of the Executive Director.



## Division 13.K.2—Demerit points scheme

### 13.370 Offences to which demerit points scheme applies (Act s 30DT)

- (1) All offences under CAR and CASR that are specified as strict liability offences are prescribed as offences to which Division 3D (Demerit points scheme) of Part III of the Act applies.
- (2) The number of points that are incurred in relation to an offence to which that Division applies are as follows:
  - (a) if the maximum penalty for the offence is 10 penalty units or less—1 demerit point;
  - (b) if the maximum penalty for the offence is more than 10 penalty units but less than 26 penalty units—2 demerit points;
  - (c) if the maximum penalty for the offence is 26 penalty units or more—3 demerit points.

### 13.375 Classes of civil aviation authorisations

For the purposes of section 30DU of the Act, a civil aviation authorisation mentioned in column 2 of an item in table 13.375 belongs to the class of civil aviation authorisation mentioned in column 3 of the item.

**Table 13.375 Classes of civil aviation authorisations**

Column 1 Item	Column 2 Particular civil aviation authorisations	Column 3 Class of civil aviation authorisation
1	a certificate issued under section 27 of the Act	Air operator certificate
2	a certificate issued under Part 47 of CASR	Certificate of registration
3	a certificate issued under regulation 30 of CAR	Certificate of approval
4	an aircraft engineer licence	Authorisation to perform maintenance certification and issue certificate of release to service
4A	an authority mentioned in regulation 33B or 33C of CAR	Maintenance authority
5	a licence referred to in paragraph 5.08(b) of CAR	Flight radiotelephone licence
6	a licence referred to in paragraph 5.08(a) of CAR or a pilot licence	Pilot licence
7	a flight engineer licence	Flight engineer licence
8	a certificate issued under Part 6 of CAR or Part 67 of CASR	Medical certificate

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Particular civil aviation authorisations</b>	<b>Class of civil aviation authorisation</b>
9	a licence or authorisation issued under Part 65 of CASR	ATC licence
10	a certificate issued under Subpart 101.F of CASR	RPA certificate
11	a certificate issued under Subpart 139.B of CASR	Aerodrome certificate
12	an approval granted under Subpart 139.H of CASR	ARFFS approval
12A	an approval granted under regulation 141.035 or 142.040	Flying training authorisation
12B	a certificate issued under regulation 141.060 or 142.110	Flying training authorisation
13	an approval granted under Part 143 or 172 of CASR	ATS approval
14	an approval granted under Part 171 of CASR	Aeronautical telecommunication and radionavigation provider approval
15	a certificate or authorisation issued under Part 173 of CASR	Instrument flight procedure approval

**13.380 Effect of subsequent suspension or cancellation in certain situations (Acts 30DV)**

If:

- (a) a civil aviation authorisation is cancelled (the *earlier cancellation*); and
- (b) if there had been no earlier cancellation, a subsequent suspension or cancellation under Division 3D of Part III of the Act would have had effect in relation to the authorisation; and
- (c) the earlier cancellation is later set aside by the Administrative Appeals Tribunal;

the subsequent suspension or cancellation has effect, in relation to the civil aviation authorisation, on the day immediately following the day when the Administrative Appeals Tribunal set aside the earlier cancellation.

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## **Subpart 21.A—General**

### **21.001 Applicability**

- (1) This Part deals with certification and airworthiness requirements, and includes:
  - (a) rules dealing with type certificates, provisional type certificates, supplemental type certificates, type acceptance certificates, production certificates, certificates of airworthiness, export airworthiness approvals and modification/repair design approvals; and
  - (b) rules governing the holders of certificates or approvals mentioned in paragraph (a); and
  - (ba) matters relating to approved design organisations; and
  - (c) rules dealing with the approval of aircraft engines, propellers and certain materials, parts, processes, and appliances.

*Source* FARs section 21.1 modified.

- (2) This Part does not apply to hang gliders or paragliders.

*Note:* The Part 103 Manual of Standards may make provision in relation to airworthiness requirements for hang gliders and paragliders (see regulation 103.030).

### **21.001A Definition for Subpart**

In this Subpart:

***instrument*** means an approval, authorisation, certificate or permit issued under this Part.

### **21.002C Suspension or cancellation of an instrument**

- (1) CASA may suspend or cancel an instrument, by written notice given to its holder, if:
  - (a) CASA is reasonably satisfied that the holder has made or caused to be made:
    - (i) a fraudulent or intentionally false statement on the application for the instrument; or
    - (ii) an intentionally false entry in a record or report that is required to be kept, made, or used to show compliance with any requirement for the issue or the exercise of the privileges of the instrument; or
    - (iii) a reproduction for a fraudulent purpose of any instrument; or
    - (iv) an alteration for a fraudulent purpose of any instrument; and
  - (b) CASA has given the holder a show cause notice under regulation 21.002D in relation to the instrument; and
  - (c) CASA has taken into account any representations made by or on behalf of the holder within the period stated in the notice.
- (2) A notice must set out:

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- (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.
- (3) An instrument that is suspended under this regulation has no force while it is suspended, but, if it was issued for a fixed term, the suspension period counts as part of the term.
- (4) If CASA suspends an instrument under this regulation, the holder cannot use it to meet the requirements for the issue of any other instrument during the period of suspension.

*Source* FARs section 21.2 modified.

**21.002D Show cause notices**

- (1) CASA may give the holder of an instrument a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the suspension or cancellation of the instrument under regulation 21.002C.
- (2) A show cause notice must be in writing and must:
  - (a) inform the holder of the facts or circumstances that, in CASA's opinion, would justify the suspension or cancellation of the instrument; and
  - (b) invite the holder to show cause, within the period stated in the notice, why the instrument should not be suspended or cancelled.
- (3) The period stated in the notice must be reasonable, having regard to all the circumstances of the case.

**21.002E Cancellation of certain certificates**

- (2) If CASA cancels a type certificate, provisional type certificate, type acceptance certificate or supplemental type certificate under regulation 11.130, CASA must publish a notice in the *Gazette* stating:
  - (a) that the certificate is cancelled; and
  - (b) when the cancellation takes effect.
- (3) The cancellation of a certificate mentioned in subregulation (2) takes effect on the day after the notice is published in the *Gazette*, or if a later day is stated in the request for cancellation, on the later day.

**21.003 Reporting failures, malfunctions, and defects**

- (1) The holder of a type certificate, a supplemental type certificate, an APMA or an ATSO authorisation, or the licensee of a type certificate or supplemental type certificate, must report to CASA any failure, malfunction, or defect in any of the following that has resulted in any of the occurrences listed in subregulation (4):
  - (a) an aircraft, aircraft engine or propeller, or any other part or article manufactured by it;
  - (b) a manufacturing process specified by it.

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Penalty: 25 penalty units.

- (2) The holder of a type certificate, a supplemental type certificate, an APMA, or an ATSO authorisation, or the licensee of a type certificate or supplemental type certificate, must report to CASA any defect in any aircraft, aircraft engine or propeller, or in any part, or article manufactured by it that has left its control and that could result in any of the occurrences listed in subregulation (4).

Penalty: 25 penalty units.

- (2A) The holder of an approval mentioned in subregulation (2B) must report to CASA any failure, malfunction or defect related to a modification or repair to which the approval relates that has resulted, or could result, in an occurrence mentioned in subregulation (4).

Penalty: 25 penalty units.

- (2B) For subregulation (2A), the approval is:
- (a) a modification/repair design approval; or
  - (b) an approval mentioned in regulation 21.475.
- (3) It is a defence to a prosecution under subregulation (1), (2) or (2A) that the defendant has reasonable grounds for believing that the relevant failure, malfunction or defect:
- (a) was caused by improper maintenance or use; or
  - (b) was reported to CASA under another provision of these Regulations.

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

- (4) The following occurrences must be reported as provided in subregulations (1), (2) and (2A):
- (a) fires caused by a system or equipment failure, malfunction, or defect;
  - (b) an engine exhaust system failure, malfunction, or defect which causes damage to the engine, adjacent aircraft structure, equipment, or components;
  - (c) the accumulation or circulation of toxic or noxious gases in the crew compartment or passenger cabin;
  - (d) a malfunction, failure, or defect of a propeller control system;
  - (e) a propeller or rotorcraft hub or blade structural failure;
  - (f) flammable fluid leakage in areas where an ignition source normally exists;
  - (g) a brake system failure caused by structural or material failure during operation;
  - (h) a significant aircraft primary structural defect or failure caused by any self-generating condition (for example, fatigue or corrosion);
  - (i) any abnormal vibration or buffeting caused by a structural or system malfunction, defect, or failure;
  - (j) an engine failure;

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- (k) any structural or flight control system malfunction, defect, or failure which causes an interference with normal control of the aircraft or which derogates from the flying qualities;
  - (l) a complete loss of more than one electrical power generating system or hydraulic power system during a given operation of the aircraft;
  - (m) a failure or malfunction of more than one attitude, airspeed, or altitude instrument during a given operation of the aircraft.
- (6) For subregulations (1), (2) and (2A), a report must:
- (a) be given to CASA, in writing, within 3 working days after the person required to make the report becomes aware, or could reasonably be expected to have become aware, that the failure, malfunction, or defect required to be reported has occurred; and
  - (b) include as much of the following information as is available and applicable:
    - (i) the aircraft's serial number;
    - (ii) the aircraft's registration mark;
    - (iii) when the failure, malfunction, or defect is associated with an article approved under an ATSO authorisation—the article serial number and model designation, as appropriate;
    - (iv) when the failure, malfunction, or defect is associated with an aircraft engine or propeller—the aircraft engine or propeller serial number, as appropriate;
    - (v) identification of the product model;
    - (vi) identification of the part, component, or system involved (including the part number);
    - (vii) the nature of the failure, malfunction, or defect.
- (7) Whenever the investigation of an accident or service difficulty report shows that an article manufactured under an ATSO authorisation is unsafe because of a manufacturing or design defect, the manufacturer must, upon request of CASA, investigate the defect and report to CASA the results of its investigation and any action taken or proposed by the manufacturer to correct that defect.

Penalty: 25 penalty units.

- (8) If action is required to correct the defect in an article manufactured under an ATSO authorisation, the manufacturer must submit to CASA the data necessary for the issue of an appropriate airworthiness directive.

Penalty: 10 penalty units.

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

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

Source FARs section 21.3 modified.

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**21.005 Manufacturers etc to provide aircraft flight manuals for certain aircraft**

- (1) This regulation applies to an aircraft only if:
- (a) the type certification basis for the aircraft did not require the provision of an aircraft flight manual; and
  - (b) the aircraft was not flown before 1 March 1979.

- (1A) If the owner of the aircraft takes delivery of the aircraft from the holder of the type certificate for the aircraft, the holder must give the owner, when the owner takes delivery, an aircraft flight manual that:
- (a) contains the information mentioned in subregulations (2) and (3); and
  - (b) complies with subregulation (3A).

Penalty: 25 penalty units.

- (1B) If the owner of the aircraft takes delivery of the aircraft from the manufacturer of the aircraft, the manufacturer must give the owner, when the owner takes delivery, an aircraft flight manual that:
- (a) contains the information mentioned in subregulations (2) and (3); and
  - (b) complies with subregulation (3A).

Penalty: 25 penalty units.

- (2) The aircraft flight manual must contain the operating limitations and information required to be furnished in an aircraft flight manual or in manual material, markings, and placards, by the applicable regulations under which the aircraft was type certificated.
- (3) The maximum ambient atmospheric temperature for which engine cooling was demonstrated must be stated in the performance information section of the flight manual, if the applicable regulations under which the aircraft was type certificated do not require ambient temperature on engine cooling operating limitations in the flight manual.
- (3A) For paragraphs (1A)(b) and (1B)(b):
- (a) the manual must have been approved for the aircraft:
    - (i) by CASA, an authorised person or an approved design organisation under regulation 21.006; or
    - (ii) if there is an agreement (however described) between CASA and the national aviation authority of a Contracting State for the acceptance of approvals of aircraft flight manuals—by the national aviation authority or a person authorised to do so by the national aviation authority; or
    - (iii) if there is an agreement (however described) between Australia and a Contracting State for the acceptance of approvals of aircraft flight manuals—by the national aviation authority of the Contracting State, or a person authorised to do so by the national aviation authority; and
  - (b) any changes to the manual made to the manual since it was approved for the aircraft must have been approved:

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- (i) by CASA, an authorised person or an approved design organisation under regulation 21.006A; or
  - (ii) if there is an agreement (however described) between CASA and the national aviation authority of a Contracting State for the acceptance of approvals of changes to aircraft flight manuals—by the national aviation authority or a person authorised to do so by the national aviation authority; or
  - (iii) if there is an agreement (however described) between Australia and a Contracting State for the acceptance of approvals of changes to aircraft flight manuals—by the national aviation authority of the Contracting State, or a person authorised to do so by the national aviation authority.
- (4) An offence against subregulation (1A) or (1B) is an offence of strict liability.

*Source* FARs section 21.5 modified.

### **21.006 Approval of aircraft flight manuals**

- (1) The holder of a type certificate for, or the manufacturer of, an aircraft to which regulation 21.005 applies may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of a flight manual for the aircraft.

*Note 1:* An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

*Note 2:* Part 11 deals with applications and decision making.

- (2) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must approve the manual if CASA or the authorised person or approved design organisation is satisfied that it complies with the airworthiness standards that applied to the issue of the aircraft's type certificate, type acceptance certificate or foreign type certificate.

*Note:* Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

### **21.006A Approval of changes to aircraft flight manuals**

- (1) Any of the following persons may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of a change to a flight manual for an aircraft:
- (a) the registered operator of the aircraft;
  - (aa) if the aircraft is a Part 103 aircraft—the owner of the aircraft;
  - (b) an applicant for any of the following:
    - (i) approval of a change in the type design for the aircraft;
    - (ii) a supplemental type certificate for the aircraft;
    - (iii) a modification/repair design approval for the aircraft;

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(iv) an approval mentioned in regulation 21.475.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: Part 11 deals with applications and decision making.

(2) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must approve the change if CASA or the authorised person or approved design organisation is satisfied that the manual as changed would comply with:

- (a) if the applicant is not an applicant for an instrument mentioned in paragraph (1)(b)—the airworthiness standards that applied to the issue of the aircraft's type certificate, type acceptance certificate or foreign type certificate; or
- (b) if the applicant is an applicant for an instrument mentioned in paragraph (1)(b)—the applicable airworthiness standards for the instrument; or
- (c) if the aircraft is a non-type certificated aircraft—the airworthiness standards that applied to the issue of the aircraft's certificate of airworthiness or permit under this Part.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

(3) In this regulation, a reference to a change to a flight manual includes a reference to a supplement to the flight manual.

### **21.007 Permissible unserviceabilities**

(1) A person may apply to CASA, an authorised person or a relevant approved design organisation for approval of a defect in an Australian aircraft as a permissible unserviceability for the aircraft.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: See Part 11 for other matters relating to applications and decisions.

(2) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must, for the purpose of these Regulations, approve the defect as a permissible unserviceability for the aircraft if satisfied that the aircraft, with the defect, meets the applicable airworthiness standards mentioned in subregulation (3).

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

(3) For subregulation (2), the applicable airworthiness standards are:



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- (a) for an aircraft for which there is a type certificate:
    - (i) the airworthiness standards mentioned in the type certificate and any special conditions to which the type certificate is subject under regulation 21.016; or
    - (ii) if the application states that the applicant elects to comply with a later version of those standards—that version of the standards and any special conditions to which the type certificate is subject under regulation 21.016; and
  - (b) for an aircraft for which there is a type acceptance certificate:
    - (i) the airworthiness standards mentioned in the type acceptance certificate and any conditions to which the type acceptance certificate is subject under regulation 21.029B; or
    - (ii) if the application states that the applicant elects to comply with a later version of those standards—that version of the standards and any special conditions to which the type acceptance certificate is subject under regulation 21.029B; and
  - (c) for a non-type-certificated aircraft:
    - (i) the airworthiness standards that applied to the original certification (however described) of the aircraft; or
    - (ii) if the application states that the applicant elects to comply with a later version of those standards—that version of the standards.
- (4) An approval ceases to have effect at the earliest of the following times:
- (a) if a cessation day (not later than 1 year after the day the approval is given) is stated in the approval—the end of that day;
  - (b) if a maximum amount of flight time is stated in the approval—when the aircraft has been flown for that amount of flight time;
  - (c) if a maximum number of flights is stated in the approval—when the aircraft has been flown for that number of flights;
  - (d) the end of 1 year after the approval is given.

**21.007A Advice about major damage**

- (1) A person may ask CASA, an authorised person or a relevant approved design organisation, in writing, to assess damage to an aircraft and advise whether the damage is major damage.
- (2) CASA or the authorised person or approved design organisation must advise the person, in writing, whether, in the opinion of CASA or the authorised person or approved design organisation, the damage is major damage.

Note: Under regulation 47 of CAR, damage to an aircraft is taken not to be major damage if, under this regulation, CASA or an authorised person or approved design organisation advises a person that the damage is not major damage.

**21.008 Meaning of *technical data***

In this Part:

## Regulation 21.009

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**technical data**, for the design of an aircraft, aircraft engine, propeller or appliance, or for the design of a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance, means:

- (a) data that describes the design, including:
  - (i) the drawings and specifications necessary to define the configuration and design features of the aircraft, aircraft engine, propeller or appliance, or of the modification or repair, and a list of those drawings and specifications; and
  - (ii) information on dimensions, materials and processes necessary for making the aircraft, aircraft engine, propeller or appliance, or the modification or repair; and
  - (iii) the airworthiness limitations section of the instructions for the continued airworthiness of the aircraft, aircraft engine, propeller or appliance; and
  - (iv) the operating limitations and other information necessary for the safe operation of the aircraft, aircraft engine, propeller or appliance; and
  - (v) any other data necessary to determine the airworthiness of the aircraft, aircraft engine, propeller or appliance; and
- (b) engineering reports, including test plans and reports, used to show that the design complies with the applicable airworthiness standards for an instrument for the design.

### 21.009 Approval of technical data

- (1) This regulation applies if technical data for a design is submitted to CASA, an authorised person or a relevant approved design organisation in connection with an application for:
  - (a) a type certificate; or
  - (b) approval of a change in type design; or
  - (c) a supplemental type certificate; or
  - (ca) a variation of a supplemental type certificate; or
  - (cb) approval of the product design of a Class II or Class III product; or
  - (d) a letter of ATSO design approval; or
  - (e) an ATSO authorisation; or
  - (f) a modification/repair design approval; or
  - (g) an APMA.
- (2) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must approve the technical data if CASA or the authorised person or approved design organisation is satisfied that the technical data demonstrates that the design complies with the applicable airworthiness standards for the instrument.
- (3) In this regulation:

**Class II product**: see regulation 21.132.

Note: For the meaning of **Class III product**, see the Dictionary.

**21.010 References to modifications and repairs in Part**

- (1) In this Part, a reference to a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance includes a reference to a modification of, or repair to, an aeronautical product for the aircraft, aircraft engine, propeller or appliance.
- (2) Subregulation (1) applies regardless of whether, at the time of the modification or repair, the aeronautical product was fitted to the aircraft, aircraft engine, propeller or appliance.

**21.010A References to the national aviation authority of a recognised country**

- (1) In this Part, a reference to the national aviation authority of a recognised country includes a reference to EASA, whether or not EASA is performing a function on behalf of a recognised country.
- (2) To avoid doubt:
  - (a) a foreign type certificate issued by EASA before 1 May 2014 is, and is taken to have been from the time it was issued, a foreign type certificate issued by the NAA of a recognised country; and
  - (b) a certificate issued by EASA before 1 May 2014 that is equivalent to a supplemental type certificate that could have been issued by CASA is, and is taken to have been from the time it was issued, a foreign supplemental type certificate issued by the NAA of a recognised country; and
  - (c) a design for a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance that was approved by EASA before 1 May 2014 is, and is taken to have been from the time it was approved, a design approved by the NAA of a recognised country; and
  - (d) a manufacturing approval (however described) for an aircraft engine, propeller, material, part or appliance issued by EASA before 1 May 2014 is, and is taken to have been from the time it was issued, a manufacturing approval issued by the NAA of a recognised country.
- (3) Also to avoid doubt, a foreign supplemental type certificate cancelled by EASA before 1 May 2014 is taken to have been cancelled by the NAA of a recognised country.

**21.010B Definition of *recognised country***

- (1) In this Part:

***recognised country*** means any of the following:

- (a) Canada;
- (b) France;
- (c) Germany;
- (d) Netherlands;
- (e) New Zealand;
- (f) United Kingdom;
- (g) United States of America.

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- (2) For Subpart 21.B, a Contracting State, other than a country mentioned in subregulation (1), is a ***recognised country*** if there is an agreement (however described) between:
  - (a) Australia and the Contracting State; or
  - (b) CASA and the national aviation authority of the Contracting State; for CASA to issue type acceptance certificates in relation to foreign type certificates or equivalent documents issued by the national aviation authority of the Contracting State.
- (3) For Subpart 21.E, a Contracting State, other than a country mentioned in subregulation (1), is a ***recognised country*** if there is an agreement (however described) between:
  - (a) Australia and the Contracting State; or
  - (b) CASA and the national aviation authority of the Contracting State; for the acceptance of certificates (however described) that are equivalent to supplemental type certificates.
- (4) For Subpart 21.M, a Contracting State, other than a country mentioned in subregulation (1), is a ***recognised country*** if there is an agreement (however described) between:
  - (a) Australia and the Contracting State; or
  - (b) CASA and the national aviation authority of the Contracting State; for the acceptance of approvals of designs of modifications of, or repairs to, aircraft, aircraft engines, propellers or appliances.

### **21.010C References to countries with which Australia has agreements**

- (1) In this Part, a reference to a country with which Australia has an agreement for the acceptance of aircraft includes a reference to a country with the national aviation authority of which CASA has an agreement for the acceptance of aircraft.
- (2) In this Part, a reference to a country with which Australia has an agreement for the acceptance of aircraft engines, propellers, materials, parts or appliances includes a reference to a country with the national aviation authority of which CASA has an agreement for the acceptance of aircraft engines, propellers, materials, parts or appliances.

### **21.010D Issue of Manual of Standards for Part 21**

For subsection 98(5A) of the Act, CASA may issue a Manual of Standards for this Part prescribing matters:

- (a) required or permitted by these Regulations to be prescribed by the Part 21 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Note: A Manual of Standards is a legislative instrument: see subsection 98(5AA) of the Act.

## **Subpart 21.B—Type certificates and type acceptance certificates**

**Note:** A type certificate or a type acceptance certificate issued under this Part for an aircraft, aircraft engine or propeller does not certify that it complies with the *Air Navigation (Aircraft Noise) Regulations 2018*, the Air Navigation (Aircraft Engine Emissions) Regulations or any other applicable Commonwealth legislation. Compliance with those Regulations or other applicable Commonwealth legislation may be required before the aircraft, aircraft engine or propeller may be legally operated.

### **21.011 Applicability**

This Subpart prescribes:

- (a) requirements for the issue of:
  - (i) type certificates for aircraft, aircraft engines and propellers; and
  - (ii) type acceptance certificates for aircraft; and
- (b) rules governing the holders of those certificates; and
- (c) rules dealing with the national aviation authorities of foreign countries.

*Source* FARs section 21.11 modified.

### **21.013 Eligibility**

Any person is eligible to apply to CASA for a type certificate or a type acceptance certificate.

*Source* FARs section 21.13 modified.

#### **21.013A Issue of type certificate**

- (1) Subject to regulation 11.055, CASA must issue a type certificate (except a type certificate mentioned in regulation 21.029) to an applicant for the certificate if the applicant:
  - (a) is eligible, under regulation 21.013, to apply for the certificate; and
  - (b) applies for the certificate in accordance with this Subpart; and
  - (c) is entitled, under this Subpart, to the certificate; and
  - (d) otherwise complies with this Part.
- (2) Subregulation (3) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to certify that the applicant meets a criterion for entitlement to a type certificate under this Subpart.
- (3) If the approved design organisation is satisfied that the applicant meets the criterion, the organisation may give CASA a certificate to that effect.
- (4) For paragraph (1)(c), if an approved design organisation gives CASA a certificate under subregulation (3) in relation to a criterion, CASA need consider only that certificate in deciding whether the applicant meets the criterion.

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- (5) For subregulation (3), regulations 21.021, 21.024, 21.025 and 21.026 apply to consideration by an approved design organisation of an application for a type certificate as if each reference to CASA in those regulations were a reference to the approved design organisation.

### **21.014 Recognition of foreign certification**

Despite regulation 21.013A, CASA must not issue a type certificate mentioned in regulation 21.021, 21.024, or 21.025, for an aircraft manufactured in another country, if:

- (a) a type acceptance certificate may be issued for the aircraft under regulation 21.029A; or
- (b) a type certificate may be issued for the aircraft under regulation 21.029.

### **21.015 Application for type certificate**

- (2) An application for an aircraft type certificate must be accompanied by a three-view drawing of that aircraft and available preliminary basic data.
- (3) An application for an aircraft engine type certificate must be accompanied by a description of the engine design features, the engine operating characteristics, and the proposed engine operating limitations.

*Source* FARs section 21.15 modified.

### **21.016 Special standards and other conditions on type certificates**

- (1) If CASA considers that some of the airworthiness standards mentioned in these Regulations that are applicable to a particular type of aircraft, aircraft engine or propeller do not provide an adequate or appropriate safety standard for the aircraft, aircraft engine or propeller, CASA may issue a type certificate for it on condition that it complies with any special conditions that are necessary to establish a level of safety equivalent to that established under these Regulations for comparable aircraft, aircraft engines or propellers.
- (2) CASA may issue a type certificate for an aircraft, aircraft engine or propeller subject to any other conditions that are necessary in the interests of aviation safety.
- (3) A condition imposed under subregulation (2) may include operational limitations.
- (4) A special condition or other condition must be in writing, and set out in, or attached to, the type certificate.
- (5) A person must not engage in conduct that results in a breach of a special condition or other condition of a type certificate.

Penalty: 50 penalty units.

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

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

Source FARs section 21.16 modified.

**21.017 Designation of applicable airworthiness standards**

- (1) An applicant for a type certificate for an aircraft mentioned in regulation 21.021 or 21.025, or an aircraft engine or propeller, must show that the aircraft, aircraft engine or propeller meets:
  - (a) the applicable requirements of this Part, and of the airworthiness standards mentioned in Parts 22, 23, 25, 27, 29, 31, 32, 33 and 35, and of the airworthiness standards prescribed by the Part 21 Manual of Standards, that are effective on the date of application for that certificate unless:
    - (i) otherwise specified by CASA; or
    - (ii) compliance with later effective amendments is elected or required under this regulation; and
  - (b) any special conditions imposed under regulation 21.016.
- (2) For special classes of aircraft (airships and other non-conventional aircraft), including the engines and propellers installed thereon, for which airworthiness standards have not been prescribed in these Regulations, the airworthiness standards are the portions of those airworthiness standards mentioned in Parts 22, 23, 25, 27, 29, 31, 32, 33 and 35, and of the airworthiness standards prescribed by the Part 21 Manual of Standards, that CASA considers to be appropriate for the aircraft and applicable to a specific type design, or such airworthiness criteria as CASA may consider provide an equivalent level of safety to those airworthiness standards.
- (3) An application for type certification of a transport category aircraft is effective for 5 years, and an application for any other type certificate is effective for 3 years, unless an applicant shows, before the application lapses, that the aircraft requires a longer period of time for design, development, and testing, and CASA approves a longer period.
- (4) If an application ceases to be effective, the applicant may:
  - (a) file a new application for a type certificate and comply with all the provisions of subregulation (1) applicable to an original application; or
  - (b) file for an extension of the original application and comply with the applicable airworthiness requirements of these Regulations that were effective on a date, to be selected by the applicant, not earlier than the date which precedes the date of issue of the type certificate by the time limit established under subregulation (3) for the original application.
- (5) If an applicant elects to comply with an amendment to these Regulations or the Part 21 Manual of Standards, or to any matter incorporated by reference in these Regulations, that is effective after the filing of the application for a type certificate, the applicant must also comply with any other amendment or incorporated matter that CASA considers is directly related to the application.

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- (6) For primary category aircraft, the airworthiness standards are the airworthiness standards mentioned in Part 26 and the airworthiness standards prescribed by the Part 21 Manual of Standards, or such other airworthiness criteria that CASA considers are appropriate to the specific design and intended use and provide a level of safety acceptable to CASA when the aircraft is operated under the conditions stated in its type certification basis.
- (7) For intermediate category aircraft, the airworthiness standards are the airworthiness standards mentioned in Part 26 and the airworthiness standards prescribed by the Part 21 Manual of Standards, or such other airworthiness criteria that CASA considers are appropriate to the specific design and intended use and provide a level of safety acceptable to CASA when the aircraft is operated under the conditions stated in its type certification basis.
- (8) If an airworthiness standard has been agreed by CASA or one of its predecessors after 30 September 1993 as a response to a design advice mentioned in section 100.3 or 100.6 of the Civil Aviation Orders, the standard continues to apply until 5 years after the date of approval of the design advice, unless the applicant elects to comply with a later standard.

*Source* FARs section 21.17 modified.

### **21.019 Changes requiring a new type certificate**

- (1) A type certificate for an aircraft, aircraft engine or propeller ceases to apply to an aircraft, aircraft engine or propeller of that type if:
  - (a) a change is made in the design configuration, power, power limitations (engines), speed limitations (engines), or weight of the aircraft, aircraft engine or propeller that is so extensive that a substantially complete investigation of compliance with the requirements applicable under regulation 21.017 is necessary in the interests of aviation safety; or
  - (b) in the case of a normal, utility, acrobatic, commuter or transport category aircraft, a change is made:
    - (i) in the number of its engines or rotors; or
    - (ii) to engines or rotors using different principles of propulsion or to rotors using different principles of operation; or
  - (c) in the case of an aircraft engine—a change is made in the principle of operation; or
  - (d) in the case of propellers—a change is made in the number of blades or principle of pitch change operation.
- (2) A person who proposes to make a change mentioned in subregulation (1) may apply to CASA for a new type certificate for the aircraft, aircraft engine or propeller.

*Source* FARs section 21.19 modified.



**21.021 Type certificate: normal, utility, acrobatic, commuter, and transport category aircraft; manned free balloons; special classes of aircraft; aircraft engines; propellers**

An applicant is entitled to a type certificate for an aircraft (except an aircraft mentioned in regulation 21.027) in the normal, utility, acrobatic, commuter, or transport category, or for a manned free balloon, or for a special class of aircraft or an aircraft engine or propeller, if:

- (a) the applicant submits the type design, test reports, and computations necessary to show that the aircraft, aircraft engine or propeller to be certificated meets the applicable requirements of this Part, the airworthiness standards mentioned in these Regulations and any conditions subject to which the type certificate is to be issued; and
- (b) CASA is satisfied that the type design and the aircraft, engine or propeller meet the applicable requirements of this Part and the airworthiness standards mentioned in these Regulations, and any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and
- (c) for an aircraft—CASA is satisfied the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use.

*Source* FARs section 21.21 modified.

**21.024 Type certificate: primary category aircraft**

- (1) The applicant is entitled to a type certificate for an aircraft in the primary category if:
  - (a) the aircraft:
    - (i) is unpowered; is an aeroplane powered by a single, naturally aspirated engine with a 61 knots or less  $V_{S0}$  stall speed as defined in FARs section 23.49; or is a rotorcraft powered by a single, naturally aspirated engine with a  $29.3 \text{ kgm}^{-2}$  main rotor disc loading limitation, under sea level standard day conditions; and
    - (ii) has a maximum take-off weight of not more than 1225 kg or, if the aircraft is a seaplane, a maximum take-off weight of not more than 1530 kg; and
    - (iii) has a maximum seating capacity of not more than 4 persons, including the pilot; and
    - (iv) has an unpressurised cabin; and
  - (b) the applicant has submitted to CASA:
    - (i) except as provided by subregulation (3), a statement, in a form and manner acceptable to CASA, certifying that: the applicant has completed the engineering analysis necessary to demonstrate compliance with the applicable airworthiness requirements; the applicant has conducted appropriate flight, structural, propulsion, and systems tests necessary to show that the aircraft, its components, and its equipment are reliable and function properly; the type design

## Regulation 21.025

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- complies with the airworthiness standards established for the aircraft under subregulation 21.017(6); and the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use; and
- (ii) the flight manual required by regulation 21.005, including any information required to be furnished by the applicable airworthiness standards; and
  - (iii) instructions for continued airworthiness in accordance with subregulation 21.050(2); and
  - (iv) a report that: summarises how compliance with each provision of the type certification basis was determined; lists the specific documents in which the type certification data information is provided; lists all necessary drawings and documents used to define the type design; and lists all the engineering reports on tests and computations the applicant must retain and make available under regulation 21.049 to substantiate compliance with the applicable airworthiness standards; and
- (c) CASA is satisfied that:
- (i) the aircraft complies with the airworthiness standards or other criteria established under subregulation 21.017(6); and
  - (ii) the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use.
- (2) An applicant may include a special inspection and preventive maintenance program, designed to be accomplished by the pilot-owner of the aircraft, as part of the aircraft's type design or supplemental type design.
- (3) For aircraft manufactured outside Australian territory in a country with which Australia has a bilateral agreement for the acceptance of these aircraft, and from which the aircraft is to be imported into Australian territory, the statement required by subparagraph (1)(b)(i) must be made by the national aviation authority of the exporting country.

*Source* FARs section 21.24 modified.

### **21.025 Issue of type certificate: restricted category aircraft**

- (1) An applicant is entitled to a type certificate for an aircraft in the restricted category for one or more of the special purpose operations mentioned in subregulation (2) if:
- (a) the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use; and
  - (b) the aircraft:
    - (i) meets the airworthiness requirements of the normal, utility, acrobatic, commuter or transport category, except those requirements that CASA considers are inappropriate for the special purpose for which the aircraft is to be used; or
    - (ii) is of a type that has been manufactured in accordance with the requirements of, and accepted for use by, the Defence Force, or an

armed force of Canada, the United Kingdom or the United States of America, and has been later modified for the special purpose operation or operations.

- (2) For subregulation (1), the special purpose operations are:
- (a) agricultural operations (for example, spraying, dusting, and seeding, and livestock and feral animal control); and
  - (b) forest and wildlife conservation; and
  - (c) firefighting; and
  - (d) aerial surveying or scientific research (for example, photography, mapping, and oil and mineral exploration); and
  - (e) patrolling (for example, pipelines, power lines, and canals); and
  - (f) weather control and atmospheric research (for example, cloud seeding); and
  - (g) aerial advertising (for example, skywriting, banner towing, airborne signs and public address systems); and
  - (h) glider towing; and
  - (i) target towing; and
  - (j) target designation; and
  - (k) any other operation similar to any of these operations.

*Source* FARs section 21.25 modified.

### **21.026 Type certificate: intermediate category aircraft**

- (1) The applicant is entitled to a type certificate for an aircraft in the intermediate category if:
- (a) the aircraft:
    - (i) is an aeroplane with a 61 knots or less  $V_{S0}$  stall speed as defined in FARs section 23.49; or is a rotorcraft with a  $29.3 \text{ kgm}^{-2}$  main rotor disc loading limitation, under sea level standard day conditions; and
    - (ii) has a maximum take-off weight of not more than 1750 kg; and
    - (iii) has a maximum seating capacity of 4 persons, including the pilot; and
    - (iv) has an unpressurised cabin; and
  - (b) the applicant has submitted to CASA:
    - (i) except as provided by subregulation (3), a statement, in a form and manner acceptable to CASA, certifying that: the applicant has completed the engineering analysis necessary to demonstrate compliance with the applicable airworthiness requirements; the applicant has conducted appropriate flight, structural, propulsion, and systems tests necessary to show that the aircraft, its components, and its equipment are reliable and function properly; the type design complies with the airworthiness standards established for the aircraft under subregulation 21.017(7); and the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use; and

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- (ii) the flight manual required by regulation 21.005, including any information required to be furnished by the applicable airworthiness standards; and
  - (iii) instructions for continued airworthiness in accordance with subregulation 21.050(2); and
  - (iv) a report that: summarises how compliance with each provision of the type certification basis was determined; lists the specific documents in which the type certification data information is provided; lists all necessary drawings and documents used to define the type design; and lists all the engineering reports on tests and computations that the applicant must retain and make available under regulation 21.049 to substantiate compliance with the applicable airworthiness standards; and
- (c) CASA is satisfied that:
  - (i) the aircraft complies with the airworthiness standards or other criteria established under subregulation 21.017(7); and
  - (ii) the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use.
- (2) An applicant may include a special inspection and preventive maintenance program, designed to be accomplished by the pilot-owner of the aircraft, as part of the aircraft's type design or supplemental type design.
- (3) For aircraft manufactured outside Australian territory in a country with which Australia has a bilateral agreement for the acceptance of these aircraft, and from which the aircraft is to be imported into Australian territory, the statement required by subparagraph (1)(b)(i) must be made by the national aviation authority of the exporting country.

*Source* FARs section 21.24 modified.

### **21.027 Type certificate: surplus aircraft of the Armed Forces**

- (1) Except as provided in subregulation (2), an applicant is entitled to a type certificate for an aircraft in the normal, utility, acrobatic, commuter, or transport category that was designed and constructed in Australian territory and was accepted for operational use, and declared surplus by, the Defence Force, or an armed force of Canada, the United Kingdom or the United States of America (in this regulation called a **surplus defence aircraft**), and that is shown to comply with the applicable certification requirements in subregulation (6).
- (2) An applicant is entitled to a type certificate for a surplus defence aircraft that is a counterpart of a previously type certificated civil aircraft, if the applicant shows compliance with the regulations governing the original civil aircraft type certificate.
- (3) Aircraft engines, propellers, and their related accessories installed in surplus defence aircraft, for which a type certificate is sought under this regulation will be approved for use on those aircraft if the applicant shows that on the basis of the previous military qualifications, acceptance, and service record, the engines

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or propellers provide substantially the same level of airworthiness as would be provided if the engines or propellers met the airworthiness standards:

- (a) mentioned in Part 33 or 35; or
  - (b) prescribed by the Part 21 Manual of Standards.
- (4) CASA may relieve an applicant from strict compliance with a specific provision of the applicable requirements in subregulation (6), if CASA is satisfied that the method of compliance proposed by the applicant provides substantially the same level of airworthiness and that strict compliance with the requirements would impose a severe burden on the applicant. CASA may use experience that was satisfactory to the relevant armed force in making such a determination.
- (5) CASA may require an applicant to comply with later requirements than those in subregulations (3) and (6) if CASA is satisfied that compliance with the requirements in those subregulations would not ensure an adequate level of airworthiness for the aircraft.
- (6) Except as provided in subregulations (2), (3), (4) and (5), an applicant for a type certificate under this regulation must comply with the appropriate regulations listed in Table 21.027.

<b>Table 21.027 Regulations that must be complied with for particular kinds of aircraft</b>		
<b>Type of Aircraft</b>	<b>Date accepted for operational use by the Armed Force</b>	<b>Regulations that apply 1</b>
Small reciprocating-engine powered aeroplanes	Before May 16, 1956	Civil Air Regulations Part 3, as effective May 15 1956
	After May 15, 1956	Civil Air Regulations Part 3, or FARs Part 23, or CASR Part 23
Small turbine-engine powered aeroplanes	Before Oct. 2, 1959	Civil Air Regulations Part 3, as effective Oct. 1 1959
	After Oct. 1, 1959	Civil Air Regulations Part 3, or FARs Part 23, or CASR Part 23
Commuter category aeroplanes	After Feb. 17, 1987	FARs Part 23, as effective Feb 17, 1987, or CASR Part 23
Large reciprocating-engine powered aeroplanes	Before Aug. 26, 1955	Civil Air Regulations Part 4b, as effective Aug. 25, 1955
	After Aug. 25, 1955	Civil Air Regulations Part 4b, or FARs Part 25, or CASR Part 25
Large turbine engine-powered aeroplanes	Before Oct. 2, 1959	Civil Air Regulations Part 4b, as effective Oct. 1, 1959
	After Oct. 1, 1959	Civil Air Regulations Part 4b, or FARs Part 25, or CASR 25
Rotorcraft with a maximum certificated take-off weight of:		
2,722 kg or less	Before Oct. 2, 1959	Civil Air Regulations Part 6, as effective Oct. 1, 1959

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<b>Table 21.027 Regulations that must be complied with for particular kinds of aircraft</b>		
<b>Type of Aircraft</b>	<b>Date accepted for operational use by the Armed Force</b>	<b>Regulations that apply 1</b>
Over 2,722 kg	After Oct. 1, 1959	Civil Air Regulations Part 6, or FARs Part 27, or CASR Part 27
	Before Oct. 2, 1959	Civil Air Regulations Part 7, as effective Oct. 1, 1959
	After Oct. 1, 1959	Civil Air Regulations Part 7, or FARs Part 29, or CASR Part 29.

<sup>1</sup> Where no specific date is listed, the applicable regulations are those in effect on the date that the first aircraft of the particular model was accepted for operational use by the relevant armed force.

*Source* FARs section 21.27 modified.

**21.029 Type certificate for imported aircraft, aircraft engines or propellers not type certificated by national aviation authority of recognised country**

- (1) Subject to regulation 11.055, CASA must issue a type certificate for an aircraft, aircraft engine or propeller manufactured in a foreign country and for which a foreign type certificate issued by the national aviation authority of a recognised country is not in force, if the aircraft, aircraft engine or propeller:
  - (a) meets the applicable airworthiness requirements mentioned in regulation 21.017; or
  - (b) meets the airworthiness requirements of a Contracting State and any other requirements imposed by CASA that are necessary to provide a level of safety equivalent to that provided under these Regulations for comparable aircraft, aircraft engines or propellers.
- (2) CASA may accept a certificate given by the national aviation authority of a Contracting State to the effect that an aircraft, aircraft engine or propeller meets the State's airworthiness requirements as evidence of that fact.
- (3) An application for a type certificate under this regulation must be accompanied by:
  - (a) any relevant certificate issued by the national aviation authority of a Contracting State; and
  - (b) the relevant technical data.
- (4) CASA may inspect the aircraft, aircraft engine or propeller and carry out, or require the applicant to carry out, any tests and inspections necessary to enable CASA to decide whether or not to issue the type certificate.

*Source* FARs section 21.29 modified.

**21.029A Type acceptance certificate for imported aircraft certificated by national aviation authority of recognised country**

Subject to regulations 11.055, 21.029B and 21.029C, CASA must issue a type acceptance certificate for an aircraft manufactured in a foreign country, without making the type acceptance certificate subject to any conditions, if:

- (a) a foreign type certificate or equivalent document issued by the national aviation authority of a recognised country is in force for aircraft of that type; and
- (b) the applicant has given CASA:
  - (i) evidence that the type design has been approved by the national aviation authority of the recognised country by issue of a type certificate or equivalent document; and
  - (ii) details of any equivalent safety determinations or waivers (however described) that were made in the course of the type certification; and
  - (iii) a copy of the applicable type certificate data sheet; and
  - (iv) a copy of the flight manual that contains all the available options applicable to the type, and that was approved by the national aviation authority that issued the foreign type certificate; and
  - (v) a copy of the manufacturer's instructions for continued airworthiness of the aircraft; and
  - (vi) a copy of the parts catalogue for the aircraft; and
  - (vii) a list of all current field service documents applicable to the aircraft; and
  - (viii) an undertaking from the holder of the foreign type certificate to continue to supply to CASA service bulletins and instructions for the continuing airworthiness of aircraft of that type and any amendments of the documents mentioned in subparagraphs (iv), (v), (vi) and (vii).

**21.029B Issue of type acceptance certificates subject to conditions**

- (1) CASA may issue a type acceptance certificate under regulation 21.029A subject to a condition that is substantially the same as a condition imposed by the national aviation authority of a recognised country on the corresponding foreign type certificate.
- (2) Also, CASA may issue a type acceptance certificate subject to other conditions if:
  - (a) there are reasonable grounds for believing that issuing the certificate without imposing conditions or taking other measures would constitute a significant threat to aviation safety; and
  - (b) CASA has consulted the applicant, the manufacturer of the aircraft and the national aviation authority that issued the foreign type certificate about the safety issues involved; and
  - (c) CASA has considered the views of the applicant, the manufacturer and the national aviation authority before deciding whether or not to issue the type acceptance certificate subject to conditions; and

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- (d) there are reasonable grounds for believing that imposing the conditions would substantially reduce the threat to aviation safety; and
  - (e) there are no other practicable means of substantially reducing the threat to aviation safety.
- (3) A condition may include operational limitations.
- (4) A condition must be in writing, and set out in, or attached to, the type acceptance certificate.
- (5) A person must not engage in conduct that results in a breach of a condition of a type acceptance certificate.

Penalty: 50 penalty units.

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

Note: The power of CASA to issue a type acceptance certificate subject to a condition under subregulation (2) must be exercised by the Director personally: see paragraph 11.260(2)(b).

## 21.029C Refusal to issue type acceptance certificate

- (1) CASA may refuse to issue a type acceptance certificate for an aircraft manufactured in a foreign country if:
- (a) there are reasonable grounds for believing that issuing the certificate would constitute a significant threat to aviation safety; and
  - (b) CASA has consulted the applicant, the manufacturer of the aircraft and the national aviation authority that issued the foreign type certificate about the safety issues involved; and
  - (c) CASA has considered the views of the applicant, the manufacturer and the national aviation authority before deciding whether to issue the type acceptance certificate; and
  - (d) there are reasonable grounds for believing that issuing the certificate subject to conditions is not a practicable means of substantially reducing the threat to aviation safety and there are no other practicable means of substantially reducing the threat.
- (2) If CASA refuses to issue a type acceptance certificate, CASA must deal with the application for the type acceptance certificate as if it were an application for a type certificate under regulation 21.029.

Note: The power of CASA to refuse to issue a type acceptance certificate must be exercised by the Director personally: see paragraph 11.260(2)(c).

## 21.031 Type design—meaning

- (1) The type design of an aircraft, aircraft engine or propeller (except an aircraft, aircraft engine or propeller type certificated under regulation 21.029 or 21.029A) consists of the following:



- (a) the drawings and specifications contained in technical data approved under regulation 21.009 for the aircraft, aircraft engine or propeller, and a list of those drawings and specifications;
  - (b) information on dimensions, materials, and processes necessary to define the structural strength of the aircraft, aircraft engine or propeller;
  - (c) the airworthiness limitations section of the instructions for continued airworthiness:
    - (i) as required by the airworthiness standards mentioned in Parts 22, 23, 25, 26, 27, 29, 31, 32, 33 and 35 and the airworthiness standards prescribed by the Part 21 Manual of Standards, or as otherwise required by CASA; or
    - (ii) for special classes of aircraft mentioned in subregulation 21.017(2)—as specified in the applicable airworthiness criteria;
  - (d) the operating limitations and other information necessary for the safe operation of the aircraft, aircraft engine or propeller as required by the airworthiness standards mentioned in Parts 22, 23, 25, 26, 27, 29, 31, 32, 33 and 35, and the airworthiness standards prescribed by the Part 21 Manual of Standards, and as specified in the applicable airworthiness criteria for special classes of aircraft mentioned in subregulation 21.017(2);
  - (e) for primary and intermediate category aircraft, if maintenance on the aircraft is to be carried out by the pilot-owner of the aircraft—a special inspection and preventive maintenance program designed to be accomplished by the pilot-owner;
  - (f) any other data necessary to allow, by comparison, the determination of the airworthiness of later aircraft, aircraft engines or propellers of the same type.
- (2) The type design for an aircraft, aircraft engine or propeller type certificated under regulation 21.029 consists of the following:
- (a) the drawings and specifications contained in technical data approved under regulation 21.009 for the aircraft, aircraft engine or propeller, and a list of those drawings and specifications;
  - (b) information on dimensions, materials, and processes necessary to define the structural strength of the aircraft, aircraft engine or propeller;
  - (c) the airworthiness limitations section of the instructions for continued airworthiness:
    - (i) as required by the airworthiness standards mentioned in Parts 22, 23, 25, 26, 27, 29, 31, 32, 33 and 35 and the airworthiness standards prescribed by the Part 21 Manual of Standards, or as otherwise required by CASA; or
    - (ii) for special classes of aircraft mentioned in subregulation 21.017(2)—as specified in the applicable airworthiness criteria;
  - (d) the operating limitations and other information necessary for the safe operation of the aircraft, aircraft engine or propeller as required by the airworthiness standards mentioned in Parts 22, 23, 25, 26, 27, 29, 31, 32, 33 and 35, and the airworthiness standards prescribed by the Part 21

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Manual of Standards, and as specified in the applicable airworthiness criteria for special classes of aircraft mentioned in subregulation 21.017(2);

- (e) for primary category aircraft, if maintenance on the aircraft is to be carried out by the pilot-owner of the aircraft—a special inspection and preventive maintenance program designed to be accomplished by the pilot-owner;
  - (f) any other data necessary to allow, by comparison, the determination of the airworthiness of later aircraft, aircraft engines or propellers of the same type.
- (3) The type design for an aircraft type certificated under regulation 21.029A consists of the type design that was accepted by the national aviation authority of the recognised country that issued the foreign type certificate for the aircraft.

*Source* FARs section 21.31 modified.

### 21.033 Inspection and tests

- (1) CASA is not required to issue, under regulation 21.013A, a type certificate for an aircraft, aircraft engine or propeller unless the applicant allows CASA to make any inspection and any flight and ground test necessary to determine that the aircraft, aircraft engine or propeller complies with the applicable requirements of these Regulations. However:
- (a) no aircraft, aircraft engine, propeller, or part thereof may be presented to CASA for test unless compliance with paragraphs (2)(b), (c) and (d) has been shown for that aircraft, aircraft engine, propeller, or part thereof; and
  - (b) no change may be made to an aircraft, aircraft engine, propeller, or part thereof between the time that compliance with paragraphs (2)(b), (c) and (d) is shown for that aircraft, aircraft engine, propeller, or part thereof and the time that it is presented to CASA for test.
- (2) Each applicant must make all inspections and tests necessary to determine:
- (a) compliance with the applicable airworthiness requirements; and
  - (b) that the aircraft, aircraft engine or propeller and its materials conform to the specifications in the type design; and
  - (c) that parts of the aircraft, aircraft engine or propeller conform to the drawings in the type design; and
  - (d) that the manufacturing processes, construction and assembly conform to those specified in the type design.
- (3) For an aircraft with not more than 2 seats, a maximum take-off weight not exceeding 750 kg and a 45 knots or less  $V_{S0}$  stall speed as defined in FARs section 23.49 that is to be type certificated in the primary category or intermediate category, an authorised person may make any determination, inspection, flight test or ground test necessary to establish whether the aircraft complies with the applicable requirements of these Regulations.

*Source* FARs section 21.33 modified.

### **21.035 Flight tests**

- (1) Each applicant for a type certificate mentioned in regulation 21.021 (except a type certificate issued under regulation 21.029) must make the tests listed in subregulation (2). Before making the tests the applicant must show CASA:
  - (a) compliance with the applicable structural requirements of these Regulations; and
  - (b) completion of necessary ground inspections and tests; and
  - (c) that the aircraft conforms with the type design; and
  - (d) that CASA received a flight test report from the applicant (signed, in the case of an application for a type certificate for an aircraft in the transport category, by the applicant's test pilot) containing the results of the tests.
- (2) Upon showing compliance with subregulation (1), the applicant must make all flight tests that CASA considers are necessary:
  - (a) to determine compliance with the applicable requirements of these Regulations; and
  - (b) for aircraft to be type certificated under these Regulations, except gliders and except aeroplanes of 2720 kg or less maximum certificated weight in the normal, utility, acrobatic, or commuter category—to determine whether there is reasonable assurance that the aircraft, its components, and its equipment are reliable and function properly.
- (3) Each applicant must, if practicable, make the tests prescribed in paragraph (2)(b) upon the aircraft that was used to show compliance with:
  - (a) paragraph (2)(a); and
  - (b) for rotorcraft—the rotor drive endurance tests prescribed in the applicable airworthiness standards mentioned in Parts 27 and 29 or prescribed by the Part 21 Manual of Standards.
- (4) Each applicant must show CASA for each flight test (except in a glider or a manned free balloon) that adequate provision is made for the flight test crew for emergency egress and the use of parachutes.
- (5) Except in a manned free balloon, an applicant must discontinue flight tests under this regulation until the applicant shows CASA that corrective action has been taken, whenever:
  - (a) the applicant's test pilot is unable or unwilling to make any of the required flight tests; or
  - (b) items of non-compliance with requirements are found that may make additional test data meaningless or that would make further testing unduly hazardous.
- (6) The flight tests prescribed in paragraph (2)(b) must include:
  - (a) for aircraft incorporating turbine engines of a type not previously used in a type certificated aircraft—at least 300 hours of operation with a full complement of engines that conform to a type certificate; and
  - (b) for all other aircraft—at least 150 hours of operation.

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*Source* FARs section 21.35 modified.

### 21.037 Flight test pilot

Each applicant for a type certificate mentioned in regulation 21.021 (except a type certificate issued under regulation 21.029) must provide a person holding an appropriate:

- (a) class rating; or
- (b) type rating; or
- (c) balloon class endorsement within the meaning of subregulation 5.01(1) of CAR; or
- (d) authorisation under regulation 61.140; or
- (e) authorisation under regulation 5.50 of CAR;

to make the flight tests required by this Part.

*Source* FARs section 21.37 modified.

### 21.039 Flight test instrument calibration and correction report

- (1) Each applicant for a type certificate mentioned in regulation 21.021 (except a type certificate issued under regulation 21.029) must submit a report to CASA showing the computations and tests required in connection with the calibration of instruments used for test purposes and in the correction of test results to standard atmospheric conditions.
- (2) Each applicant must allow CASA to conduct any flight tests that CASA is satisfied is necessary to check the accuracy of the report submitted under subregulation (1).

*Source* FARs section 21.39 modified.

### 21.041 Type certificate—meaning

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

***foreign type certificate***, for an aircraft, aircraft engine or propeller:

- (a) means a certificate (however described) for the aircraft, aircraft engine or propeller that is issued by the national aviation authority of a foreign country and is equivalent to a type certificate; but
- (b) does not include a certificate (however described) for the aircraft, aircraft engine or propeller that is issued by the national aviation authority of a foreign country solely on the basis of a certificate (however described) for the aircraft, aircraft engine or propeller that is issued by the national aviation authority of another country and is equivalent to a type certificate.

***type certificate***, for an aircraft, aircraft engine or propeller, means a type certificate issued by CASA under regulation 21.013A or 21.029 certifying that the aircraft, aircraft engine or propeller meets the airworthiness standard mentioned for it in the certificate.

- (2) In these Regulations, except in this Subpart, a reference to a **type certificate**, or **foreign type certificate**, for an aircraft, aircraft engine or propeller, includes a reference to the type design, the operating limitations, the type certificate data sheet, the applicable airworthiness standards with which the certificate records compliance, and any other conditions or limitations prescribed for the aircraft, aircraft engine or propeller under these Regulations.

*Source* FARs section 21.41 modified.

### 21.043 Location of manufacturing facilities

Despite regulation 21.013A, CASA is not required to consider an application for a type certificate for an aircraft, aircraft engine or propeller (except an application under regulation 21.029) if the manufacturing facilities for the aircraft, aircraft engine or propeller are located outside Australian territory, unless the location of the manufacturer's facilities places no undue burden on CASA in administering applicable airworthiness requirements.

*Source* FARs section 21.43 modified.

### 21.047 Transfer of type certificates

- (1) The holder of a type certificate (the **transferor**) may transfer the certificate to another person (the **transferee**) by giving to the transferee:
- (a) the certificate; and
  - (b) a copy of each document that the transferor is required to keep under these Regulations in relation to the certificate.
- (2) However, the certificate may be transferred only with the written consent of the transferee.
- (3) The transferor commits an offence if the transferor does not, within 30 days after transferring the certificate, give CASA a written notice stating:
- (a) the date of the transfer; and
  - (b) the name and address of the transferee.

Penalty: 50 penalty units.

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

*Source* FARs section 21.047 modified.

### 21.048 Licensing of type certificates

- (1) The holder of a type certificate (the **licensor**) may confer the benefits of the certificate on another person (the **licensee**) by making a licensing agreement with the licensee.
- (2) The licensor commits an offence if the licensor does not, within 30 days after making the licensing agreement, give CASA a written notice stating:
- (a) the date of the licensing agreement; and
  - (b) the name and address of the licensee; and

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(c) the benefits conferred on the licensee.

Penalty: 50 penalty units.

- (3) The licensor commits an offence if:
- (a) the licensing agreement is terminated; and
  - (b) the licensor does not, within 30 days after the termination, give CASA a written notice stating the date of the termination.

Penalty: 50 penalty units.

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

*Source* FARs section 21.047 modified.

### 21.049 Availability

- (1) The holder of a type certificate must make the certificate, and the type design of the aircraft, aircraft engine or propeller described or identified in the certificate, available for examination by CASA upon the request of 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*.

*Source* FARs section 21.49 modified.

### 21.050 Instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections

- (1) The holder of a type certificate for an aircraft for which an aircraft Maintenance Manual containing an "Airworthiness Limitations" section has been approved as part of the type design and who obtains approval of changes to any replacement time, inspection interval, or related procedure in that section of the manual must make particulars of the changes available upon request to any operator of the same type of aircraft.

Penalty: 5 penalty units.

- (2) The holder of a design approval, including either the type certificate or supplemental type certificate for an aircraft, aircraft engine, or propeller must furnish at least one set of complete Instructions for Continued Airworthiness, prepared in accordance with the applicable airworthiness standards mentioned in Parts 22, 23, 25, 27, 26, 29, 31, 32, 33 and 35, and the airworthiness standards prescribed by the Part 21 Manual of Standards, or as specified in the applicable airworthiness criteria for special classes of aircraft mentioned in subregulation 21.017(2), as applicable, to the owner of each type of aircraft, aircraft engine, or propeller upon its delivery, or upon issue of the first standard certificate of airworthiness for the affected aircraft, whichever occurs later, and thereafter, on request by a person required by these Regulations to comply with any of the terms of the instructions, give them to the person. In addition, changes

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to the Instructions for Continued Airworthiness shall be made available to any person who requests the changes and who is required by these Regulations to comply with any of those instructions.

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*.

Source FARs section 21.50 modified.

**21.051 Type certificates and type acceptance certificates—duration and suspension or cancellation**

- (1) Subject to regulation 21.019, a type certificate or type acceptance certificate remains in force until it is cancelled.
- (2) Despite subregulation (1), a type certificate or type acceptance certificate is not in force during any period of suspension.
- (3) CASA may suspend or cancel a type certificate if there are reasonable grounds for believing that the type certificate no longer provides a reliable guide that the aircraft can reasonably be expected to be safe for its intended use when operated under any conditions limiting its intended use.
- (4) CASA may suspend or cancel a type acceptance certificate if:
  - (a) there are reasonable grounds for believing that not doing so would constitute a significant threat to aviation safety; and
  - (b) CASA has consulted the operator of the aircraft, the manufacturer of the aircraft and the national aviation authority that issued the foreign type certificate about the safety issues involved; and
  - (c) CASA has considered the views of the operator, the manufacturer and the national aviation authority before deciding whether to suspend or cancel the type acceptance certificate.
- (5) If CASA suspends or cancels a type certificate it must:
  - (a) notify the certificate holder in writing of the suspension or cancellation; and
  - (b) publish a notice of the suspension or cancellation, in accordance with subregulation (8), in the *Gazette*.
- (6) If CASA suspends or cancels a type acceptance certificate CASA must publish a notice of the suspension or cancellation, in accordance with subregulation (8), in the *Gazette*.
- (7) A suspension or cancellation takes effect on the day after the notice is published in the *Gazette*.
- (8) A notice of suspension or cancellation under paragraph (5)(b) or subregulation (6) must set out:
  - (a) the grounds for the suspension or cancellation; and

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- (b) when the suspension or cancellation takes effect; and
- (c) in the case of a suspension—when the suspension stops having effect.

*Source* FARs section 21.51 modified.

Note 1: The power of CASA to suspend or cancel a type acceptance certificate under subregulation (4) must be exercised by the Director personally: see paragraph 11.260(2)(d).

Note 2: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of type acceptance certificates.

### **21.053 Statement of conformity**

- (1) Each applicant must submit to CASA a statement of conformity in a manner and form acceptable to CASA for each aircraft engine and propeller presented to CASA for type certification. This statement of conformity must include a statement that the aircraft engine or propeller conforms to the type design therefor.
- (2) Each applicant must submit to CASA a statement of conformity for each aircraft or part thereof presented to CASA for tests. This statement of conformity must include a statement to the effect that the applicant has complied with subregulation 21.033(1).

*Source* FARs section 21.53 modified.



## Subpart 21.C—Provisional type certificates

**Note:** A provisional type certificate issued under this Part for an aircraft, aircraft engine or propeller does not certify that it complies with the *Air Navigation (Aircraft Noise) Regulations 2018*, the *Air Navigation (Aircraft Engine Emissions) Regulations* or any other applicable Commonwealth legislation. Compliance with those Regulations or other applicable Commonwealth legislation may be required before the aircraft, aircraft engine or propeller may be legally operated.

### 21.071 Applicability

This Subpart prescribes:

- (a) requirements for the issue of provisional type certificates, approvals of amendments to provisional type certificates, and approvals of provisional amendments to type certificates; and
- (b) rules governing the holders of those certificates.

*Source* FARs section 21.71 modified.

### 21.073 Eligibility

- (1) A manufacturer of aircraft manufactured in Australian territory is eligible to apply for a Class I or Class II provisional type certificate for the aircraft, for approval of an amendment to a Class I or Class II provisional type certificate held by the manufacturer, and for approval of a provisional amendment to a type certificate held by the manufacturer.
- (2) Any manufacturer of aircraft manufactured in a foreign country with which Australia has an agreement for the acceptance of those aircraft for export and import is eligible to apply for a Class II provisional type certificate, for approval of amendments to Class II provisional type certificates held by the manufacturer, and for approval of provisional amendments to type certificates held by the manufacturer.
- (3) An aircraft engine manufacturer who has altered a type certificated aircraft by installing different type certificated aircraft engines manufactured by the manufacturer in Australian territory is eligible to apply for a Class I provisional type certificate for the aircraft, and for approval of amendments to Class I provisional type certificates held by the manufacturer, if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, commuter, primary, intermediate, restricted or transport category.

*Source* FARs section 21.73 modified.

### 21.075 Application

Applications for provisional type certificates, for approval of amendments thereto, and for approval of provisional amendments to type certificates must be submitted in writing to CASA, and must be accompanied by the pertinent information specified in this Subpart.

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*Source* FARs section 21.75 modified.

### **21.076 Issue of provisional type certificate**

Subject to regulation 11.055, CASA must issue a provisional type certificate, or an approval of amendments to a provisional type certificate, or an approval of provisional amendments to a type certificate, to an applicant for the certificate or approval if the applicant:

- (a) is eligible, under regulation 21.073, to apply for the certificate or approval; and
- (b) applies for the certificate or approval in accordance with this Subpart; and
- (c) is entitled, under this Subpart, to the certificate or approval; and
- (d) otherwise complies with this Part.

### **21.077 Duration**

- (1) Unless sooner superseded or cancelled, provisional type certificates and amendments thereto are effective for the periods specified in this regulation.
- (2) A Class I provisional type certificate is effective for 24 months after the date of issue.
- (3) A Class II provisional type certificate is effective for 12 months after the date of issue.
- (4) An amendment to a Class I or Class II provisional type certificate is effective for the duration of the amended certificate.
- (5) A provisional amendment to a type certificate is effective for 6 months after its approval or until the amendment of the type certificate is approved, whichever is first.

*Source* FARs section 21.77 modified.

### **21.078 Suspension and cancellation**

- (1) CASA may suspend or cancel a provisional type certificate by written notice given to its holder if CASA considers that it is necessary to do so in the interests of aviation safety.
- (2) A notice must set out:
  - (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.
- (3) Despite regulation 21.077, a provisional type certificate is not effective while it is suspended but the suspension period counts as part of a period mentioned in subregulation 21.077(2) or (3).

**Note:** See also regulations 21.002C and 21.002E in relation to suspension and cancellation of provisional type certificates.

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**21.081 Requirements for issue and amendment of Class I provisional type certificates**

- (1) An applicant for a type certificate or a supplemental type certificate is entitled to the issue of a Class I provisional type certificate, or an approval of an amendment of a Class I provisional type certificate, if the applicant shows compliance with this regulation and CASA is satisfied that the relevant aircraft can reasonably be expected to be safe for its intended use when operated in accordance with the requirements and limitations:
  - (a) established by the applicant under subregulation (4); and
  - (b) under Division 91.T.3.
- (2) The applicant must certify that:
  - (a) the aircraft has been designed and constructed in accordance with the airworthiness requirements applicable to the issue of the type certificate or supplemental type certificate applied for; and
  - (b) the aircraft substantially meets the applicable flight characteristic requirements for the type certificate or supplemental type certificate applied for; and
  - (c) the aircraft can be operated safely under the appropriate operating limitations specified in subregulation (1).
- (3) The applicant must submit a report to CASA showing that the aircraft had been flown in all manoeuvres necessary to show compliance with the flight requirements for the issue of the type certificate or supplemental type certificate applied for, and to establish that the aircraft can be operated safely in accordance with the limitations contained in these Regulations.
- (4) The applicant must establish all limitations required for the issue of the type certificate or supplemental type certificate applied for, including limitations on weights, speeds, flight manoeuvres, loading, and operation of controls and equipment unless, for each limitation not established, appropriate operating restrictions are established for the aircraft.
- (5) The applicant must establish an inspection and maintenance program for the continued airworthiness of the aircraft.
- (6) The applicant must show CASA that a prototype aircraft has been flown for at least 50 hours under an experimental certificate or under the auspices of the Defence Force, or an armed force of Canada, the United Kingdom or the United States of America. However, in the case of an approval of an amendment to a provisional type certificate, CASA may reduce the number of required flight hours.

*Source* FARs section 21.81 modified.

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**21.083 Requirements for issue and amendment of Class II provisional type certificates**

- (1) An applicant who manufactures an aircraft within Australian territory, and who applies for a type certificate for the aircraft in the transport category, is entitled to the issue of a Class II provisional type certificate, or an approval of an amendment to a Class II provisional type certificate, if the applicant shows compliance with this regulation and CASA is satisfied that the aircraft can reasonably be expected to be safe for its intended use when operated in accordance with the requirements and limitations:
  - (a) set out in the provisional aircraft flight manual (if any) required by subregulation (7); and
  - (b) under Division 91.T.3.
- (2) An applicant who manufactures an aircraft in a country with which Australia has an agreement for the acceptance of those aircraft for export and import, and who applies for a type certificate for the aircraft in the transport category, is entitled to the issue of a Class II provisional type certificate, or an approval of an amendment to a Class II provisional type certificate, if the national aviation authority of the country in which the aircraft was manufactured certifies that the applicant has shown compliance with this regulation and that the aircraft meets the requirements of subregulation (5) and CASA is satisfied that the aircraft can reasonably be expected to be safe for its intended use when operated in accordance with the limitations:
  - (a) in the provisional aircraft flight manual (if any) required by subregulation (7); and
  - (b) in regulation 262AO of CAR.
- (3) The applicant must hold a type certificate for at least one other aircraft in the same transport category as the subject aircraft.
- (4) The flight test program to be carried out for the purposes of the type certificate or the flight test program conducted by the authorities of the country in which the aircraft was manufactured, with respect to the issue of a type certificate for that aircraft, must be in progress.
- (5) The applicant or, in the case of a foreign manufactured aircraft, the national aviation authority of the country in which the aircraft was manufactured, must certify that:
  - (a) the aircraft has been designed and constructed in accordance with the airworthiness requirements applicable to the issue of the type certificate applied for; and
  - (b) the aircraft substantially complies with the applicable flight characteristic requirements for the type certificate applied for; and
  - (c) the aircraft can be operated safely under the appropriate operating limitations in these Regulations.
- (6) The applicant must submit a report to CASA showing that the aircraft has been flown in all manoeuvres necessary to show compliance with the flight

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requirements for the issue of the type certificate and to establish that the aircraft can be operated safely in accordance with the limitations in these Regulations.

- (7) The applicant must prepare a provisional aircraft flight manual containing all limitations required for the issue of the type certificate applied for, including limitations on weights, speeds, flight manoeuvres, loading, and operation of controls and equipment unless, for each limitation not established, appropriate operating restrictions are established for the aircraft.
- (8) The applicant must establish an inspection and maintenance program for the continued airworthiness of the aircraft.
- (9) The applicant must show CASA that a prototype aircraft has been flown for at least 100 hours. In the case of an approval of an amendment to a provisional type certificate, CASA may reduce the number of required flight hours.

*Source* FARs section 21.83 modified.

### **21.085 Provisional amendments to type certificates**

- (1) An applicant who manufactures an aircraft within Australian territory, and who applies for an amendment to the type certificate for the aircraft, is entitled to a provisional amendment to the type certificate if the applicant shows compliance with this regulation and CASA is satisfied that the aircraft can reasonably be expected to be safe for its intended use when operated under the appropriate limitations contained in these Regulations.
- (2) An applicant who manufactures an aircraft in a foreign country with which Australia has an agreement for the acceptance of those aircraft for export and import, and who applies for an amendment to the type certificate for the aircraft, is entitled to a provisional amendment to the type certificate if the national aviation authority of the country in which the aircraft was manufactured certifies that the applicant has shown compliance with this regulation and that the aircraft meets the requirements mentioned in subregulation (4) and CASA is satisfied that the aircraft can reasonably be expected to be safe for its intended use when operated under the appropriate limitations contained in these Regulations.
- (3) The flight test program approved by CASA, or conducted under the agreement by the authorities of the country in which the aircraft was manufactured, with respect to the amendment of the type certificate, must be in progress.
- (4) The applicant or, in the case of foreign manufactured aircraft, the national aviation authority of the country in which the aircraft was manufactured, must certify that:
  - (a) the modification involved in the amendment to the type certificate has been designed and constructed in accordance with the airworthiness requirements applicable to the issue of the type certificate for the aircraft; and
  - (b) the aircraft incorporating the modification substantially complies with the applicable flight characteristic requirements for the type certificate; and

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- (c) the aircraft can be operated safely under the appropriate operating limitations in these Regulations.
- (5) The applicant must submit a report to CASA showing that the aircraft incorporating the modifications involved has been flown in all manoeuvres necessary to show compliance with the flight requirements applicable to those modifications and to establish that the aircraft can be operated safely in accordance with the requirements and limitations under Division 91.T.3.
- (6) The applicant must establish and publish, in a provisional aircraft flight manual or other document and on appropriate placards, all limitations required for the issue of the type certificate applied for, including weight, speed, flight manoeuvres, loading, and operation of controls and equipment, unless, for each limitation not established, appropriate operating restrictions are established for the aircraft.
- (7) The applicant must establish an inspection and maintenance program for the continued airworthiness of the aircraft.
- (8) The applicant must operate a prototype aircraft, modified in accordance with the corresponding amendment to the type certificate, for the number of hours found necessary by CASA in the particular case.

*Source* FARs section 21.85 modified.

## Subpart 21.D—Changes to type certificates

### 21.091 Applicability

This Subpart deals with the approval of changes to type certificates.

*Source* FARs section 21.91 modified.

### 21.093 Classification of changes in type design

Changes in type design are classified as minor or major. A **minor change** is one that has no appreciable effect on the weight, balance, structural strength, reliability, operational characteristics, or other characteristics affecting the airworthiness of an aircraft, aircraft engine or propeller. All other changes are **major changes**.

*Source* FARs section 21.93 modified.

### 21.095 Approval of minor changes in type design

- (1) The holder of a type certificate for an aircraft, aircraft engine or propeller may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of a minor change in the type design of the aircraft, aircraft engine or propeller.
- (2) Subregulation (3) applies if the application is made to CASA or an authorised person.
- (3) Subject to regulation 11.055, CASA or the authorised person must grant the approval if the type design, as modified by the minor change, would meet the requirements of this Part for the type design.
- (4) Subregulation (5) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the design would meet a requirement.
- (5) If the approved design organisation is satisfied that the design would meet the requirement, the organisation may give CASA a certificate to that effect.
- (6) For subregulation (3), if an approved design organisation gives CASA a certificate under subregulation (5), CASA need consider only that certificate in deciding whether the design would meet the requirement.
- (7) Subregulation (8) applies if the application is made to an approved design organisation.
- (8) Subject to regulation 11.055, the approved design organisation must grant the approval if the type design, as modified by the minor change, would meet:
  - (a) the requirements of this Part for the type design; and
  - (b) any requirements mentioned in the organisation's exposition.

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### **21.097 Eligibility for approval of major changes in type design**

- (1) The holder of a type certificate for an aircraft, aircraft engine or propeller is eligible to apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of a major change in the type design of the aircraft, aircraft engine or propeller.
- (2) An applicant is entitled to the approval if the applicant:
  - (a) submits with the application substantiating data and necessary descriptive data for inclusion in the type design; and
  - (b) complies with regulation 21.101.
- (3) Approval of a major change in the type design of an aircraft engine is limited to the specific engine configuration upon which the change is made unless the applicant identifies in the necessary descriptive data for inclusion in the type design the other configurations of the same engine type for which approval is requested and shows that the change is compatible with the other configurations.

*Source* FARs section 21.97 modified.

### **21.098 Issue of approval of major change in type design**

- (1) Subject to regulation 11.055, CASA, an authorised person or an approved design organisation must approve a major change in the type design of an aircraft, aircraft engine or propeller if the applicant for the approval:
  - (a) is eligible, under subregulation 21.097(1), to apply for the approval; and
  - (b) applies for the approval in accordance with this Subpart; and
  - (c) is entitled, under this Subpart, to the approval; and
  - (d) otherwise complies with this Part.
- (2) Subregulation (3) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the applicant meets a requirement mentioned in subregulation (1).
- (3) If the approved design organisation is satisfied that the applicant meets the requirement, the organisation may give CASA a certificate to that effect.
- (4) For subregulation (1), if an approved design organisation gives CASA a certificate under subregulation (3), CASA need consider only that certificate in deciding whether the applicant meets the requirement.

### **21.099 Required design changes**

- (1) If an airworthiness directive is issued for an aircraft, aircraft engine or propeller, and CASA considers that design changes are necessary to correct the unsafe condition of the aircraft, aircraft engine or propeller, the holder of the type certificate for the aircraft, aircraft engine or propeller must, on CASA's request, submit appropriate design changes for approval.

Penalty: 50 penalty units.



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- (1A) If approval is granted for design changes mentioned in subregulation (1), the holder of the type certificate for the aircraft, aircraft engine or propeller must, on request by the operator of an affected aircraft, aircraft engine or propeller previously certificated under the type certificate, give to that operator the descriptive data covering the design changes.

Penalty: 50 penalty units.

- (2) In a case where there are no current unsafe conditions, but CASA or the holder of the type certificate is satisfied through service experience that changes in type design will contribute to the safety of the aircraft, aircraft engine or propeller, the holder of the type certificate may submit appropriate design changes for approval. Upon approval of the changes, and on request by an operator of the same type of aircraft, aircraft engine or propeller, the manufacturer must give information on the design changes to the operator.

Penalty: 5 penalty units.

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

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

Source FARs section 21.99 modified.

### 21.101 Designation of applicable regulations

- (1) An applicant for approval of a change in the type design described or identified in a type certificate must comply with either:
- (a) the airworthiness standards mentioned in the type certificate; or
  - (b) the applicable airworthiness standards in effect on the date of the application, plus any other amendments that CASA is satisfied are directly related.
- (2) If CASA is satisfied that a proposed change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation, and that the airworthiness standards mentioned in the type certificate for the aircraft, aircraft engine or propeller do not provide adequate standards with respect to the proposed change, the applicant must comply with:
- (a) the applicable provisions of these Regulations, in effect on the date of the application for the change, that CASA is satisfied are necessary to provide a level of safety equivalent to that established by the airworthiness standards mentioned in the type certificate; and
  - (b) any special conditions, and amendments to those special conditions, prescribed by CASA to provide a level of safety equal to that established by the airworthiness standards mentioned in the type certificate.
- (3) Unless otherwise required by subregulation 21.019(1), an applicant for a change to a type certificate for a transport category aeroplane involving the replacement of reciprocating engines with the same number of turbopropeller powerplants must comply with the provisions of Part 25 of the FARs for the aeroplane as type certificated with reciprocating engines, and with the following:

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- (a) the certification performance requirements prescribed in sections 25.101 to 25.125 (inclusive) and 25.149, 25.1533, 25.1583, and 25.1587 of Part 25 of the FARs;
  - (b) the powerplant requirements of Part 25 of the FARs that apply to turbopropeller engine-powered aeroplanes;
  - (c) the requirements of Part 25 of the FARs for the standardisation of cockpit controls and instruments, unless CASA is satisfied that compliance with a particular detailed requirement would be impractical and would not contribute materially to standardisation;
  - (d) any other requirement of Part 25 of the FARs that applies to turbopropeller engine-powered aeroplanes that CASA is satisfied relates to the changes in engines and that is necessary to ensure a level of safety equal to that of the aeroplane certificated with reciprocating engines.
- (4) For subregulation (3), for each new limitation established with respect to weight, speed, or altitude that is significantly altered from those approved for the aeroplane with reciprocating engines, the applicant must show compliance with the requirements of Part 25 of the FARs applicable to the limitations being changed.

*Source* FARs section 21.101 modified.

## Subpart 21.E—Supplemental type certificates

**Note:** A supplemental type certificate issued under this Part for an aircraft, aircraft engine or propeller does not certify that it complies with the *Air Navigation (Aircraft Noise) Regulations 2018*, the *Air Navigation (Aircraft Engine Emissions) Regulations* or any other applicable Commonwealth legislation. Compliance with those Regulations or other applicable Commonwealth legislation may be required before the aircraft, aircraft engine or propeller may be legally operated.

### 21.111 Applicability

This Subpart prescribes requirements for the issue of supplemental type certificates.

*Source* FARs section 21.111 modified.

### 21.113 Eligibility for supplemental type certificate

- (1) Any person is eligible to apply to CASA for a supplemental type certificate for the approval of the design of a major change to a type certificated aircraft, aircraft engine or propeller, if the change is not great enough to require an application for a new type certificate under regulation 21.019.
- (2) The holder of the type certificate for the aircraft, aircraft engine or propeller may apply for amendment of the type certificate instead of applying for a supplemental type certificate.

*Source* FARs section 21.113 modified.

### 21.113A Issue of supplemental type certificate

Subject to regulation 11.055, CASA must issue a supplemental type certificate to an applicant for the certificate if the applicant:

- (a) is eligible, under regulation 21.113, to apply for the certificate; and
- (b) applies for the certificate in accordance with this Subpart; and
- (c) is entitled, under this Subpart, to the certificate; and
- (d) otherwise complies with this Part.

### 21.114 Foreign supplemental type certificates

A certificate (however described) for an aircraft, aircraft engine or propeller that is issued by or for the national aviation authority of a recognised country and is equivalent to a supplemental type certificate that could have been issued by CASA (a *foreign supplemental type certificate*) is taken to have been issued by CASA for these Regulations.

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### **21.115 Entitlement to supplemental type certificate—meeting applicable airworthiness requirements**

- (1) An applicant is entitled to a supplemental type certificate if CASA is satisfied that:
  - (a) either:
    - (i) the altered aircraft, aircraft engine or propeller complies with the applicable airworthiness requirements mentioned in subregulations 21.101(1) and (2); or
    - (ii) the altered aircraft, aircraft engine or propeller does not comply with the applicable airworthiness requirements mentioned in subregulations 21.101(1) and (2), but the non-compliance is compensated for by factors that provide an equivalent level of safety; and
  - (b) no feature or characteristic of the change in type design makes the altered aircraft, aircraft engine or propeller unsafe for its intended use.
- (2) Subregulation (3) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the altered aircraft, aircraft engine or propeller meets:
  - (a) an applicable airworthiness requirement mentioned in subparagraph (1)(a)(i); or
  - (b) the requirement mentioned in paragraph (1)(b).
- (3) If the approved design organisation is satisfied that the altered aircraft, aircraft engine or propeller meets the requirement, the organisation may give CASA a certificate to that effect.
- (4) For subregulation (1), if an approved design organisation gives CASA a certificate under subregulation (3), CASA need consider only that certificate in deciding whether the altered aircraft, aircraft engine or propeller meets the requirement.
- (5) Regulations 21.033 (Inspection and tests) and 21.053 (Statement of conformity) apply in relation to the application, with respect to each change in the type design, as if it were an application for a type certificate under Subpart 21.B.

*Source* FARs section 21.115 modified.

### **21.117 What supplemental type certificates are taken to consist of**

A supplemental type certificate is taken to consist of:

- (a) the type certificate or type acceptance certificate previously issued for the aircraft, aircraft engine or propeller; and
- (b) each change in the type design of the aircraft, aircraft engine or propeller described or identified in the supplemental type certificate.

*Source* FARs section 21.117 modified.

**21.118 Duration, suspension and cancellation of supplemental type certificates**

- (1) A supplemental type certificate for an aircraft, aircraft engine or propeller remains in force until it is cancelled or the type certificate previously issued for the aircraft, aircraft engine or propeller is cancelled, whichever happens first.
- (2) Despite subregulation (1), a supplemental type certificate for an aircraft, aircraft engine or propeller is not in force during any period of suspension or any period of suspension of the type certificate previously issued for the aircraft, aircraft engine or propeller.
- (3) CASA may suspend or cancel a supplemental type certificate by written notice given to its holder if CASA considers that it is necessary to do so in the interests of aviation safety.
- (4) If CASA suspends or cancels a supplemental type certificate it must publish a notice of the suspension or cancellation in the *Gazette*.
- (5) A suspension or cancellation takes effect on the day after the notice is published in the *Gazette*.
- (6) A notice under subregulation (3) or (4) must set out:
  - (a) the grounds for the suspension or cancellation; and
  - (b) when the suspension or cancellation takes effect; and
  - (c) in the case of a suspension—when the suspension stops having effect.

Note: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of supplemental type certificates.

**21.119 Duration, suspension and cancellation of foreign supplemental type certificates**

- (1) A foreign supplemental type certificate for an aircraft, aircraft engine or propeller remains in force until it is cancelled by CASA or the national aviation authority of the relevant recognised country.
- (2) Despite subregulation (1), a foreign supplemental type certificate for an aircraft, aircraft engine or propeller is not in force during any period of suspension or any period of suspension of the type certificate previously issued for the aircraft, aircraft engine or propeller.
- (3) CASA may suspend or cancel a foreign supplemental type certificate if CASA considers that it is necessary to do so in the interests of aviation safety.
- (4) If CASA suspends or cancels a foreign supplemental type certificate it must publish a notice of the suspension or cancellation in the *Gazette*.
- (5) A suspension or cancellation takes effect on the day after the notice is published in the *Gazette*.
- (6) A notice must set out:
  - (a) the grounds for the suspension or cancellation; and

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- (b) when the suspension or cancellation takes effect; and
- (c) in the case of a suspension—when the suspension stops having effect.

Note: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of foreign supplemental type certificates.

### 21.120 Transfer of supplemental type certificates

- (1) The holder of a supplemental type certificate (the **transferor**) may transfer the certificate to another person (the **transferee**) by giving to the transferee:
  - (a) the certificate; and
  - (b) a copy of each document that the transferor is required to keep under these Regulations in relation to the certificate.
- (2) However, the certificate may be transferred only with the written consent of the transferee.
- (3) The transferor commits an offence if the transferor does not, within 30 days after transferring the certificate, give CASA a written notice stating:
  - (a) the date of the transfer; and
  - (b) the name and address of the transferee.

Penalty: 50 penalty units.

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

### 21.120A Licensing of supplemental type certificates

- (1) The holder of a supplemental type certificate (the **licensor**) may confer the benefits of the certificate on another person (the **licensee**) by making a licensing agreement with the licensee.
- (2) The licensor commits an offence if the licensor does not, within 30 days after making the licensing agreement, give CASA a written notice stating:
  - (a) the date of the licensing agreement; and
  - (b) the name and address of the licensee; and
  - (c) the benefits conferred on the licensee.

Penalty: 50 penalty units.

- (3) The licensor commits an offence if:
  - (a) the licensing agreement is terminated; and
  - (b) the licensor does not, within 30 days after the termination, give CASA a written notice stating the date of the termination.

Penalty: 50 penalty units.

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

**21.120B Variations of supplemental type certificates**

- (1) The holder of a supplemental type certificate for an aircraft, aircraft engine or propeller may apply, in writing, for a variation of the certificate for the approval of the design of a change to the aircraft, aircraft engine or propeller.
- (2) The application may be made to:
  - (a) CASA; or
  - (b) an authorised person; or
  - (c) a relevant approved design organisation.
- (3) Subject to regulation 11.055, if the application is made to CASA, CASA must vary the certificate if satisfied that:
  - (a) either:
    - (i) the altered aircraft, aircraft engine or propeller complies with the applicable airworthiness requirements mentioned in subregulations 21.101(1) and (2); or
    - (ii) the altered aircraft, aircraft engine or propeller does not comply with the applicable airworthiness requirements mentioned in subregulations 21.101(1) and (2), but the non-compliance is compensated for by factors that provide an equivalent level of safety; and
  - (b) no feature or characteristic of the change makes the altered aircraft, aircraft engine or propeller unsafe for its intended use.
- (4) Subject to regulation 11.055, if the application is made to an authorised person or approved design organisation, the authorised person or approved design organisation must vary the certificate if satisfied that:
  - (a) the altered aircraft, aircraft engine or propeller complies with the applicable airworthiness requirements mentioned in subregulations 21.101(1) and (2); and
  - (b) no feature or characteristic of the change makes the altered aircraft, aircraft engine or propeller unsafe for its intended use.
- (5) Subregulation (6) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether an altered aircraft, aircraft engine or propeller meets:
  - (a) an applicable airworthiness requirement mentioned in subparagraph (3)(a)(i); or
  - (b) the requirement mentioned in paragraph (3)(b).
- (6) If the approved design organisation is satisfied that the altered aircraft, aircraft engine or propeller meets the requirement, the organisation may give CASA a certificate to that effect.
- (7) For subregulation (3), if an approved design organisation gives CASA a certificate under subregulation (6), CASA need consider only that certificate in deciding whether the altered aircraft, aircraft engine or propeller meets the requirement.

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- (8) Regulations 21.033 (Inspection and tests) and 21.053 (Statement of conformity) apply in relation to the application, with respect to each change, as if:
  - (a) the application were an application for a type certificate under Subpart 21.B; and
  - (b) each reference to CASA in those regulations were a reference to the person or organisation to whom the application was made.



## Subpart 21.F—Production under type certificate only

### 21.121 Applicability

- (1) This Subpart prescribes rules for the production of an aircraft, aircraft engine or propeller under a type certificate only.
- (2) For this Subpart, a person manufactures an aircraft, aircraft engine or propeller under a type certificate only if the person is the holder, or licensee, of a type certificate, but not a production certificate, for the aircraft, aircraft engine or propeller.

Source FARs section 21.121 modified.

Note: Subpart 21.G deals with production certificates.

### 21.123 Production under type certificate

- (1) Each manufacturer of an aircraft, aircraft engine or propeller being manufactured under a type certificate only must:
  - (a) make each aircraft, aircraft engine or propeller available for inspection by CASA; and
  - (b) maintain at the place of manufacture the technical data and drawings necessary for CASA to determine whether the aircraft, aircraft engine or propeller and its parts conform to the type design; and
  - (c) establish and maintain an approved production inspection system that:
    - (i) meets the requirements of subregulation 21.125(2); and
    - (ii) ensures that each aircraft, aircraft engine or propeller manufactured under the type certificate more than 6 months after it was issued conforms to the type design and is in a condition for safe operation; and
  - (d) upon the establishment of the approved production inspection system—submit to CASA a manual that describes the system and the means for meeting the requirements of subregulation 21.125(2).

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) Each manufacturer may apply to CASA for an extension of the period of 6 months mentioned in subparagraph (1)(c)(ii).
- (3) CASA may extend the period in a particular case if unusual or extenuating circumstances prevent the manufacturer from establishing an approved production inspection system within 6 months after the issue of the type certificate.

Source FARs section 21.123 modified.

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### **21.125 Production inspection system: Materials Review Board**

- (1) Each manufacturer required to establish a production inspection system under paragraph 21.123(1)(c) must:
  - (a) establish a Materials Review Board (to include representatives from the manufacturer's inspection and engineering departments) and materials review procedures; and
  - (b) maintain complete records of Materials Review Board action for at least two years after the action was taken.

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*.

- (2) The production inspection system must provide for the following:
  - (a) ensuring that incoming materials, and bought or subcontracted parts, used in the finished aircraft, aircraft engine or propeller comply with the technical data for the type design, or are suitable equivalents;
  - (b) properly identifying incoming materials, and bought or subcontracted parts, if their physical or chemical properties cannot be readily and accurately determined;
  - (c) suitable storage and adequate protection of materials subject to damage and deterioration;
  - (d) carrying out processes affecting the quality and safety of the finished aircraft, aircraft engine or propeller in accordance with acceptable industry or Australian specifications;
  - (e) inspecting parts and components during production for conformity with the technical data for the type design at points in the process where accurate determinations can be made;
  - (f) ensuring that current design drawings are readily available to manufacturing and inspection personnel, and used when necessary;
  - (g) ensuring that design changes, including material substitutions, are controlled before being incorporated in a finished aircraft, aircraft engine or propeller;
  - (h) segregating, identifying, marking and disposing of rejected materials and parts in a manner that precludes installation in the finished aircraft, aircraft engine or propeller;
  - (i) a system for processing through the Materials Review Board any materials and parts that are withheld because of departures from the technical data for the type design, and that are to be considered for installation in a finished aircraft, aircraft engine or propeller;
  - (j) a system for identifying and reinspecting materials and parts determined by the Materials Review Board to be serviceable if rework or repair is necessary;
  - (k) maintaining inspection records, identified with the finished aircraft, aircraft engine or propeller where practicable, and retaining them for at least 2 years.

Source FARs section 21.125 modified.

### 21.127 Tests: aircraft

- (1) Each person manufacturing aircraft under a type certificate only must establish an approved production flight test procedure and flight check-off form, and in accordance with that form, flight test each aircraft produced.

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) Each production flight test procedure must include the following:
- (a) an operational check of the trim, controllability, or other flight characteristics to establish that the production aircraft has the same range and degree of control as the prototype aircraft;
  - (b) an operational check of each part or system operated by the crew while in flight to establish that, during flight, instrument readings are within normal range;
  - (c) a determination that all instruments are properly marked, and that all placards and required flight manuals are installed after flight test;
  - (d) a check of the operational characteristics of the aircraft on the ground;
  - (e) a check on any other items peculiar to the aircraft being tested that can best be done during the ground or flight operation of the aircraft.

Source FARs section 21.127 modified.

### 21.128 Tests: aircraft engines

- (1) Each person manufacturing aircraft engines that are not rocket engines under a type certificate only must subject each engine to an acceptable test run that includes the following:
- (a) break-in runs that include a determination of fuel and oil consumption and a determination of power characteristics at rated maximum continuous power or thrust and, if applicable, at rated take-off power or thrust;
  - (b) at least five hours of operation at rated maximum continuous power or thrust, including, for engines having a rated take-off power or thrust higher than rated maximum continuous power or thrust, 30 minutes at rated take-off power or thrust.

Penalty: 25 penalty units.

- (2) The test runs required by subregulation (1) may be made with the engine appropriately mounted and using current types of power and thrust measuring equipment.
- (3) A person manufacturing rocket engines under a type certificate only must establish a sampling technique for testing the engines.

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*.

*Source* FARs section 21.128 modified.

### 21.129 Tests: variable pitch propellers

- (1) Each person manufacturing variable pitch propellers under a type certificate only must give each propeller an acceptable functional test to determine if it operates properly throughout the normal range of operation.

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*.

*Source* FARs section 21.129 modified.

### 21.130 Statement of conformity

- (1) Each holder or licensee of a type certificate for a type of aircraft, aircraft engine or propeller must give CASA a statement of conformity, in a form acceptable to CASA, for each aircraft, aircraft engine or propeller manufactured under the type certificate only:

- (a) when the holder or licensee applies for the original issue of an aircraft certificate of airworthiness or an aircraft engine or propeller authorised release certificate for the aircraft, aircraft engine or propeller; or
- (b) if the holder or licensee transfers the ownership of the aircraft, aircraft engine or propeller without applying for an authorised release certificate for it—when the ownership of the aircraft, aircraft engine or propeller is transferred.

- (2) The statement of conformity must be signed by a person who holds a responsible position in the manufacturing organisation and has been authorised by the manufacturer to sign the statement, and must include:

- (a) for each aircraft, aircraft engine or propeller, a statement that it conforms to its type certificate and is in a condition for safe operation; and
- (b) for each aircraft, a statement that the aircraft has been flight checked; and
- (c) for each aircraft engine or variable pitch propeller, a statement that the engine or propeller has been subjected by the manufacturer to a final operational check.

- (3) However, in the case of an aircraft, aircraft engine or propeller manufactured for the Defence Force, or for an armed force of Canada, the United Kingdom or the United States of America, a statement of conformity is not required if the aircraft, aircraft engine or propeller has been accepted by the relevant force.

*Source* FARs section 21.130 modified.

### **21.130A Records to be kept by manufacturer**

- (1) A person who manufactures an aircraft, aircraft engine or propeller under a type certificate only must keep, at the place of manufacture, the following current records for the aircraft, aircraft engine or propeller:
- (a) a technical data file that includes the type design drawings, specifications, reports on tests prescribed by this Part, and the original type inspection report and any amendments to that report;
  - (b) the information required to prepare the statement of conformity mentioned in regulation 21.130;
  - (c) a complete inspection record, the serial number, and data covering the processes and tests to which materials and parts are subjected;
  - (d) a record of service difficulties reported to the manufacturer.

Penalty: 50 penalty units.

- (2) The records mentioned in paragraphs (1)(a) and (b) must be kept for the period in which aircraft, aircraft engines or propellers are manufactured by the person under the type certificate.

Penalty: 50 penalty units.

- (3) The records mentioned in paragraphs (1)(c) and (d) must be kept for 2 years after the aircraft, aircraft engine or propeller to which the records relate was manufactured.

Penalty: 50 penalty units.

- (4) On CASA's request, the records must be made available for examination by CASA.

Penalty: 50 penalty units.

- (5) If the manufacturer stops manufacturing aircraft, aircraft engines or propellers under the type certificate, and does not continue manufacturing under a production certificate, the manufacturer must send the records to CASA within 30 days.

Penalty: 50 penalty units.

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

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

Source FARs section 21.293 modified.

## **Subpart 21.G—Production certificates**

### **21.131 Applicability**

This Subpart prescribes requirements for the issue of production certificates and rules governing production of Class I, Class II, Class III and unapproved Class I products by the holders of those certificates.

*Source* FARs section 21.131 modified.

### **21.132 Definitions for Subpart 21.G**

For this Subpart:

***Class I product*** includes a complete aircraft, aircraft engine or propeller for which a foreign type certificate has been issued.

***Class II product*** includes a major component of:

- (a) a Class I product; or
- (b) an unapproved Class I product.

***product design*** means:

- (a) for an unapproved Class I product—the design that was submitted with the application for a foreign type certificate; and
- (b) for a Class II or Class III product—the design for the product that is:
  - (i) approved under regulation 21.132A; or
  - (ii) if the product is manufactured under an agreement with a foreign manufacturer for supply to that manufacturer—approved by the national aviation authority of the relevant foreign country; or
  - (iii) approved in a supplemental type certificate or a foreign supplemental type certificate; or
  - (iv) approved in a modification/repair design approval or in an approval mentioned in regulation 21.475; or
  - (v) taken to be approved under regulation 21.465 or 21.470; or
  - (vi) covered by an approval that continues in force under regulation 202.054, 202.055 or 202.056.

***unapproved Class I product*** means a complete aircraft, aircraft engine or propeller:

- (a) designed by or for a manufacturer that is in a foreign country; and
- (b) for which an application for a foreign type certificate has been made; and
- (c) for which no foreign type certificate has been issued.

*Note:* See also the definitions of ***Class I product***, ***Class II product*** and ***Class III product*** in regulation 21.321.

**21.132A Approval of product design for Class II and Class III products by CASA, authorised person or relevant approved design organisation**

- (1) A person may apply, in writing, to CASA or an authorised person or relevant approved design organisation for approval of the design of a Class II or Class III product.
- (2) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must approve the design of the product if satisfied that the design:
  - (a) consists of drawings, specifications and other information that fully describe the product; and
  - (b) includes all the information necessary to manufacture the product, including:
    - (i) information that shows the dimensions and appearance of the product; and
    - (ii) the materials used in the manufacture of the product; and
    - (iii) information about the process or processes used to manufacture the product; and
    - (iv) any methods used to test or measure the product; and
    - (v) information that shows the structural strength of the product; and
  - (c) meets the applicable airworthiness standards for the product.
- (3) For paragraph (2)(c), if the application is made to CASA, CASA may satisfy itself that the design meets the applicable airworthiness standards for the product on the basis of:
  - (a) an examination of the design; or
  - (b) the technical data for the design approved under regulation 21.009; or
  - (c) a certificate from an approved design organisation under subregulation (6).
- (4) For paragraph (2)(c), if the application is made to an authorised person or approved design organisation, the authorised person or approved design organisation may satisfy itself that the design meets the applicable airworthiness standards for the product on the basis of:
  - (a) an examination of the design; or
  - (b) the technical data for the design approved under regulation 21.009.
- (5) Subregulation (6) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the design meets the applicable airworthiness standards for the product.
- (6) If the approved design organisation is satisfied that the design meets the airworthiness standards, the organisation may give CASA a certificate to that effect.

**21.133 Eligibility**

- (1) A person is eligible to apply for a production certificate for a Class I product if the person:

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- (a) holds a current type certificate or foreign type certificate for the product; or
  - (b) holds the right, under a licensing agreement, to the benefits of the type certificate or foreign type certificate for the product; or
  - (c) holds a supplemental type certificate or foreign supplemental type certificate for the product; or
  - (d) holds the right, under a licensing agreement, to the benefits of the supplemental type certificate or foreign supplemental type certificate for the product.
- (2) A person is also eligible to apply for a production certificate if:
- (a) the person has an agreement with a foreign manufacturer to:
    - (i) manufacture a Class I, Class II, Class III or unapproved Class I product; and
    - (ii) supply the product to the foreign manufacturer; and
  - (b) the terms of the agreement require that the person be approved to manufacture the product.
- (2A) A person is also eligible to apply for a production certificate for a Class II or Class III product if:
- (a) the product is an aircraft component of a type in respect of which a certificate of type approval is in force; and
  - (b) the person is lawfully manufacturing the component or is proposing to manufacture the component and is entitled to do so.
- (2B) A person is also eligible to apply for a production certificate to manufacture a Class II or Class III product on a one-off basis for supply to:
- (a) the holder of a certificate of approval engaged in the maintenance of an aircraft for installation in or on the aircraft; or
  - (b) the operator of an aircraft or the owner of an aircraft, aircraft engine or propeller for installation in or on the aircraft, aircraft engine or propeller.

*Source* FARs section 21.133 modified.

### 21.134 Issue of production certificate

Subject to regulation 11.055, CASA must issue a production certificate to an applicant for the certificate if the applicant:

- (a) is eligible, under regulation 21.133, to apply for the certificate; and
- (b) applies for the certificate in accordance with this Subpart; and
- (c) is entitled, under this Subpart, to the certificate; and
- (d) otherwise complies with this Part.

### 21.135 Requirements for entitlement

- (1) An applicant is entitled to a production certificate if CASA is satisfied that the applicant has complied with regulations 21.139 and 21.143 in relation to the Class I, Class II, Class III or unapproved class I product to be manufactured under the certificate.



- (2) CASA may inspect the applicant's organisation and manufacturing facilities to determine whether the applicant has complied with regulations 21.139 and 21.143.

*Source* FARs section 21.135 modified.

### **21.137 Location of manufacturing facilities**

Despite regulation 21.134, CASA is not required to issue a production certificate if the manufacturing facilities concerned are located outside Australian territory, unless there is no undue burden on CASA in administering the applicable requirements of these Regulations.

*Source* FARs section 21.137 modified.

### **21.139 Quality system**

An applicant for a production certificate must show that the applicant has established, and can maintain, a quality system so that:

- (a) each Class I product to be manufactured under the certificate will conform to the type design for the product; and
- (b) each Class II, Class III or unapproved Class I product to be manufactured under the certificate will conform to the product design for the product.

*Source* FARs section 21.139 modified.

### **21.143 Quality system data requirements: prime manufacturer**

- (1) An applicant for a production certificate must submit to CASA, for approval, a manual describing the inspection and test procedures necessary to ensure that each product manufactured under the production certificate is in a condition for safe operation and conforms to:
  - (a) for a Class I product—the type design; and
  - (b) for a Class II, Class III or unapproved Class I product—the product design.
- (1A) The manual mentioned in subregulation (1) must include any of the following that apply to the product:
  - (a) a statement describing how responsibilities are assigned and authority is delegated in the quality system organisation, together with a chart indicating:
    - (i) the functional relationship of the quality system organisation to management and to other organisational components; and
    - (ii) the chain of authority and responsibility within the quality system organisation;
  - (b) a description of:
    - (i) the inspection procedures for raw materials, purchased items and parts and assemblies produced by manufacturers' suppliers; and
    - (ii) the methods used to ensure that parts and assemblies that cannot be completely inspected when delivered to the production certificate holder's plant are acceptable;

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- (c) a description of:
  - (i) the production inspection system for individual parts and complete assemblies; and
  - (ii) the methods used for the identification of any special manufacturing processes involved; and
  - (iii) the means used to control the processes; and
  - (iv) the final test procedure for the product; and
  - (v) in the case of a Class I product that is a completed aircraft, a copy of the manufacturer's production flight test procedures and check-off list;
- (d) for a product other than a Class II or Class III product referred to in subregulation 21.133(2B), an outline of the materials review system, the procedure for recording decisions of the Materials Review Board and for disposing of rejected parts;
- (e) an outline of a system for informing company inspectors of current changes in engineering drawings, specifications, and quality system procedures;
- (f) a list or chart showing the location and type of inspection stations.

**Note:** A Materials Review Board must be established by the holder of a production certificate: see regulation 21.145.

- (1B) CASA must approve a manual that is prepared for, and meets the requirements of, this regulation.
- (2) The holder of a production certificate must, on the request of CASA, make available to CASA information regarding all delegation of authority to suppliers to make major inspections of parts or assemblies for which the holder is responsible.

**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*.

**Source** FARs section 21.143 modified.

### 21.144 Production inspection system

The production inspection system mentioned in paragraph 21.143(1A)(c) must provide for the following:

- (a) properly identifying incoming materials, and bought or subcontracted parts, if their physical or chemical properties cannot be readily and accurately determined;
- (b) suitable storage and adequate protection of materials subject to damage and deterioration;
- (c) carrying out processes affecting the quality and safety of the finished Class I, Class II, Class III or unapproved Class I product in accordance with acceptable industry or Australian specifications;
- (d) inspecting parts and components, at points during the production process at which accurate determinations can be made, to determine whether:

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- (i) parts and components for a Class I product conform to the type design data for the product; or
- (ii) parts and components for a Class II, Class III or unapproved Class I product conform to the product design data for the product;
- (e) ensuring that current design drawings are readily available to manufacturing and inspection personnel, and used when necessary;
- (f) ensuring that design changes, including material substitutions, are controlled before being incorporated in:
  - (i) a finished Class I product; or
  - (ii) a Class II, Class III or unapproved Class I product;
- (g) segregating and identifying rejected materials and parts in a manner that precludes installation in the finished Class I, Class II, Class III or unapproved Class I product;
- (h) a system for processing through the Materials Review Board any materials and parts that are withheld because of departures from design data or specifications, and that are to be considered for installation in a finished Class I, Class II, Class III or unapproved Class I product;
- (i) a system for identifying and reinspecting materials and parts determined by the Materials Review Board to be serviceable if rework or repair is necessary;
- (j) maintaining inspection records, identified with the finished Class I, Class II, Class III or unapproved Class I product where practicable, and retaining them for at least 2 years.

*Source* FARs section 21.125 modified.

### 21.145 Materials Review Board

- (1) The holder of a production certificate (other than a production certificate referred to in subregulation 21.133(2B)) must:
  - (a) establish a Materials Review Board (to include representatives from the manufacturer's inspection and engineering departments) and materials review procedures; and
  - (b) maintain complete records of Materials Review Board action for at least 2 years after the action was taken.

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*.

*Source* FARs section 21.125 modified.

### 21.147 Changes in quality system

- (1) After the issue of a production certificate, each change to the quality system is subject to review by CASA.

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- (2) The holder of a production certificate must immediately notify CASA, in writing, of any change to the quality system that may affect:
- (a) the inspection of a Class I product being manufactured under the certificate, or the conformity of such a product to its type design data, or the airworthiness of such a product; or
  - (b) the inspection of an unapproved Class I product being manufactured under the certificate, or the conformity of such a product to its product design data, or the airworthiness of such a product; or
  - (c) the inspection of a Class II or Class III product being manufactured under the certificate, or the conformity of such a product to its product design data.

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*.

### 21.149 Multiple products

CASA may authorise more than 1 Class I, Class II, Class III or unapproved Class I product to be manufactured under 1 production certificate if the products have similar production characteristics.

Source FARs section 21.149 modified.

### 21.151 Production limitation record

A production certificate must include, or have attached to it, a production limitation record that sets out:

- (a) for a Class I product—the type certificate or foreign type certificate of each product authorised to be manufactured under the production certificate; and
- (b) for a Class II or Class III product (other than a Class II or Class III product referred to in subregulation 21.133(2B)) or an unapproved Class I product—the product design of each product authorised to be manufactured under the production certificate; and
- (c) for a Class II or Class III product referred to in subregulation 21.133(2B)—a description of each product authorised to be manufactured under the production certificate.

Source FARs section 21.151 modified.

### 21.153 Amendment of production certificate

- (1) The holder of a production certificate may apply to CASA to amend the certificate to add 1 or more of the following:
- (a) a Class I product type certificate or foreign type certificate;
  - (b) a model to a Class I product type certificate or foreign type certificate;
  - (c) an unapproved Class I product design;
  - (d) a Class II product design;

(e) a Class III product design.

- (2) CASA may amend the certificate if the applicant complies with the applicable requirements of regulations 21.139, 21.143 and 21.147.

*Source* FARs section 21.153 modified.

### **21.157 Inspections and tests**

- (1) If CASA requires the holder of a production certificate to allow CASA to make any inspections and tests necessary to determine compliance with the applicable requirements of these Regulations, the holder must allow CASA to make those inspections and tests.

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*.

*Source* FARs section 21.157 modified.

### **21.159 Duration**

- (1) A production certificate ceases to be in force:
- (a) if the location of the manufacturing facility is changed; or
  - (b) if it is cancelled; or
  - (c) if a termination date is specified in the certificate—at midnight on that date.
- (2) A production certificate is not in force during any period of suspension.
- (3) CASA may suspend or cancel a production certificate by written notice given to its holder if CASA considers that it is necessary to do so in the interests of aviation safety.
- (4) A notice must set out:
- (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.

*Source* FARs section 21.159 modified.

*Note:* See also regulations 21.002C and 21.002E in relation to suspension and cancellation of production certificates.

### **21.161 Display**

- (1) The holder of a production certificate must take reasonable steps to ensure that it is displayed prominently in the main office of the manufacturing facility in which the aircraft, aircraft engine or propeller to which the certificate relates is manufactured.

Penalty: 5 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*.

*Source* FARs section 21.161 modified.

### **21.163 Privileges for holders of production certificates—conduct of training in particular maintenance**

#### *Primary category aircraft*

- (1) Subregulation (2) applies to:
- (a) a person who:
    - (i) holds a production certificate for a primary category aircraft of a particular type and model; and
    - (ii) is entitled to a special certificate of airworthiness for the aircraft in the primary category under subregulation 21.184(1); and
  - (b) a person who:
    - (i) holds a production certificate for a normal, utility or acrobatic category aircraft of a particular type and model; and
    - (ii) is entitled to a special certificate of airworthiness for the aircraft in the primary category under subregulation 21.184(3).
- (2) Subject to subregulation (5), the person may:
- (a) conduct training for a person in the performance of a special inspection and preventive maintenance program included as part of the aircraft's type design under subregulation 21.024(2); and
  - (b) if the person successfully completes the training—issue a certificate of competency for that type and model of aircraft to the person.

#### *Intermediate category aircraft*

- (3) Subregulation (4) applies to a person who:
- (a) holds a production certificate for an intermediate category aircraft of a particular type and model; and
  - (b) is entitled to a special certificate of airworthiness for the aircraft in the intermediate category under subregulation 21.184A(1).
- (4) Subject to subregulation (5), a person who is eligible may:
- (a) conduct training for a person in the performance of a special inspection and preventive maintenance program included as part of the aircraft's type design under subregulation 21.026(2); and
  - (b) if the person successfully completes the training—issue a certificate of competency for that type and model of aircraft to the person.

#### *Training to be given by licensed aircraft maintenance engineer*

- (5) For subregulations (2) and (4), the training must be given by a licensed aircraft maintenance engineer:

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- (a) who holds a category B1 licence, within the meaning given by Part 3 of the Dictionary; and
- (b) if the aircraft is of a type rated aircraft type, within the meaning given by Part 3 of the Dictionary—whose licence is endorsed with the rating for that aircraft type.

*Source* FARs section 21.163 modified.

### **21.165 Responsibility of holder of production certificate**

- (1) The holder of a production certificate must maintain the quality system in conformity with the manual approved under regulation 21.143 in relation to the production certificate.

Penalty: 50 penalty units.

- (2) The holder of a production certificate for a Class I product must ensure that each finished product that is:
  - (a) manufactured under the authority of the certificate; and
  - (b) submitted for airworthiness certification or approval;conforms to the type design for the product and is in a condition for safe operation.

Penalty: 50 penalty units.

- (3) The holder of a production certificate for a Class II, Class III or unapproved Class I product must ensure that each product that is:
  - (a) manufactured under the authority of the certificate; and
  - (b) submitted for approval;conforms to the product design and is in a condition for safe operation.

Penalty: 50 penalty units.

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

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

*Source* FARs section 21.165 modified.

### **21.166 Records to be kept by holder of production certificate**

- (1) A person who manufactures a Class I, Class II, Class III or unapproved Class I product under a production certificate must keep, at the place of manufacture, the following records for each product:
  - (a) for a Class I product, a technical data file that includes:
    - (i) the current type design drawings; and
    - (ii) the current specifications; and
    - (iii) the reports on the results of any tests required by or under this Part; and
    - (iv) the original type inspection report; and
    - (v) any amendments to that report;

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- (b) for a Class II, Class III or unapproved Class I product, the current product design and the reports on the results of any tests required by or under this Part;
- (c) any data (including any amendments) required to be submitted with the original application for the production certificate;
- (d) a record of any rebuilding or alteration performed by the person;
- (e) an inspection record;
- (f) any serial number;
- (g) any data about the processes and tests to which materials and parts used in the product are subjected;
- (h) a record of any service difficulties reported to the person.

Penalty: 50 penalty units.

- (2) The records mentioned in paragraphs (1)(a), (b), (c) and (d) must be retained for the period during which the product is manufactured by the person under the production certificate.

Penalty: 50 penalty units.

- (3) The records mentioned in paragraphs (1)(e), (f), (g) and (h) must be retained for 2 years after the manufacture of the product to which the records relate.

Penalty: 50 penalty units.

- (4) The person must allow CASA to examine the records at any reasonable time after reasonable notice is given to the person.

Penalty: 50 penalty units.

- (5) If the person stops manufacturing a product under the production certificate, and does not continue manufacturing the product at another place under another production certificate, the person must send the records retained for subregulation (3) to CASA within 30 days after manufacturing stops.

Penalty: 50 penalty units.

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

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

**Source** FARs section 21.293 modified.



## **Subpart 21.H—Certificates of airworthiness (except provisional certificates of airworthiness) and special flight permits**

**Note:** A certificate of airworthiness issued under this Part for an aircraft, aircraft engine or propeller does not certify that it complies with the *Air Navigation (Aircraft Noise) Regulations 2018*, the *Air Navigation (Aircraft Engine Emissions) Regulations* or any other applicable Commonwealth legislation. Compliance with those Regulations or other applicable Commonwealth legislation may be required before the aircraft, aircraft engine or propeller may be legally operated.

### **21.171 Applicability**

This Subpart prescribes requirements for the issue of certificates of airworthiness (except provisional certificates of airworthiness) and special flight permits.

**Source** FARs section 21.171 modified.

**Note:** Under Part 200 (Aircraft to which CASR do not apply), certain Australian aircraft are authorised to fly without a certificate of airworthiness.

### **21.172 Definitions for Subpart**

In this Subpart:

**LSA standards** means:

- (a) the standards for the design, performance or continuing airworthiness of light sport aircraft issued by the American Society for Testing and Materials, as in force from time to time; or
- (b) the standards prescribed by the Part 21 Manual of Standards for the design, performance or continuing airworthiness of light sport aircraft.

**Note:** The standards issued by the American Society for Testing and Materials could in 2015 be viewed on the society's website (<http://www.astm.com>).

**qualified manufacturer** of a light sport aircraft means:

- (a) a manufacturer who, at the time the light sport aircraft was manufactured, held a current production certificate for an aircraft; or
- (b) a manufacturer who has made a written declaration that, at the time the light sport aircraft was manufactured, it had:
  - (i) contracted engineering personnel with experience in ultralight or light aircraft design to ensure compliance with LSA standards referred to in paragraph 21.186(2)(b); and
  - (ii) facilities and tools suitable for the production of the aircraft in accordance with the applicable LSA standards; and
  - (iii) competent personnel, with appropriate training, skills and experience, to perform work that affects product quality.

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### **21.173 Eligibility**

- (1) In this regulation:  
*certificate of airworthiness* does not include:
  - (a) an experimental certificate; or
  - (b) a provisional certificate of airworthiness.
- (2) The registered operator of an aircraft, or the owner of an aircraft that is listed with a Part 103 ASAO, is eligible to apply for a certificate of airworthiness for the aircraft.
- (3) The application must be made to:
  - (a) for an application for a limited category certificate—CASA or a limited category organisation; or
  - (b) for any other application—CASA or an authorised person.

### **21.174 Applications for limited category certificates made to CASA—giving to limited category organisation**

- (1) This regulation applies if an application for a limited category certificate for an aircraft is made to CASA.
- (2) CASA may give the application to a limited category organisation for the purposes of the organisation deciding the application.
- (3) If there is more than one limited category organisation that may deal with the application, CASA must ask the applicant to nominate a limited category organisation for the application.
- (4) If CASA gives the application to a limited category organisation under this regulation, CASA must give the organisation anything in its records about the applicant that is relevant to the organisation making a decision on the application.
- (5) If CASA gives the application to a limited category organisation under this regulation:
  - (a) for these Regulations, the application is taken to have been made to the organisation; and
  - (b) the organisation must decide the application; and
  - (c) CASA must give the applicant written notice that the application has been given to the organisation for the purposes of the organisation deciding it.
- (6) Without limiting subregulation (5), and for the avoidance of doubt:
  - (a) CASA is taken not to have refused the application; and
  - (b) nothing in this Part authorises the limited category organisation to return the application to CASA for the purposes of CASA deciding it, but the organisation may consult with, or seek information from, CASA for the purposes of deciding the application.

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## **21.175 Certificates of airworthiness: classification**

In these Regulations:

***special certificate of airworthiness*** means:

- (a) a certificate of airworthiness issued for:
  - (i) an aircraft type certificated in the primary, intermediate or restricted category; or
  - (ii) an aircraft in the limited category; or
  - (iii) an amateur-built aircraft accepted under an ABAA; or
  - (iv) a light sport aircraft covered by regulation 21.186; or
- (b) a provisional certificate of airworthiness; or
- (c) an experimental certificate.

***standard certificate of airworthiness*** means a certificate of airworthiness issued for:

- (a) an aircraft type certificated in the normal, utility, acrobatic, commuter, or transport category; or
- (b) a manned free balloon; or
- (c) an aircraft in a special class of aircraft.

*Source* FARs section 21.175 modified.

## **21.176 Issue of certain certificates of airworthiness**

- (1) Subject to regulation 11.055, CASA, a limited category organisation or an authorised person must issue a certificate of airworthiness to an applicant for the certificate if the applicant:
  - (a) is eligible, under regulation 21.173, to apply for the certificate; and
  - (b) applies for the certificate in accordance with this Subpart; and
  - (c) is entitled, under this Subpart, to the certificate; and
  - (d) otherwise complies with this Part.
- (3) A condition imposed on a certificate of airworthiness under regulation 11.056 may include operational limitations.
- (4) Any conditions imposed on a certificate of airworthiness under regulation 11.056, and any conditions imposed under regulation 21.016 or 21.029B that limit the use of the aircraft, must be in writing, and set out in, or attached to, the certificate of airworthiness.

*Limited category certificates—assignment of permit index numbers*

- (5) If CASA or a limited category organisation decides to issue a limited category certificate for an aircraft, CASA or the organisation must assign a permit index number to the aircraft in accordance with regulation 132.195.

*Note:* See also regulation 132.230 (Notice to CASA—certain proposed actions by limited category organisation).

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### *Limited category certificates—information to be included*

- (5A) The following information must be included in a limited category certificate for an aircraft, or in an attachment to the certificate:
- (a) each special purpose operation for which the aircraft is to be operated;
  - (b) the aircraft's permit index number.
- (6) In this regulation:
- certificate of airworthiness*** does not include a provisional certificate of airworthiness or an experimental certificate.

## **21.179 Transferability**

Subject to regulation 21.219, a certificate of airworthiness is transferred with the aircraft.

*Source* FARs section 21.179 modified.

*Note:* Regulation 21.219 relates to the transferability of provisional certificates of airworthiness.

## **21.181 Duration of certain certificates of airworthiness**

- (1) In this regulation:
- certificate of airworthiness*** does not include a provisional certificate of airworthiness or an experimental certificate.
- (2) A certificate of airworthiness continues in force:
- (a) if a period is specified in the certificate—until the end of the period or until it is cancelled, whichever occurs first; or
  - (b) in any other case—until it is cancelled.
- (3) The holder of a certificate of airworthiness must, on request by CASA or an authorised person, make it available for inspection by CASA or the authorised person.
- Penalty: 5 penalty units.
- (4) A certificate of airworthiness is taken to not be in force for any period during which:
- (a) the aircraft is either not registered in Australia or not listed with a Part 103 ASAO; or
  - (b) any type certificate or type acceptance certificate for the type of aircraft concerned is not in force; or
  - (c) in the case of a certificate of airworthiness issued for a light sport aircraft covered by regulation 21.186, the aircraft is modified and the modification:
    - (i) is not authorised by the manufacturer; or
    - (ii) if the manufacturer was no longer existing at the time of the modification or could not have authorised the modification at that

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- time—is not authorised by an authorised person to perform the functions of the manufacturer in relation to the continuing airworthiness of the light sport aircraft; or
- (iii) does not comply with the LSA standards.
- (4A) For the purposes of subregulation (4), if the certificate of airworthiness was issued for a specified period, the period during which the certificate is taken to not be in force counts as part of the period for which the certificate was issued.
- (5) CASA or an authorised person may suspend or cancel a certificate of airworthiness for an aircraft that is being used in scheduled air transport operations, by written notice given to its holder, if:
- (a) for an aircraft to which Part 42 applies—any maintenance carried out on the aircraft is not carried out in accordance with Part 42; or
  - (aa) for an aircraft to which Part 42 does not apply—any maintenance carried out on the aircraft is not carried out in accordance with Part 4A of CAR; or
  - (b) the aircraft type ceases to be supported by the type certificate holder, the national aviation authority of the country in which the aircraft's original type certificate was issued or the national aviation authority of a Contracting State, with respect to:
    - (i) collecting and investigating information on defects; or
    - (ii) reporting defects to the national aviation authority of the country of original type certification; or
    - (iii) keeping type records; or
    - (iv) producing and maintaining manuals; or
    - (v) issuing instructions for continuing airworthiness; or
  - (c) CASA or the authorised person otherwise considers that it is necessary to do so in the interests of aviation safety.
- (6) CASA or an authorised person may suspend or cancel a certificate of airworthiness for an Australian aircraft not covered by subregulation (5), by written notice given to its holder, if:
- (a) for an aircraft to which Part 42 applies—any maintenance carried out on the aircraft is not carried out in accordance with Part 42; or
  - (aa) for an aircraft to which Part 42 does not apply—any maintenance carried out on the aircraft is not carried out in accordance with Part 4A of CAR; or
  - (b) CASA or the authorised person otherwise considers that it is necessary to do so in the interests of aviation safety.
- (7) A notice under subregulation (5) or (6) must set out:
- (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.
- (8) Despite anything else in this regulation, a certificate of airworthiness is not in force during any period of suspension, but, if the certificate was issued for a specified period, the period of suspension counts as part of the period for which the certificate was issued.
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- (9) The holder of a certificate of airworthiness that is taken to not be in force under subregulation (4), expires, or is suspended or cancelled, must, at the written request of CASA or an authorised person, surrender the certificate to CASA or the authorised person.

Penalty: 5 penalty units.

- (10) An offence against subregulation (3) or (9) is an offence of strict liability.

Note 1: For *strict liability*, see section 6.1 of the *Criminal Code*.

Source FARs section 21.181 modified.

Note 2: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of certificates of airworthiness.

### 21.182 Aircraft manufacturer's data plate

- (1) Except as set out in subregulation (2), an applicant for a certificate of airworthiness for an aircraft must show that the aircraft is identified:
- (a) as required by Subpart 21.Q; or
  - (b) in the case of an imported aircraft:
    - (i) as required by the national aviation authority of the Contracting State in which it was certificated; or
    - (ii) in another way acceptable to CASA.
- (2) Subregulation (1) does not apply to an applicant:
- (a) if the applicant is applying for an experimental certificate for an aircraft that is not an amateur-built aircraft, a kit-built aircraft or a light sport aircraft; or
  - (b) if:
    - (i) a different certificate of airworthiness is in force for the aircraft; and
    - (ii) the applicant for the issue of that certificate complied with subregulation (1).

Source FARs section 21.182 modified.

### 21.183 Standard certificates of airworthiness

#### *New aircraft manufactured under a production certificate*

- (1) An applicant for a standard certificate of airworthiness for a new aircraft manufactured under a production certificate, is entitled to the certificate without further showing unless CASA or an authorised person decides that the aircraft:
- (a) does not conform to the type design; or
  - (b) has been modified or repaired otherwise than in accordance with a supplemental type certificate or an approved modification/repair design; or
  - (c) is not in a condition for safe operation.

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*New aircraft manufactured under type certificate only*

- (2) An applicant for a standard certificate of airworthiness for a new aircraft manufactured under a type certificate only is entitled to the certificate upon presentation, by the holder or licensee of the type certificate, of the statement of conformity required by regulation 21.130, if CASA finds after inspection that the aircraft:
- (a) conforms to the type design; and
  - (b) has had any modifications or repairs carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) is in a condition for safe operation; and
  - (d) was manufactured by the holder of the type certificate for the aircraft or the licensee of that type certificate.

*Imported aircraft*

- (3) An applicant for a standard certificate of airworthiness for an aircraft for which a type certificate was issued under regulation 21.029, or a type acceptance certificate was issued under regulation 21.029A, is entitled to the certificate if CASA or an authorised person is satisfied that:
- (a) the aircraft conforms to the type design; and
  - (b) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) the aircraft is in a condition for safe operation.

*Other aircraft*

- (4) An applicant for a standard certificate of airworthiness for aircraft not covered by subregulation (1), (2) or (3) is entitled to the certificate if:
- (a) the aircraft:
    - (i) has a type design approved under a type certificate or a supplemental type certificate; or
    - (ii) if there is no type certificate or supplemental type certificate for the aircraft—is of a type or model that has previously been issued a certificate of airworthiness in the category applied for; and
  - (b) the aircraft complies with any applicable airworthiness directives; and
  - (c) the aircraft meets the requirements mentioned in subregulation (4A); and
  - (d) CASA or an authorised person is satisfied that:
    - (i) the aircraft conforms to the type design (if any); and
    - (ii) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
    - (iii) the aircraft is in a condition for safe operation.

(4A) For paragraph (4)(c), the requirements are that:

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- (a) the aircraft is not an experimental aircraft for which a different certificate of airworthiness has previously been issued under this regulation; and
- (b) if Part 42 applies to the aircraft—an airworthiness review certificate is in force for the aircraft; and
- (c) if Part 42 does not apply to the aircraft, and the aircraft is of a particular type and model—a person who holds a certificate of approval that covers maintenance for that type and model of aircraft has certified, in the aircraft maintenance record for the aircraft, that the aircraft meets the requirements mentioned in subregulation 21.184(4).

### *Inspection*

- (5) CASA or an authorised person may inspect an aircraft mentioned in subregulation (1), (3) or (4) to determine whether:
  - (a) it conforms to the type design; and
  - (b) any modifications or repairs to it have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) it is in a condition for safe operation.

*Source* FARs section 21.183 modified.

## **21.184 Special certificates of airworthiness for primary category aircraft**

### *New primary category aircraft manufactured under a production certificate*

- (1) An applicant for the original issue of a special certificate of airworthiness for a new aircraft in the primary category that meets the criteria of paragraph 21.024(1)(a), manufactured under a production certificate, including aircraft assembled by another person from a kit provided by the holder of the production certificate and under the supervision and quality control of that holder, is entitled to the certificate without further showing unless CASA or an authorised person decides that the aircraft:
  - (a) does not conform to the type design; or
  - (b) has been modified or repaired otherwise than in accordance with a supplemental type certificate or an approved modification/repair design; or
  - (c) is not in a condition for safe operation.

### *Imported aircraft*

- (2) An applicant for a special certificate of airworthiness for an aircraft in the primary category for which a type certificate was issued under regulation 21.029, or a type acceptance certificate was issued under regulation 21.029A, is entitled to the certificate if CASA or an authorised person finds, after inspection, that:
    - (a) the aircraft conforms to the type design; and
    - (b) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
    - (c) the aircraft is in a condition for safe operation.
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*Aircraft having a current standard certificate of airworthiness*

- (3) An applicant for a special certificate of airworthiness for an aircraft in the primary category is entitled to the certificate if CASA or an authorised person is satisfied that:
- (a) the aircraft has a standard certificate of airworthiness; and
  - (b) the aircraft meets the criteria mentioned in paragraph 21.024(1)(a); and
  - (c) the applicant has applied, under regulation 21.113, for a supplemental type certificate for the approval of the design of a major change to the aircraft; and
  - (d) the applicant meets the requirements mentioned in regulation 21.113A; and
  - (e) if Part 42 applies to the aircraft and maintenance has been carried out on the aircraft since it was last operated for a flight—one of the following documents has been issued for the aircraft in relation to the maintenance:
    - (i) a certificate of release to service;
    - (ii) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301; and
  - (f) if Part 42 does not apply to the aircraft—a maintenance release is in force for the aircraft.

*Other aircraft*

- (4) An applicant for a special certificate of airworthiness for an aircraft in the primary category that meets the criteria of paragraph 21.024(1)(a), and is not covered by subregulation (1), (2), or (3), is entitled to the certificate if CASA or an authorised person is satisfied that:
- (a) the aircraft:
    - (i) conforms to an approved primary, normal, utility, acrobatic or manned free balloon type design; or
    - (ii) complies with the requirements prescribed by the Part 21 Manual of Standards; and
  - (b) the aircraft complies with all applicable airworthiness directives; and
  - (c) if Part 42 applies to the aircraft—an airworthiness review certificate is in force for the aircraft; and
  - (ca) if Part 42 does not apply to the aircraft—the aircraft maintenance record for the aircraft records the result of a maintenance release inspection (within the meaning given by subregulation 47(6) of CAR) for the aircraft; and
  - (d) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (e) the aircraft is in a condition for safe operation.

*Inspection*

- (5) CASA or an authorised person may inspect an aircraft mentioned in subregulation (3) or (4) to determine whether:

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- (a) it conforms to the type design; and
- (b) any modifications or repairs to it have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
- (c) it is in a condition for safe operation.

### *Multiple-category certification*

- (6) A multiple-category certificate of airworthiness in the primary category and any other category must not be issued; a primary category aircraft may hold only one certificate of airworthiness.

*Source* FARs section 21.184 modified.

## **21.184A Special certificates of airworthiness for intermediate category aircraft**

### *New intermediate category aircraft manufactured under a production certificate*

- (1) An applicant for the original issue of a special certificate of airworthiness for a new aircraft in the intermediate category that meets the criteria of paragraph 21.026(1)(a) and was manufactured under a production certificate, is entitled to the certificate without further showing unless CASA or an authorised person decides that the aircraft:
  - (a) does not conform to the type design; or
  - (b) has been modified or repaired otherwise than in accordance with a supplemental type certificate or an approved modification/repair design; or
  - (c) is not in a condition for safe operation.

### *Other aircraft*

- (2) An applicant for a special certificate of airworthiness for an aircraft in the intermediate category that meets the criteria of paragraph 21.026(1)(a) and is not covered by subregulation (1) is entitled to the certificate if CASA or an authorised person is satisfied that:
  - (a) the aircraft:
    - (i) conforms to an approved intermediate, normal, utility, or acrobatic type design; or
    - (ii) complies with the requirements prescribed by the Part 21 Manual of Standards; and
  - (b) the aircraft complies with all applicable airworthiness directives; and
  - (c) if Part 42 applies to the aircraft—an airworthiness review certificate is in force for the aircraft; and
  - (ca) if Part 42 does not apply to the aircraft—the aircraft maintenance record for the aircraft records the result of a maintenance release inspection (within the meaning given by subregulation 47(6) of CAR) for the aircraft; and
  - (d) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and

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- (e) the aircraft is in a condition for safe operation.

*Inspection*

- (3) CASA or an authorised person may inspect an aircraft mentioned in subregulation (1) or (2) to determine whether:
- (a) it conforms to the type design; and
  - (b) any modifications or repairs to it have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) it is in a condition for safe operation.

*Multiple-category certification*

- (4) A multiple-category certificate of airworthiness in the intermediate category and any other category must not be issued; an intermediate category aircraft may hold only one certificate of airworthiness.

*Source* FARs section 21.184 modified.

**21.185 Certificates of airworthiness for restricted category aircraft**

*Aircraft manufactured under a production certificate or type certificate only*

- (1) An applicant for the original issue of a special certificate of airworthiness for an aircraft type certificated in the restricted category, that was not previously type certificated in any other category, is entitled to the certificate if the applicant complies with the appropriate provisions of regulation 21.183.

*Imported aircraft*

- (2) An applicant for the original issue of a restricted category certificate of airworthiness for an imported aircraft type certificated only in the restricted category under regulation 21.029 or 21.029A is entitled to a certificate of airworthiness if CASA or an authorised person is satisfied that:
- (a) the aircraft conforms to the type design; and
  - (b) any modifications or repairs to the aircraft have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) the aircraft is in a condition for safe operation.

*Other aircraft*

- (3) An applicant for a special certificate of airworthiness for an aircraft type certificated in the restricted category, that was a surplus aircraft of the Defence Force, or of an armed force of Canada, the United Kingdom or the United States of America, or was previously certificated in another category, is entitled to the certificate if CASA or an authorised person is satisfied, after inspection, that the aircraft is in a good state of preservation and repair and is in a condition for safe operation.

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- (3A) Subregulation (3B) applies to an aircraft:
- (a) that is type certificated in the normal, utility, acrobatic, commuter or transport category; and
  - (b) that has been modified for 1 or more of the special purpose operations mentioned in regulation 21.025; and
  - (c) the modifications to which have been carried out in accordance with:
    - (i) an approved modification/repair design; or
    - (ii) a supplemental type certificate.
- (3B) An applicant for a special certificate of airworthiness for an aircraft to which this subregulation applies is entitled to the certificate as if the aircraft were type certificated in the restricted category if CASA or an authorised person finds, after inspection, that:
- (a) the aircraft meets the requirements of the normal utility, acrobatic, commuter or transport category except the requirements that CASA or the authorised person considers are inappropriate for the special purpose for which the aircraft is to be used; and
  - (b) the aircraft can reasonably be expected to be safe for its intended use when it is operated under any conditions limiting its intended use.

### *Inspection*

- (4) CASA or an authorised person may inspect an aircraft mentioned in subregulation (1) or (3) to determine whether:
- (a) it conforms to the type design; and
  - (b) any modifications or repairs to it have been carried out in accordance with a supplemental type certificate or an approved modification/repair design; and
  - (c) it is in a condition for safe operation.

*Source* FARs section 21.185 modified.

## **21.186 Special certificates of airworthiness for light sport aircraft**

- (1) An applicant is entitled to a special certificate of airworthiness for a light sport aircraft if:
- (a) the aircraft was manufactured by a qualified manufacturer; and
  - (b) the applicant gives CASA, or the authorised person referred to in regulation 21.176, the following:
    - (i) a statement of compliance by the manufacturer that complies with subregulation (2);
    - (ii) copies of the aircraft operating instructions, aircraft maintenance and inspection procedures, and aircraft flight training supplement, issued for the aircraft by the manufacturer;
    - (iii) in the case of a light sport aircraft manufactured outside Australia—written information showing that:
      - (A) the aircraft was manufactured in a Contracting State; and

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- (B) the aircraft is eligible for a certificate of airworthiness, or another document of similar effect, in the country of manufacture; and
  - (c) CASA or an authorised person finds, after inspection, that the aircraft is in a condition for safe operation.
- (2) A statement of compliance must be signed by the manufacturer and include at least the following:
- (a) a statement setting out the aircraft's make and model, serial number and date of manufacture;
  - (b) a statement specifying which of the LSA standards apply to the design of the aircraft, including a statement to the effect that the design of the aircraft complies with the specified standards;
  - (c) a statement specifying that:
    - (i) the manufacturer has a quality system that complies with the LSA standards; and
    - (ii) based on that system, the aircraft conforms to the manufacturer's technical data for the design of the aircraft;
  - (d) a statement to the effect that the manufacturer will make the statements, documents and information referred to in paragraph (1)(b) available to any person who asks the manufacturer for them;
  - (e) a statement to the effect that the manufacturer will monitor the continuing airworthiness of the aircraft and will issue directions or requirements that comply with the LSA standards to correct any unsafe condition;
  - (f) a statement to the effect that, in accordance with a production acceptance test procedure that complies with the LSA standards:
    - (i) the manufacturer has ground-tested and flight-tested the aircraft; and
    - (ii) the manufacturer found the aircraft's performance during ground and flight testing acceptable; and
    - (iii) the aircraft is in a condition for safe operation.

**21.187 Multiple-category airworthiness certification**

- (1) An applicant for a certificate of airworthiness for an aircraft in the restricted category, and in one or more other categories (except the primary or intermediate category), is entitled to the certificate, if the aircraft:
  - (a) complies with the requirements for a particular category, when the aircraft is in the configuration for that category; and
  - (b) can be converted from one category to another by removing or adding equipment by simple mechanical means.
- (2) The operator of an aircraft certificated in the restricted category and in one or more other categories must have the aircraft inspected to determine airworthiness each time the aircraft is converted from the restricted category to another category for the carriage of passengers.

Penalty: 50 penalty units.

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(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) The inspection must be carried out by:

- (a) CASA or an authorised person; or
- (b) a person who, under regulation 42ZE or 42ZN of CAR, can certify that the maintenance carried out on the aircraft for the purposes of its conversion was completed.

(4) CASA or an authorised person may inspect the aircraft, and may require the applicant to make any tests reasonably necessary, to determine whether the aircraft:

- (a) complies with the requirements for a particular category, when the aircraft is in the configuration for that category; and
- (b) can be converted from one category to another by removing or adding equipment by simple mechanical means.

Source FARs section 21.187 modified.

### 21.189 Special certificate of airworthiness for limited category aircraft

(1) An applicant is entitled to a special certificate of airworthiness for an aircraft in the limited category for one or more special purpose operations mentioned in subregulation (3) if:

(a) either:

- (i) CASA or the limited category organisation deciding the application is satisfied that the aircraft meets the airworthiness requirements for the issue of a standard certificate of airworthiness (except any requirements that are inappropriate for the special purpose for which the aircraft is to be used); or
  - (ii) the aircraft is of a type that has been manufactured in accordance with the requirements of, and accepted for use by, an armed force, and for which the applicant can demonstrate to CASA or the limited category organisation deciding the application a satisfactory history of operation; and
- (b) as far as can be reasonably determined, CASA or the limited category organisation is satisfied that the aircraft is in a good state of preservation and repair and is in a condition for safe operation; and
  - (c) as far as can be reasonably determined, CASA or the limited category organisation is satisfied that the aircraft can reasonably be expected to be safe when it is operated under the conditions limiting its intended use; and
  - (d) the applicant meets the requirements of subregulation (2).

(2) The applicant must give CASA or the limited category organisation the following:

- (a) a statement, in a form and manner acceptable to CASA or the limited category organisation, setting out the purpose or purposes for which the aircraft is to be used;

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- (b) data (for example photographs) to identify the aircraft;
  - (c) any other information reasonably needed by CASA or the limited category organisation to enable it to impose any conditions necessary in the interests of the safety of other airspace users and persons on the ground or water.
- (3) The special purpose operations are the following:
- (a) operating historic or ex-military aircraft;
  - (aa) conducting adventure flights in historic or ex-military aircraft;
  - (ab) if the aircraft does not have a major modification—air racing;
  - (ac) glider towing;
  - (b) aerobatic flights;
  - (c) aerobatic training;
  - (d) exhibition flights;
  - (e) mock combat;
  - (f) operating replica aircraft;
  - (g) operating aircraft to carry people for parachute descents;
  - (h) any other operation in which the only use of the aircraft is to carry people taking part in a recreational activity that is intrinsically hazardous.
- (4) CASA or the limited category organisation may:
- (a) inspect the aircraft to determine whether it is in a good state of preservation and repair and is in a condition for safe operation; and
  - (b) require the applicant to carry out a flight check to enable CASA or the limited category organisation to make the determination.

Source FARs section 21.189 modified.

**21.190 Special certificates of airworthiness—amateur-built category aircraft accepted under an ABAA**

- (1) An applicant is entitled to a special certificate of airworthiness for an aircraft in the amateur-built aircraft category if:
- (a) CASA or an authorised person has given an ABAA for the aircraft; and
  - (b) the aircraft complies with subsections 3 and 4 of section 101.28 of the Civil Aviation Orders; and
  - (c) approval for the manufacture of the aircraft was given by CASA or an authorised person and the aircraft was manufactured in accordance with the approval; and
  - (d) CASA or an authorised person finds, after inspection, that:
    - (i) the aircraft conforms with the data on the basis of which the ABAA was given; and
    - (ii) any modifications or repairs to the aircraft have been carried out in accordance with an approved modification/repair design; and
    - (iii) the aircraft is in a condition for safe operation.
- (1A) In the case of an aircraft that is a rotorcraft, for the application of section 101.28 of the Civil Aviation Orders:

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- (a) a reference in that section to an aeroplane is taken to be a reference to an aircraft; and
  - (b) CASA may direct that a requirement of that section does not apply in a particular case.
- (2) CASA or an authorised person must not give an ABAA for an aircraft, except an aircraft with:
- (a) a maximum take-off weight not greater than 1500 kilograms; and
  - (b) not more than 4 seats; and
  - (c) if the aircraft is an aeroplane that is fitted with one or more type certificated engines:
    - (i) a stalling speed  $V_{S0}$  at maximum weight not exceeding 61 knots; or
    - (ii) if accurate data about the stalling speed is not available—a maximum wing loading not exceeding:
      - (A) 65 kg/m<sup>2</sup> with a flap area of less than 6 percent gross wing area; or
      - (B) 80 kg/m<sup>2</sup> with a flap area of at least 6 percent gross wing area; and
  - (d) if the aircraft is an aeroplane that is fitted with one or more non-type certificated engines:
    - (i) a stalling speed  $V_{S0}$  at maximum weight not exceeding 55 knots; or
    - (ii) if accurate data about the stalling speed is not available—a maximum wing loading not exceeding:
      - (A) 55 kg/m<sup>2</sup> with a flap area of less than 6 percent gross wing area; or
      - (B) 65 kg/m<sup>2</sup> with a flap area of at least 6 percent gross wing area.
- (3) CASA or an authorised person must not give an ABAA for an aircraft if the ABAA is applied for after 30 September 2000.

### 21.191 Experimental certificates

An experimental certificate may be issued for one or more of the following purposes:

- (a) research and development: for example testing new aircraft design concepts, new aircraft equipment, new aircraft installations, new aircraft operating techniques, or new uses for aircraft;
- (b) showing compliance with regulations: for example conducting flight tests and other operations to show compliance with the airworthiness regulations including flights to show compliance for issue of type and supplemental type certificates, flights to substantiate major design changes, and flights to show compliance with the function and reliability requirements of the regulations;
- (c) training the applicant's flight crew;
- (d) exhibition: for example exhibiting the aircraft's flight capabilities, performance, or unusual characteristics at air shows, motion picture, television, and similar productions, and the maintenance of exhibition



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- flight proficiency, including (for persons exhibiting aircraft) flying to and from such air shows and productions;
- (e) air racing: for example participating in air races, including (for participants) practising for air races and flying to and from racing events;
  - (f) market surveys: for example use of aircraft for purposes of conducting market surveys, sales demonstrations, and customer crew training only as provided in regulation 21.195;
  - (g) operating an amateur-built aircraft: that is an aircraft the major portion of which has been fabricated and assembled by a person who undertook the construction project solely for the person's own education or recreation;
  - (h) operating a kit-built aircraft: that is an aircraft in the primary category that meets the criteria of paragraph 21.024(1)(a) and that was assembled by a person from a kit manufactured by the holder of a production certificate for that kit, without the supervision and quality control of the production certificate holder under subregulation 21.184(1);
  - (i) private operations of prototype aircraft previously certificated under paragraph 21.191(a), (b) or (d);
  - (j) operating a light sport aircraft that:
    - (i) has been assembled from a kit in relation to which the applicant can give the information, statement and documents required by paragraph 21.193(e); and
    - (ii) has been assembled in accordance with the kit manufacturer's instructions for assembling the aircraft; and
    - (iii) is of the same make and model as a production aircraft covered by regulation 21.186 that has been issued with a special certificate of airworthiness;
  - (k) operating any other light sport aircraft covered by regulation 21.186 for which a special certificate of airworthiness for light sport aircraft, or another document of similar effect under a law of a Contracting State, has been issued.

*Source* FARs section 21.191 modified.

### **21.192 Experimental certificates: eligibility**

An aircraft registration holder, or the owner of an aircraft that is listed with a Part 103 ASAO, is eligible to apply for an experimental certificate for one or more of the purposes mentioned in regulation 21.191.

### **21.193 Experimental certificates: general**

An applicant for an experimental certificate is entitled to the certificate if the applicant gives CASA, an authorised person or a relevant approved design organisation the following:

- (a) a statement, in a form and manner acceptable to CASA or the authorised person, setting forth the purpose for which the aircraft is to be used;
- (b) enough data (such as photographs) to identify the aircraft;

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- (c) upon inspection of the aircraft, any information reasonably needed by CASA or the authorised person or relevant approved design organisation to enable it to impose any conditions, including operational limitations, necessary in the interests of the safety of other airspace users and persons on the ground or water;
- (d) if the experimental certificate is to be issued for a purpose mentioned in paragraph 21.191(a) (research and development) or paragraph 21.191(b) (showing compliance with the regulations):
  - (i) a description of the experimental purposes for which the certificate is sought; and
  - (ii) a statement setting out the estimated time or number of flights required for the purpose; and
  - (iii) a description of the areas over which the experiment will be conducted; and
  - (iv) except for aircraft converted from a previously certificated type without appreciable change in the external configuration—three-view drawings or three-view dimensioned photographs of the aircraft;
- (e) if the experimental certificate is to be issued for a purpose mentioned in paragraph 21.191(j) (operating certain light sport aircraft):
  - (i) written information that shows that a special certificate of airworthiness for light sport aircraft covered by regulation 21.186, or another document of similar effect under a law of a Contracting State, has been issued for a production aircraft of the same make and model; and
  - (ii) a statement of compliance, issued by the manufacturer of the kit from which the aircraft was assembled, that includes the statements and information required by subregulation 21.186(2), in so far as the statements and information relate to the manufacture of such kits; and
  - (iii) copies of the aircraft assembly and operating instructions, aircraft maintenance and inspection procedures, and aircraft flight training supplement, issued for the aircraft by the manufacturer.

*Source* FARs section 21.193 modified.

### **21.195 Experimental certificates: aircraft to be used for market surveys, sales demonstrations, and customer crew training**

- (1) A manufacturer of aircraft manufactured within Australian territory is eligible to apply for an experimental certificate for an aircraft that is to be used for a purpose mentioned in paragraph 21.191(f).
- (2) A manufacturer of aircraft engines who has altered a type certificated aircraft by installing different engines, manufactured by the manufacturer within Australian territory, is eligible to apply for an experimental certificate for a purpose mentioned in paragraph 21.191(f) if the basic aircraft, before alteration, was type certificated in the normal, acrobatic, commuter, primary, intermediate or transport category.

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- (3) A person who has altered the design of a type certificated aircraft is eligible to apply for an experimental certificate for the altered aircraft to be used for a purpose mentioned in paragraph 21.191(f) if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, primary, intermediate or transport category.
- (4) An applicant for an experimental certificate for a purpose mentioned in paragraph 21.191(f) is entitled to the certificate if, in addition to meeting the requirements of regulation 21.193:
  - (a) the applicant has established an inspection and maintenance program for the continued airworthiness of the aircraft; and
  - (b) the aircraft has been flown for at least 50 hours, or for at least 5 hours if it is a type certificated aircraft which has been modified.

*Source* FARs section 21.195 modified.

**21.195A Issue of experimental certificates**

- (1) Subject to regulation 11.055, CASA, an authorised person or a relevant approved design organisation must issue an experimental certificate to an applicant for the certificate if the applicant:
  - (a) is eligible, under regulation 21.192, to apply for the certificate; and
  - (b) applies for the certificate in accordance with this Subpart; and
  - (c) is entitled, under this Subpart, to the certificate; and
  - (d) otherwise complies with this Part.
- (3) A condition imposed on an experimental certificate under regulation 11.056 may include operational limitations.
- (4) Any conditions imposed on an experimental certificate under regulation 11.056, must be in writing and set out in, or attached to, the experimental certificate.

**21.195B Duration, production for inspection, suspension and cancellation of experimental certificates**

- (1) An experimental certificate issued for the purpose of research and development, showing compliance with regulations, crew training or market surveys, continues in force:
  - (a) if a period of less than one year is specified in the certificate—until the end of the period, or until it is cancelled, whichever occurs first; or
  - (b) in any other case—until the end of the period of one year after the date on which it was issued, or until it is cancelled, whichever occurs first.
- (2) An experimental certificate issued for the purpose of exhibition, air racing, operating amateur-built, kit-built or light sport aircraft or private operations of prototype aircraft previously certificated under paragraph 21.191(a), (b) or (d), continues in force:
  - (a) if a period is specified in the certificate—until the end of the period, or until it is cancelled, whichever occurs first; or

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(b) in any other case—until it is cancelled.

- (3) The holder of an experimental certificate commits an offence if:
- (a) CASA, an authorised person or a relevant approved design organisation asks the holder to make the certificate available for inspection; and
  - (b) the holder does not make the certificate available for inspection in accordance with the request.

Penalty: 50 penalty units.

- (4) An experimental certificate for an aircraft is taken to not be in force for any period during which the aircraft is either not registered in Australia or not listed with a Part 103 ASAO.
- (4A) For the purposes of subregulation (4), the period during which the certificate is taken to not be in force counts as part of the period for which the certificate was issued.
- (5) CASA or an authorised person may suspend or cancel an experimental certificate for an aircraft, by written notice given to its holder, if:
- (a) any maintenance is not carried out in accordance with regulation 42CB of CAR; or
  - (b) CASA or the authorised person otherwise considers that it is necessary to do so in the interests of the safety of other airspace users and persons on the ground or water.
- (6) A notice under subregulation (5) must set out:
- (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.
- (7) Despite anything else in this regulation, an experimental certificate is not in force during any period of suspension, but, if the certificate was issued for a specified period, the period of suspension counts as part of the period for which the certificate was issued.
- (8) The holder of an experimental certificate commits an offence if:
- (a) the certificate is taken to not be in force under subregulation (4), expires or is suspended or cancelled; and
  - (b) CASA, an authorised person or a relevant approved design organisation asks the holder to surrender the certificate; and
  - (c) the holder does not surrender the certificate in accordance with the request.

Penalty: 50 penalty units.

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

Note 1: For **strict liability**, see section 6.1 of the *Criminal Code*.

Source FARs section 21.181 modified.

Note 2: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of experimental certificates.

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**21.195C Exercise of certain powers by authorised persons and relevant approved design organisations**

An authorised person or a relevant approved design organisation may exercise the following powers in relation to an experimental certificate only if the person or organisation issued the certificate:

- (a) asking the holder to make the certificate available for inspection under subregulation 21.195B(3);
- (b) asking the holder to surrender the certificate under subregulation 21.195B(8).

**21.196 Special flight permits: eligibility**

Any person is eligible to apply for a special flight permit.

**21.197 Special flight permits**

- (1) A special flight permit may be issued for one or more of the following purposes for an aircraft that may not currently meet the applicable airworthiness requirements, but can reasonably be expected to be capable of safe flight for the intended purpose:
  - (a) flying the aircraft to a base where repairs, alterations, or maintenance are to be performed, or to a point of storage;
  - (b) delivering or exporting the aircraft;
  - (c) production flight testing new production aircraft;
  - (d) evacuating the aircraft from areas of impending danger;
  - (e) conducting customer demonstration flights in new production aircraft that have satisfactorily completed production flight tests;
  - (f) assisting in searching for, bringing aid to or rescuing persons in danger on a particular occasion;
  - (g) assisting in dealing with a state of emergency.
- (2) A special flight permit may authorise the operation of an aircraft at a weight in excess of its maximum take-off weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available. The excess weight that may be authorised under this paragraph is limited to the additional fuel, fuel-carrying facilities, and navigation equipment necessary for the flight.
- (3) For subsection 20AA(1) of the Act, an aircraft with a special flight permit, except a special flight permit issued for a purpose mentioned in paragraph (1)(b), is not required to be registered.
- (4) For paragraph 20AA(3)(a) of the Act, an aircraft with a special flight permit is not required to have a certificate of airworthiness.
- (6) If CASA or an authorised person issues a special flight permit for an aircraft, CASA or the authorised person may direct that any of the following do not apply in relation to the aircraft while the permit is in force:

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- (a) paragraph 91.145(2)(c);
- (b) paragraph 91.145(2)(d);
- (c) Division 91.C.3.

*Source* FARs section 21.197 modified.

### **21.199 Applications for special flight permits**

- (1) An applicant for a special flight permit must submit a statement to CASA or an authorised person, indicating the following:
  - (a) the purpose or purposes of the flight;
  - (b) the proposed itinerary;
  - (c) the crew required to operate the aircraft and its equipment, for example, pilot, co-pilot, navigator;
  - (d) the ways, if any, in which the aircraft does not comply with the applicable airworthiness requirements;
  - (e) any restriction the applicant considers necessary for safe operation of the aircraft;
  - (f) any other information that CASA or the authorised person reasonably needs to be able to prescribe operating limitations or other conditions in the interests of aviation safety.
- (2) CASA or an authorised person may make, or require the applicant to make, appropriate inspections or tests necessary to determine whether the aircraft can reasonably be expected to be capable of safe flight for the intended purpose or purposes.

*Source* FARs section 21.199 modified.

### **21.200 Issue of special flight permits**

- (1) Subject to subregulation (1A) and regulation 11.055, CASA or an authorised person must issue a special flight permit to an applicant for the permit if the applicant:
  - (a) is eligible, under regulation 21.196, to apply for the permit; and
  - (b) applies for the permit in accordance with this Subpart; and
  - (c) otherwise complies with this Part.
- (1A) CASA or an authorised person must not issue a special flight permit for an aircraft if:
  - (a) the aircraft is covered by an airworthiness directive (within the meaning of regulation 39.002); and
  - (b) the airworthiness directive includes a statement to the effect that a special flight permit must not be issued for an aircraft covered by the airworthiness directive.
- (3) A condition imposed on a special flight permit under regulation 11.056 may include operational limitations.

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Regulation 21.201

- (4) Any conditions imposed on a special flight permit under regulation 11.056, and any conditions imposed under regulation 21.016 or 21.029B that limit the use of the aircraft, must be in writing and set out in, or attached to, the special flight permit.

**21.201 Inspection, suspension and cancellation of special flight permits**

- (2) The holder of a special flight permit must, on the request of CASA or an authorised person, make it available for inspection by CASA or an authorised person.

Penalty: 5 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) CASA or an authorised person may suspend or cancel a special flight permit, by written notice given to its holder, if CASA or the authorised person considers that it is necessary to do so in the interests of aviation safety.

- (4) A notice under subregulation (3) must set out:

- (a) the grounds for the suspension or cancellation; and
- (b) in the case of a suspension—when the suspension stops having effect.

Source FARs section 21.181 modified.

Note: See also regulations 21.002C and 21.002E in relation to suspension and cancellation of special flight permits.

## Regulation 21.211

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### Subpart 21.I—Provisional certificates of airworthiness

**Note:** A provisional certificate of airworthiness issued under this Part for an aircraft, aircraft engine or propeller does not certify that it complies with the *Air Navigation (Aircraft Noise) Regulations 2018*, the *Air Navigation (Aircraft Engine Emissions) Regulations* or any other applicable Commonwealth legislation. Compliance with those Regulations or other applicable Commonwealth legislation may be required before the aircraft, aircraft engine or propeller may be legally operated.

#### 21.211 Applicability

This Subpart prescribes requirements for the issue of provisional certificates of airworthiness.

*Source* FARs section 21.211 modified.

#### 21.213 Eligibility

- (1) A manufacturer is eligible to apply for a Class I or Class II provisional certificate of airworthiness for aircraft manufactured by the manufacturer in Australian territory.
- (2) The holder of an Australian air transport AOC that authorises scheduled air transport operations is eligible to apply for a Class II provisional certificate of airworthiness for transport category aircraft if:
  - (a) the aircraft has a current Class II provisional type certificate or a current amendment of a Class II provisional type certificate; or
  - (b) the aircraft has a current provisional amendment to a type certificate that was preceded by a corresponding Class II provisional type certificate.
- (3) An aircraft engine manufacturer who has altered a type certificated aircraft by installing different type certificated engines, manufactured by the aircraft engine manufacturer in Australian territory, is eligible to apply for a Class I provisional certificate of airworthiness for that aircraft, if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, commuter, primary, intermediate or transport category.

*Source* FARs section 21.213 modified.

#### 21.215 Application

Application for a provisional certificate of airworthiness may be submitted to CASA. The application must be accompanied by the pertinent information specified in these Regulations.

*Source* FARs section 21.215 modified.

#### 21.216 Issue of provisional certificates of airworthiness

Subject to regulation 11.055, CASA must issue a provisional certificate of airworthiness to an applicant for the certificate if the applicant:



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Regulation 21.217

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- (a) is eligible, under regulation 21.213, to apply for the certificate; and
- (b) applies for the certificate in accordance with this Subpart; and
- (c) is entitled, under this Subpart, to the certificate; and
- (d) otherwise complies with this Part.

### **21.217 Duration**

- (1) Unless sooner cancelled, provisional certificates of airworthiness are effective for the duration of the corresponding provisional type certificate, amendment to a provisional type certificate, or provisional amendment to the type certificate.
- (2) Despite subregulation (1), a provisional certificate of airworthiness is not in force during any period of suspension.
- (3) CASA may suspend or cancel a provisional certificate of airworthiness, by written notice given to its holder, if CASA considers that it is necessary to do so in the interests of aviation safety.
- (4) A notice must set out:
  - (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.

*Source* FARs section 21.217 modified.

*Note:* See also regulations 21.002C and 21.002E in relation to suspension and cancellation of provisional certificates of airworthiness.

### **21.219 Transferability**

A Class II provisional certificate of airworthiness may be transferred to an AOC holder eligible to apply for a certificate under subregulation 21.213(2).

*Source:* FARs section 21.219 modified.

### **21.221 Class I provisional certificates of airworthiness**

- (1) Except as provided in regulation 21.225, an applicant who holds a Class I provisional type certificate for an aircraft is entitled to a Class I provisional certificate of airworthiness for the aircraft if:
  - (a) the applicant meets the eligibility requirements of regulation 21.213; and
  - (b) CASA is satisfied that the requirements of this regulation are satisfied and that there is no feature, characteristic or condition of the aircraft that would make the aircraft unsafe when operated in accordance with the requirements and limitations under subregulation 21.081(4) and Division 91.T.3.
- (2) The manufacturer must hold a provisional type certificate for the aircraft.
- (3) The manufacturer must submit a statement that the aircraft conforms to the type design corresponding to the provisional type certificate and has been found by the manufacturer to be in safe operating condition under all applicable limitations.

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- (4) The aircraft must be flown at least five hours by the manufacturer.
- (5) The aircraft must be supplied with a provisional aircraft flight manual or other document and appropriate placards containing the requirements and limitations under subregulation 21.081(4) and Division 91.T.3.

*Source* FARs section 21.221 modified.

### **21.223 Class II provisional certificates of airworthiness**

- (1) Except as provided in regulation 21.225, an applicant who holds a Class II provisional type certificate for an aircraft is entitled to a Class II provisional certificate of airworthiness for the aircraft if:
  - (a) the applicant meets the eligibility requirements of regulation 21.213; and
  - (b) CASA is satisfied that the requirements of this regulation are satisfied and that there is no feature, characteristic, or condition of the aircraft that would make the aircraft unsafe when operated in accordance with the requirements and limitations under subregulation 21.083(7) and Division 91.T.3.
- (2) The applicant must show that a Class II provisional type certificate for the aircraft has been issued to the manufacturer.
- (3) The applicant must submit a statement by the manufacturer that the aircraft has been manufactured under a quality system adequate to ensure that the aircraft conforms to the type design corresponding with the provisional type certificate.
- (4) The applicant must submit a statement that the applicant has found the aircraft to be in a safe operating condition under the applicable limitations.
- (5) The aircraft must be flown at least five hours by the manufacturer.
- (6) The aircraft must be supplied with a provisional aircraft flight manual containing the requirements and limitations under subregulation 21.083(7) and Division 91.T.3.

*Source* FARs section 21.223 modified.

### **21.225 Provisional certificates of airworthiness corresponding with provisional amendments to type certificates**

- (1) An applicant is entitled to a Class I or a Class II provisional certificate of airworthiness for an aircraft for which a provisional amendment to the type certificate has been issued, if:
  - (a) the applicant meets the eligibility requirements of regulation 21.213; and
  - (b) CASA is satisfied that the requirements of this regulation are satisfied and that there is no feature, characteristic, or condition of the aircraft, as modified in accordance with the provisionally amended type certificate, that would make the aircraft unsafe when operated in accordance with the applicable requirements and limitations under subregulation 21.085(6) and Division 91.T.3.

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- (2) The applicant must show that the modification was made under a quality system adequate to ensure that the modification conforms to the provisionally amended type certificate.
- (3) The applicant must submit a statement that the applicant has found the aircraft to be in a safe operating condition under the applicable limitations.
- (4) The aircraft must be flown at least five hours by the manufacturer.
- (5) The aircraft must be supplied with a provisional aircraft flight manual or other document and appropriate placards containing the requirements and limitations under subregulation 21.085(6) and Division 91.T.3.

*Source* FARs section 21.225 modified.

## Subpart 21.J—Approved design organisations

### Division 21.J.1—General

#### 21.231 What Subpart 21.J is about

This Subpart sets out matters relating to approved design organisations including:

- (a) requirements for approval as an approved design organisation; and
- (b) the privileges and obligations of approved design organisations.

#### 21.233 Definitions for Subpart 21.J

In this Subpart:

**accountable manager**, for an approved design organisation, means the individual, appointed by the organisation, who is responsible for:

- (a) ensuring that the organisation complies with its exposition and design assurance system and these Regulations; and
- (b) ensuring that the organisation is able to finance the carrying out of the design activities stated in its approval certificate; and
- (c) ensuring that the organisation has adequate resources available to enable the organisation to carry out design activities in accordance with its exposition and design assurance system.

**advice activity** means giving advice under regulation 21.007A.

**approval activity** means any of the following:

- (aa) approving an aircraft flight manual under regulation 21.006;
- (a) approving a change to an aircraft flight manual under regulation 21.006A;
- (b) approving a defect in an Australian aircraft as a permissible unserviceability under regulation 21.007;
- (c) approving technical data under regulation 21.009;
- (d) approving a minor change in a type design under regulation 21.095;
- (e) approving a major change in a type design under regulation 21.098;
- (ea) varying a supplemental type certificate under regulation 21.120B;
- (f) approving the design of a Class II or Class III product under regulation 21.132A;
- (g) approving a material, part, process or appliance under regulation 21.305A;
- (h) granting a modification/repair design approval under regulation 21.437;
- (i) approving an imported aircraft engine or propeller under regulation 21.500A;
- (j) approving an imported material, part or appliance under regulation 21.502A;

- (k) under regulation 11.067, imposing a condition on, or varying a condition of, an approval mentioned in any of paragraphs (a) to (j);
- (l) under Subpart 11.D, varying an approval mentioned in any of paragraphs (a) to (j).

**approval certificate**, for an approved design organisation, means the certificate issued to the organisation under regulation 21.245.

**carries out a design activity**: an approved design organisation **carries out a design activity** if the activity is carried out on the organisation's behalf by:

- (a) an employee of the organisation; or
- (b) a subcontractor of the organisation.

**certification activity** means any of the following:

- (a) certifying to CASA under subregulation 21.013A(3) that an applicant for a type certificate meets a criterion for entitlement to the certificate, other than the requirement under paragraph 21.021(b) that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety;
- (b) certifying to CASA under subregulation 21.095(5) that a type design, as modified by a minor change, would meet a requirement of this Part;
- (c) certifying to CASA under subregulation 21.098(3) that an applicant meets a requirement mentioned in subregulation 21.098(1);
- (d) certifying to CASA under subregulation 21.115(3) that an altered aircraft, aircraft engine or propeller meets:
  - (i) an applicable airworthiness requirement mentioned in subparagraph 21.115(1)(a)(i); or
  - (ii) the requirement mentioned in paragraph 21.115(1)(b);
- (da) certifying to CASA under subregulation 21.120B(6) that an altered aircraft, aircraft engine or propeller meets:
  - (i) an applicable airworthiness requirement mentioned in subparagraph 21.120B(3)(a)(i); or
  - (ii) the requirement mentioned in paragraph 21.120B(3)(b);
- (e) certifying to CASA under subregulation 21.132A(6) that the design of a Class II or Class III product meets the applicable airworthiness standards for the product;
- (f) certifying to CASA under subregulation 21.303(4C) that a design for a part meets the airworthiness requirements of these Regulations applicable to the aircraft, aircraft engine or propeller on which the part is to be installed;
- (g) certifying to CASA under subregulation 21.420(5) that a design complies with the applicable airworthiness requirements for the design;
- (h) certifying to CASA under subregulation 21.605(7) that a design for an article complies with the applicable ATSO, ETSO or TSO for the article, including any deviations approved under regulation 21.609;
- (i) conducting or observing any tests or inspections for the purpose of a certification mentioned in paragraphs (a) to (h).

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**design activity** means any of the following:

- (a) an advice activity;
- (b) an approval activity;
- (c) a certification activity;
- (d) an experimental certificate activity.

**design assurance system**, for an approved design organisation, means the system described in the organisation's design assurance system manual.

**design assurance system manual**, for an approved design organisation, means:

- (a) the manual approved by CASA under paragraph 21.243(7)(b) in relation to the organisation; and
- (b) if a change to the manual is approved under regulation 21.253 or 21.255—the manual as changed; and
- (c) if the manual is changed under regulation 21.256—the manual as changed.

**design responsibility**, for an approved design organisation, means responsibility to the accountable manager for ensuring that the organisation complies with its exposition and design assurance system manual and these Regulations in carrying out design activities.

**experimental certificate activity** means any of the following:

- (a) issuing an experimental certificate under regulation 21.195A;
- (b) under regulation 11.067, imposing a condition on, or varying a condition of, an experimental certificate;
- (c) under Subpart 11.D, varying an experimental certificate;
- (d) asking the holder of an experimental certificate, under subregulation 21.195B(3), to make the certificate available for inspection;
- (e) asking the holder of an experimental certificate, under subregulation 21.195B(8), to surrender the certificate.

**exposition**, for an approved design organisation, means:

- (a) the document approved by CASA under paragraph 21.243(7)(a) in relation to the organisation; and
- (b) if a change to the document is approved under regulation 21.253 or 21.255—the document as changed; and
- (c) if the document is changed under regulation 21.259 or 21.261—the document as changed.

**head of design**, for an approved design organisation, means the individual, appointed by the organisation, who has design responsibility for the organisation.

**subcontractor**, in relation to an approved design organisation, means a person who:

- (a) is a party to a written contract with the organisation to carry out a design activity, or part of a design activity, on behalf of the organisation; and
- (b) is not an employee of the organisation.

### **21.235 Privileges for approved design organisations**

- (1) An approved design organisation may carry out a design activity, other than a certification activity, in relation to an aircraft or aeronautical product only if the organisation is approved under regulation 21.243 to carry out the activity in relation to aircraft or aeronautical products of that kind.
- (2) An approved design organisation may carry out a certification activity in relation to an aircraft or aeronautical product and an application mentioned in subregulation 21.251(1) only if:
  - (a) the organisation is approved under regulation 21.243 to carry out the activity in relation to aircraft or aeronautical products of that kind; and
  - (b) CASA authorises the organisation under regulation 21.251 to carry out the activity in relation to the application.

### **21.237 Prohibition of unauthorised carrying out of design activities**

- (1) A person commits an offence if:
  - (a) the person carries out a design activity; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).

Penalty: 50 penalty units.
- (2) For paragraph (1)(b), the requirement is that the person is:
  - (a) an approved design organisation that is permitted to carry out the design activity under regulation 21.235; or
  - (b) if the provision under which the activity is carried out provides that an authorised person may carry out the activity—an authorised person for the provision; or
  - (c) if the provision under which the activity is carried out provides that CASA may carry out the activity—CASA.
- (3) Subregulation (1) does not apply to a person who carries out a design activity on behalf of an approved design organisation if:
  - (a) the person is:
    - (i) an employee of the organisation; or
    - (ii) a subcontractor of the organisation; and
  - (b) the organisation is permitted under regulation 21.235 to carry out the design activity; and
  - (c) the person is authorised, in writing, by the organisation to carry out the design activity on behalf of the organisation.

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) Subregulation (1) does not apply to a person who carries out a design activity on behalf of a subcontractor of an approved design organisation if:
  - (a) the person is an employee of the subcontractor; and

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- (b) the organisation is permitted under regulation 21.235 to carry out the design activity; and
- (c) the subcontractor is authorised, in writing, by the organisation to carry out the design activity on behalf of the organisation; and
- (d) the person is authorised, in writing, by the subcontractor to carry out the design activity on behalf of the subcontractor.

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

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

### **21.239 Applications may be made to approved design organisation—approval activities and experimental certificates**

Despite anything else in this Part, if an approved design organisation is a relevant approved design organisation in relation to an approval activity or the issue of an experimental certificate under regulation 21.195A:

- (a) an application for the approval or experimental certificate may be made to the approved design organisation; and
- (b) a reference in this Part to CASA includes a reference to the approved design organisation in relation to:
  - (i) the application for the approval or experimental certificate; and
  - (ii) if the organisation grants the approval or experimental certificate—the approval or experimental certificate.



## **Division 21.J.2—Approval as approved design organisation**

### **21.241 Applying for approval**

- (1) A person may apply, in writing, to CASA for approval as an approved design organisation.
- (2) The application must include:
  - (a) an outline of:
    - (i) the design activities that the applicant proposes to carry out; and
    - (ii) the aircraft or aeronautical products in relation to which the applicant proposes to carry out those design activities; and
    - (iii) the applicant's procedures for carrying out those design activities; and
    - (iv) the applicant's organisational structure; and
  - (b) the names of the applicant's accountable manager and head of design; and
  - (c) if the applicant intends to subcontract a design activity, or part of a design activity, that it proposes to carry out—a statement explaining the arrangement under which the design activity, or that part of the design activity, will be carried out by a subcontractor.
- (3) The applicant must give CASA, with the application or subsequently:
  - (a) a copy of the applicant's proposed exposition; and
  - (b) a copy of the applicant's proposed design assurance system manual.

### **21.243 Granting approval**

- (1) If the applicant gives CASA the documents mentioned in subregulation 21.241(3), CASA must make a decision on the application.
- (2) Subject to regulation 11.055, CASA must approve the applicant as an approved design organisation if:
  - (a) subregulation (4) does not apply to the applicant; and
  - (b) CASA is satisfied that the applicant meets the requirements mentioned in subregulation (5).
- (3) Subject to regulation 11.055, CASA must approve the applicant as an approved design organisation if:
  - (a) subregulation (4) applies to the applicant; and
  - (b) CASA is satisfied that:
    - (i) the applicant meets the requirements mentioned in subregulation (5); and
    - (ii) CASA would not be placed under an undue burden in administering the approval.
- (4) This subregulation applies to an applicant that:
  - (a) is not an Australian resident or a corporation registered in Australia; or
  - (b) carries on business outside Australian territory.

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- (5) For paragraph (2)(b) and subparagraph (3)(b)(i), the requirements are the following:
- (a) the applicant's proposed exposition must:
    - (i) contain the information mentioned in regulation 21.263; and
    - (ii) be consistent with the applicant's proposed design assurance system manual;
  - (b) the design assurance system described in the applicant's proposed design assurance system manual must meet the requirements mentioned in regulations 21.269 and 21.270;
  - (c) the applicant must have established and be able to maintain the design assurance system;
  - (d) the applicant:
    - (i) must have sufficient appropriately qualified and experienced personnel to carry out each design activity mentioned in the applicant's proposed exposition; and
    - (ii) must have facilities that are appropriate for carrying out each design activity mentioned in the applicant's proposed exposition; and
    - (iii) must have, or have access to, the equipment, tools and up-to-date design reference data (in electronic form or otherwise) necessary for carrying out each design activity mentioned in the applicant's proposed exposition;
  - (e) the individual named in the application as the applicant's accountable manager must:
    - (i) have the authority to carry out the responsibilities of the position; and
    - (ii) understand the responsibilities of the position; and
    - (iii) have the knowledge, qualifications and experience required by the organisation's exposition for the position;
  - (f) the individual named in the application as the applicant's head of design must have:
    - (i) knowledge, qualifications and experience that are suitable for the position; and
    - (ii) the knowledge, qualifications and experience required by the organisation's exposition for the position.
- (6) If CASA decides to approve an applicant as an approved design organisation, CASA must determine:
- (a) the design activities that the applicant is approved to carry out; and
  - (b) the aircraft and aeronautical products in relation to which the applicant is approved to carry out those design activities; and
  - (c) if the applicant is approved to grant a modification/repair design approval under regulation 21.437—whether the applicant is approved to make an equivalent level of safety determination under regulation 21.436.
- (7) If CASA approves an applicant, CASA is taken to have also approved the applicant's proposed:
- (a) exposition; and

- (b) design assurance system manual.

### **21.245 Approval certificate**

- (1) If CASA approves an applicant as an approved design organisation, CASA must issue a certificate of approval setting out:
  - (a) the name of the organisation; and
  - (b) the matters mentioned in subregulation 21.243(6).
- (2) The certificate issued by CASA must include an approval certificate reference number determined by CASA.
- (3) CASA must issue a new approval certificate to an approved design organisation if:
  - (a) CASA approves, under regulation 21.253, a change to the scope of the organisation's approval; or
  - (b) the organisation gives CASA written notice, under regulation 21.259, that it has changed its name.

### **21.247 Approval subject to conditions—general**

- (1) It is a condition of approval of an approved design organisation that the organisation must:
  - (a) comply with this Subpart, its exposition and its design assurance system manual; and
  - (b) ensure that its employees and subcontractors, and the personnel holding the positions mentioned in paragraph 21.263(1)(c), comply with this Subpart and the organisation's exposition and design assurance system manual; and
  - (c) ensure that its exposition is consistent with its design assurance system manual; and
  - (d) ensure that no design activity that the organisation carries out introduces an unsafe feature or characteristic into the design of the aircraft or aeronautical product to which the design activity relates; and
  - (e) ensure that the organisation's design assurance system maintains satisfactory control and supervision of each design activity that the organisation carries out; and
  - (f) comply with each direction given to it under subregulation (2).
- (2) For paragraph (1)(f), CASA may issue a direction to an approved design organisation setting out:
  - (a) information that the approved design organisation must give to CASA; and
  - (b) the times when the organisation must give that information to CASA.

### **21.248 Approval subject to conditions—holders of other authorisations under Part 21 and licensees**

- (1) If the organisation is also the holder of another authorisation (however described) under this Part, it is a condition of the organisation's approval that the

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organisation must comply with its obligations under this Part as the holder of the other authorisation.

Examples: The following are some other authorisations under this Part:

- (a) a type certificate;
  - (b) a supplemental type certificate;
  - (c) a production certificate;
  - (d) an APMA;
  - (e) a modification/repair design approval;
  - (f) an approval mentioned in regulation 21.475;
  - (g) an ATSO authorisation.
- (2) If the organisation is also the licensee of a type certificate or supplemental type certificate, it is a condition of the organisation's approval that the organisation must comply with its obligations under this Part as the licensee of the certificate.

### **21.249 Cancellation, suspension and variation of approval**

- (1) CASA may cancel, suspend or vary an approval, by written notice given to its holder, if the holder does not comply, or ceases to comply, with this Subpart.
- (2) A notice under subregulation (1) must state:
  - (a) the grounds for the suspension or cancellation; and
  - (b) for a suspension—when the suspension will cease to have effect; and
  - (c) for a variation—the terms of the variation.
- (3) A cancellation, suspension or variation under this regulation takes effect when the holder of the authorisation is given the notice.
- (4) If an approval is suspended under this regulation, the approval is not in force during the period of the suspension.

## **Division 21.J.3—Authorisation to carry out particular certification activity**

### **21.251 Authorisation of approved design organisations to carry out certification activities**

- (1) If CASA receives an application for any of the following, CASA may authorise an approved design organisation to carry out a certification activity in relation to the application:
  - (a) a type certificate;
  - (b) approval of a change to a type design;
  - (c) a supplemental type certificate;
  - (ca) a variation of a supplemental type certificate;
  - (d) approval of the design of a Class II or Class III product;
  - (e) an APMA;
  - (f) a modification/repair design approval;
  - (g) an ATSO authorisation.
- (2) However, CASA may authorise the approved design organisation to carry out the certification activity only if:
  - (a) the organisation is approved to carry out certification activities of that kind in relation to aircraft or aeronautical products of the kind to which the application relates; and
  - (b) the applicant nominates the approved design organisation to carry out the certification activity; and
  - (c) CASA is satisfied that the organisation is capable of determining accurately the matter to which the certification activity relates.
- (3) If CASA authorises the approved design organisation to carry out the certification activity, CASA must give written notice of the authorisation to the applicant and the organisation.

## **Division 21.J.4—Changes to approved design organisations**

### **21.253 Application for approval of change to scope of approval**

- (1) If an approved design organisation proposes to make a change to either of the following, the organisation must apply to CASA for approval of the change:
  - (a) the design activities that the organisation is approved to carry out;
  - (b) the aircraft and aeronautical products in relation to which the organisation is approved to carry out those design activities.
- (2) The application must:
  - (a) be in writing; and
  - (b) state the proposed change; and
  - (c) be accompanied by a copy of the part of the organisation's exposition and design assurance system manual affected by the proposed change, clearly identifying the proposed change.
- (3) Subject to regulation 11.055, CASA must approve the change if satisfied that the requirements mentioned in subregulation 21.243(5) will continue to be met.
- (4) If CASA approves the change, CASA is taken to have also approved the changes to the organisation's exposition and design assurance system manual covered by the application.

### **21.255 Application for approval of change to design assurance system**

- (1) If an approved design organisation proposes to make a change to its design assurance system, the organisation must apply to CASA for approval of the change.
- (2) The application must:
  - (a) be in writing; and
  - (b) state the proposed change; and
  - (ba) be accompanied by a copy of the part of the organisation's design assurance system manual affected by the proposed change, clearly identifying the proposed change; and
  - (c) if the proposed change requires a change to the organisation's exposition—be accompanied by a copy of the part of the exposition affected by the proposed change, clearly identifying the proposed change.
- (3) Subject to regulation 11.055, CASA must approve a change to a design assurance system if satisfied that the requirements mentioned in regulations 21.269 and 21.270 will continue to be met.
- (4) If CASA approves the change, CASA is taken to have also approved:
  - (a) the change to the organisation's design assurance system manual covered by the application; and
  - (b) the change to the organisation's exposition covered by the application.

## **21.256 Change to design assurance system manual at direction of CASA**

- (1) CASA may, if satisfied that it is necessary in the interests of the safety of air navigation, direct an approved design organisation to make a specified change to its design assurance system manual within the time specified in the direction.
- (2) The organisation commits an offence if the organisation does not, within the specified time:
  - (a) comply with the direction; and
  - (b) if the change requires a change to the organisation's exposition:
    - (i) update its exposition; and
    - (ii) give CASA a copy of the updated part of the exposition.

Penalty: 50 penalty units.

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

## **21.257 Application for approval of permanent appointment of new accountable manager or head of design**

- (1) If an approved design organisation wishes to appoint an individual permanently as the organisation's accountable manager or head of design, the organisation must apply to CASA for approval of the appointment.
- (2) The application must:
  - (a) be in writing; and
  - (b) state the name of the proposed appointee and the position to which he or she is to be appointed; and
  - (c) be accompanied by a copy of the part of the exposition affected by the proposed appointment, clearly identifying the changes relating to the proposed appointment.
- (3) Subject to regulation 11.055, CASA must approve the appointment if satisfied that the appointee has:
  - (a) for an appointment of an accountable manager:
    - (i) authority to carry out the responsibilities of the position; and
    - (ii) an understanding of the responsibilities of the position; and
    - (iii) the knowledge, qualifications and experience required by the organisation's exposition for the position; or
  - (b) for an appointment of a head of design:
    - (i) knowledge, qualifications and experience that are suitable for the position; and
    - (ii) the knowledge, qualifications and experience required by the organisation's exposition for the position.
- (4) If CASA approves the change, CASA is taken to have also approved the change to the organisation's exposition covered by the application.

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**21.258 Permanent appointment of other key personnel—requirement to tell CASA**

- (1) An approved design organisation commits an offence if:
  - (a) the organisation permanently appoints an individual to a position mentioned in subparagraph 21.263(1)(c)(iii) or (iv); and
  - (b) the organisation does not, within 7 days after the change, give CASA written notice of the change.

Penalty: 50 penalty units.

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

**21.259 Change to exposition by organisation**

- (1) An approved design organisation commits an offence if:
  - (a) the organisation undergoes a change that renders its exposition inaccurate; and
  - (b) the change is not a change mentioned in regulation 21.253, 21.255, 21.256 or 21.257; and
  - (c) the organisation does not, within 30 days after undergoing the change:
    - (i) update its exposition; and
    - (ii) give CASA written notice of the change and a copy of the updated part of the exposition.

Penalty: 50 penalty units.

- (2) An approved design organisation commits an offence if:
  - (a) the organisation makes a change to its exposition; and
  - (b) the change is not a change mentioned in regulation 21.253, 21.255, 21.256, 21.257 or 21.261 or subregulation (1); and
  - (c) the organisation does not, within 30 days after making the change, give CASA a copy of the changed part of the exposition.

Penalty: 50 penalty units.

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

**21.261 Change to exposition at direction of CASA**

- (1) CASA may direct an approved design organisation to change its exposition within a time specified in the direction:
  - (a) to remove particular information from the exposition; or
  - (b) to include particular information in the exposition; or
  - (c) to revise or vary the information in the exposition.
- (2) However, CASA may issue a direction under this regulation only if satisfied that it is necessary to ensure that the exposition contains the information mentioned in regulation 21.263.



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- (3) The organisation commits an offence if the organisation does not comply with the direction.

Penalty: 50 penalty units.

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

## **Division 21.J.5—Obligations of approved design organisations**

### **21.263 Content of exposition**

- (1) An exposition for an approved design organisation must contain the following:
  - (a) the name of the organisation;
  - (b) a detailed description of the matters mentioned in paragraph 21.241(2)(a);
  - (c) the responsibilities of the following positions in the organisation:
    - (i) accountable manager;
    - (ii) head of design;
    - (iii) each other managerial position;
    - (iv) each position held by a person who carries out a design activity;
  - (d) the qualifications, experience and knowledge required by the organisation for each position mentioned in paragraph (c);
  - (e) the name of each individual holding a position mentioned in paragraph (c);
  - (f) a description of how the organisation will manage the responsibilities of a position mentioned in paragraph (c) for any period during which the position is vacant or the occupant of the position is unable to carry out the responsibilities of the position;
  - (g) if the organisation subcontracts a design activity, or part of a design activity, that it carries out—a description of the procedures that the organisation uses to manage the activities of the subcontractor;
  - (h) if the organisation carries out a design activity, other than a certification activity, that relies on another design activity being carried out by another approved design organisation—a description of the procedures that the organisation uses to coordinate the design activities;
  - (i) a description of the way the organisation will dispose of the documents and records mentioned in subregulation 21.277(2) if the organisation ceases to be an approved design organisation;
  - (j) a description of the organisation's process for making changes to its exposition or design assurance system manual.
- (2) The qualifications, experience and knowledge mentioned in paragraph (1)(d) must meet the requirements prescribed by the Part 21 Manual of Standards.

### **21.265 Compliance with exposition**

- (1) An approved design organisation commits an offence if the organisation contravenes a provision of its exposition.

Penalty: 50 penalty units.

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

## **21.267 Design assurance system**

An approved design organisation must have a design assurance system that meets the requirements of regulations 21.269 and 21.270.

## **21.269 Requirements for design assurance system—general**

- (1) The design assurance system must include policies and procedures for the conduct of design activities that the organisation is approved to carry out.
- (2) The design assurance system must enable the organisation to ensure that:
  - (a) each design activity that the organisation carries out is controlled and managed in a way that ensures that the aircraft or aeronautical product in relation to which the activity is carried out complies with the applicable airworthiness standards for the aircraft or aeronautical product; and
  - (b) no design activity that the organisation carries out introduces an unsafe feature or characteristic to an aircraft or aeronautical product to which the activity relates; and
  - (c) each design activity that the organisation is approved to carry out is carried out in accordance with:
    - (i) this Part; and
    - (ii) the conditions of the organisation's approval.
- (3) The design assurance system must include procedures for:
  - (a) independent monitoring of:
    - (i) the adequacy of the design assurance system to enable the organisation to ensure the matters mentioned in subregulation (2); and
    - (ii) compliance by the organisation and its subcontractors (if any) with the requirements of the design assurance system; and
  - (b) providing feedback to the organisation's head of design.
- (4) The design assurance system must also include procedures for independent checking of each design activity the organisation carries out to ensure that:
  - (a) each aircraft or aeronautical product to which the design activity relates complies with the applicable airworthiness requirements (if any) for the aircraft or aeronautical product; and
  - (b) for an approval activity—carrying out the activity would not be likely to have an adverse effect on the safety of air navigation; and
  - (c) for an experimental certificate activity—carrying out the activity would not be likely to have an adverse effect on the safety of other airspace users or persons on the ground or water.
- (5) For subregulation (4), independent checking of a design activity must:
  - (a) involve a comprehensive and systematic examination of the activity to evaluate the adequacy and accuracy of its assumptions, methodology, calculations and conclusions; and
  - (b) be carried out by an individual who has the knowledge, experience and qualifications:

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- (i) required by the organisation's exposition for individuals carrying out the design activity; or
  - (ii) prescribed by the Part 21 Manual of Standards; and
  - (c) be thoroughly documented.
- (5A) The individual mentioned in paragraph (5)(b) must not be the individual who carried out the design activity for the organisation.
- (6) Subregulation (4) does not apply to an activity mentioned in paragraph (d) or (e) of the definition of *experimental certificate activity* in regulation 21.233.
- (7) Subregulation (4) does not apply in relation to a kind of design activity prescribed by the Part 21 Manual of Standards.

### **21.270 Requirements for design assurance system—holders of other authorisations under Part 21 and licensees**

- (1) If the organisation is also the holder of another authorisation (however described) under this Part, the design assurance system must include policies and procedures to enable the organisation to comply with its obligations under this Part as the holder of the other authorisation.

Examples: The following are some other authorisations under this Part:

- (a) a type certificate;
  - (b) a supplemental type certificate;
  - (c) a production certificate;
  - (d) an APMA;
  - (e) a modification/repair design approval;
  - (f) an approval mentioned in regulation 21.475;
  - (g) an ATSO authorisation.
- (2) If the organisation is also the licensee of a type certificate or supplemental type certificate, the design assurance system must include policies and procedures to enable the organisation to comply with its obligations under this Part as the licensee of the certificate.

### **21.271 Compliance with design assurance system manual**

- (1) An approved design organisation commits an offence if the organisation contravenes a provision of its design assurance system manual.

Penalty: 50 penalty units.

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

### **21.273 Audit of approved design organisation by CASA**

- (1) CASA may audit an approved design organisation to determine its compliance with the conditions of its approval.
- (2) For the audit, CASA may, by written notice given to the organisation, direct the organisation to give CASA, within a time stated in the notice:

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- (a) stated information and records demonstrating that the organisation has complied with the conditions of its approval; and
  - (b) any other information and records stated in the notice that are relevant to the audit.
- (3) For the audit, CASA may, by written notice given to the organisation, direct the organisation to give CASA, at stated periods, reports on the conduct of design activities by the organisation.
- (4) The organisation commits an offence if the organisation does not comply with a direction under subregulation (2) or (3).

Penalty: 50 penalty units.

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

**21.275 Inspections and observations**

- (1) To determine whether the organisation is complying with the conditions of its approval, CASA may, by written notice given to the organisation, direct an approved design organisation to allow CASA:
- (a) to inspect the following:
    - (i) facilities at which the organisation carries out design activities;
    - (ii) equipment and tools used by the organisation in carrying out design activities;
    - (iii) aircraft and aeronautical products in relation to which the organisation carries out design activities; or
  - (b) to observe the organisation carrying out a design activity.
- (2) The organisation commits an offence if the organisation does not comply with the direction.

Penalty: 50 penalty units.

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

**21.277 Record keeping and production of records to CASA**

- (1) An approved design organisation commits an offence if the organisation does not retain the documents and records mentioned in subregulation (2) until at least 12 months after the organisation's approval ceases to be in force.
- Penalty: 50 penalty units.
- (2) For subregulation (1), the documents and records are:
- (a) for each approval or certificate issued by the organisation—the technical data, documents and records relating to the issue of the approval or certificate; and

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- (b) for each occasion on which the organisation provided advice under regulation 21.007A—the technical data, documents and records relating to the provision of the advice; and
  - (c) a list identifying, by make, model and serial number, each aircraft or aeronautical product in relation to which the organisation has carried out a design activity; and
  - (d) for each aircraft or aeronautical product in relation to which the organisation has carried out a design activity—a description of the nature of the activity.
- (3) Despite regulations 11.132, 21.002C and 21.249, if an approval is suspended under these Regulations, then, for subregulation (1), the approval is taken to remain in force during the period of suspension.
- (4) CASA may, by written notice given to the organisation, direct an approved design organisation to make the documents and records, or copies or extracts of them, available for inspection by CASA at a time and place stated in the notice.
- (5) The organisation commits an offence if the organisation does not comply with the direction.
- Penalty: 50 penalty units.
- (6) An offence against this regulation is an offence of strict liability.

### **21.279 Directions to comply with specified procedures or instructions**

- (1) CASA may, by written notice given to the organisation, direct an approved design organisation to comply with a stated procedure or instruction in carrying out a stated design activity.
- (2) The organisation commits an offence if the organisation does not comply with the direction.
- Penalty: 50 penalty units.
- (3) An offence against this regulation is an offence of strict liability.

### **21.281 Investigation of potentially unsafe condition**

- (1) If CASA becomes aware of a potentially unsafe condition in an aircraft or aeronautical product in relation to which an approved design organisation issued an approval or certificate, CASA may, by written notice given to the organisation, direct the organisation to give CASA stated assistance in investigating the condition.
- (2) The organisation commits an offence if the organisation does not comply with the direction.
- Penalty: 50 penalty units.
- (3) An offence against this regulation is an offence of strict liability.
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**21.283 Requirement to provide employees and subcontractors with exposition and design assurance system manual**

- (1) An approved design organisation commits an offence if:
- (a) an employee or subcontractor of the organisation carries out a design activity on behalf of the organisation; and
  - (b) the organisation did not, before the employee or subcontractor began carrying out the design activity, make available to the employee or subcontractor the parts of:
    - (i) the organisation's exposition; and
    - (ii) the organisation's design assurance system manual;that relate to the carrying out of the design activity by the employee or subcontractor on behalf of the organisation.

Penalty: 50 penalty units.

- (2) An approved design organisation commits an offence if:
- (a) an employee or subcontractor of the organisation carries out a design activity on behalf of the organisation; and
  - (b) after the employee or subcontractor begins carrying out the design activity, the organisation updates, or makes a change to, a part of its exposition or design assurance system manual that relates to the carrying out of the design activity by the employee or subcontractor on behalf of the organisation; and
  - (c) the organisation does not, before the completion of the design activity, make the changed or updated part available to the employee or subcontractor.

Penalty: 50 penalty units.

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

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## **Subpart 21.K—Approval of materials, parts, processes and appliances**

### **21.301 Applicability**

This Subpart prescribes requirements for the approval of certain materials, parts, processes, and appliances.

*Source* FARs section 21.301 modified.

### **21.303 Replacement and modification parts**

- (1) A person commits an offence if:
- (a) the person produces a modification or replacement part for sale for installation on a type certificated aircraft, aircraft engine or propeller; and
  - (b) the part is not produced in accordance with an APMA.

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*.

- (2) This regulation does not apply to the following:
- (a) parts manufactured in the course of maintenance by a maintenance organisation having approval to manufacture the parts;
  - (b) parts produced under a type certificate or production certificate;
  - (c) parts manufactured by the owner or operator of an aircraft, aircraft engine or propeller manufactured by the owner or operator, for maintaining or altering the aircraft, aircraft engine or propeller;
  - (d) parts produced under an ATSO authorisation;
  - (e) standard parts.

- (2A) Any person is eligible to apply for an APMA.

- (3) An application for an APMA may be made to CASA and must include the following:
- (a) the identity of the aircraft, aircraft engine or propeller on which the part is to be installed;
  - (b) the name and address of the manufacturing facilities at which the part is to be manufactured;
  - (c) the design of the part, which consists of:
    - (i) drawings and specifications necessary to show the configuration of the part; and
    - (ii) information on dimensions, materials, and processes necessary to define the structural strength of the part;



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- (d) test reports and computations necessary to show that the design of the part meets the airworthiness requirements of these Regulations applicable to the aircraft, aircraft engine or propeller on which the part is to be installed, unless the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate. If the design of the part was obtained by a licensing agreement, evidence of that agreement must be furnished;
  - (e) subject to subregulation (3A), a copy of the system that the applicant proposes to use, if granted an APMA, to comply with the requirements of subregulation 21.303(11).
- (3A) An applicant is not required to include a copy of the system referred to in paragraph 21.303(3)(e) if the applicant has previously given CASA a copy of the same version of the system.
- (4) An applicant is entitled to an APMA for a replacement or modification part if CASA is satisfied that:
- (a) the design meets the airworthiness requirements of these Regulations that are applicable to the aircraft, aircraft engine or propeller on which the part is to be installed; and
  - (b) the applicant would, if the APMA were to be granted, be able to comply with the requirements of subregulation (11).
- (4A) For paragraph (4)(a), CASA may satisfy itself that the design meets the applicable airworthiness requirements on the basis of any of the following:
- (a) an examination of the design;
  - (b) the technical data for the design approved under regulation 21.009;
  - (c) a certificate from an approved design organisation under subregulation (4C).
- (4B) Subregulation (4C) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the design meets the airworthiness requirements of these Regulations that are applicable to the aircraft, aircraft engine or propeller on which the part is to be installed.
- (4C) If the approved design organisation is satisfied that the design meets the airworthiness requirements of these Regulations that are applicable to the aircraft, aircraft engine or propeller, the organisation may give CASA a certificate to that effect.
- (5) An applicant for an APMA must allow CASA or a relevant approved design organisation to make any inspection or test necessary to determine compliance with the applicable regulations.
- (6) CASA is not required to consider an application unless the applicant has complied with paragraphs (8)(b), (c) and (d).
- (7) The applicant must ensure that no change is made to a part between the time compliance with paragraphs (8)(b), (c) and (d) is shown for that part and the time
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the part is presented to CASA or a relevant approved design organisation for inspection or test.

- (8) An applicant for an APMA must make all inspections and tests necessary to determine the following:
- (a) compliance with the applicable airworthiness requirements;
  - (b) that materials conform to the specifications in the design;
  - (c) that the part conforms to the drawings in the design;
  - (d) that the fabrication processes, construction, and assembly conform to those specified in the design.
- (9) Subject to regulation 11.055, CASA must issue an APMA to an applicant for the APMA if the applicant:
- (a) is eligible, under this regulation, to apply for the APMA; and
  - (b) applies for the APMA in accordance with this Subpart; and
  - (c) is entitled, under this Subpart, to the APMA; and
  - (d) otherwise complies with this Part.
- (10) CASA is not required to issue an APMA if the manufacturing facilities for the part are located outside Australian territory, unless the location of the manufacturing facilities places no undue burden on CASA in administering the applicable airworthiness requirements.
- (11) The holder of an APMA must establish and maintain a fabrication inspection system that ensures that each completed part conforms to the technical data for its design and is safe for installation on applicable type certificated aircraft, aircraft engines or propellers. The system must be documented and include procedures to ensure that:
- (a) incoming materials used in the finished part are as specified in the technical data; and
  - (b) incoming materials are properly identified if their physical and chemical properties cannot otherwise be readily and accurately determined; and
  - (c) materials subject to damage and deterioration are suitably stored and adequately protected; and
  - (d) processes affecting the quality and safety of the finished aircraft, aircraft engine or propeller are accomplished in accordance with acceptable specifications; and
  - (e) parts in process are inspected for conformity with the technical data at points in production where their conformity can be accurately assessed; and
  - (ea) if, for paragraph (e), statistical quality control procedures are used in relation to a part—a satisfactory level of quality will be maintained for the part; and
  - (f) current design drawings are readily available to manufacturing and inspection personnel, and used when necessary; and
  - (g) major changes to the basic design are adequately controlled and approved before being incorporated in the finished part; and

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- (h) rejected materials and components are segregated and identified in such a manner as to preclude their use in the finished part; and
  - (i) inspection records are maintained, identified with the completed part, where practicable, and retained in the holder's file for a period of at least 2 years after the part has been completed.
- (12) An APMA continues in force until cancelled.
- (13) The holder of an APMA must notify CASA in writing within 10 days from the date the manufacturing facility at which the parts are manufactured is relocated or expanded to include additional facilities at other locations.
- (13A) The holder of an APMA must, within 2 days after the day when any change is made to the holder's fabrication inspection system that may affect the inspection, conformation to technical data or airworthiness of a part to which the APMA relates, tell CASA in writing of the change.
- (14) The holder of an APMA must determine whether each completed part conforms to the technical data for its design and is safe for installation on type certificated aircraft, aircraft engines or propellers.
- (15) CASA may suspend or cancel an APMA, by written notice given to its holder, if the holder does not comply, or ceases to comply, with this Subpart.
- (16) Despite subregulation (12), an APMA is not in force during any period of suspension.
- (17) A notice under subregulation (15) must set out:
  - (a) the grounds for the suspension or cancellation; and
  - (b) in the case of a suspension—when the suspension stops having effect.

*Source* FARs section 21.303 modified.

*Note:* See also regulations 21.002C and 21.002E in relation to suspension and cancellation of APMA's.

### **21.304A Changes to an APMA**

- (1) The holder of an APMA may apply in writing to CASA to approve a change to any of the particulars specified in the APMA, including a condition of the APMA.
- (2) CASA may, on receiving an application made under subregulation (1), approve the change.
- (3) In deciding whether to approve the change, CASA must take into account any relevant considerations relating to the interests of the safety of air navigation.

### **21.305 Approval of materials, parts, processes and appliances**

Whenever a material, part, process, or appliance is required to be approved under this Part, it may be approved:

- (a) under an APMA; or

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- (b) under an ATSO authorisation or letter of ATSO design approval; or
- (c) in conjunction with type certification procedures for an aircraft, aircraft engine or propeller; or
- (d) under Subpart 21.N; or
- (da) in a manner prescribed by the Part 21 Manual of Standards; or
- (e) in any other manner approved by CASA.

*Source* FARs section 21.305 modified.

### **21.305A Approval of materials, parts, processes and appliances not covered by regulation 21.305**

- (1) A person may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of any material, part, process or appliance that is not covered by regulation 21.305.
- (2) CASA, or the authorised person or relevant approved design organisation, must grant the approval if satisfied that:
  - (a) doing so would be unlikely to have an adverse effect on aviation safety; and
  - (b) the material, part, process or appliance meets the requirements prescribed by the Part 21 Manual of Standards.

### **21.306 Use of standard parts and materials**

#### *Standard parts*

- (1) A standard part may be used in the manufacture of an aircraft, aircraft engine, propeller or appliance, or another part, if:
    - (a) the standard part is required by:
      - (i) the type design for the aircraft, aircraft engine or propeller; or
      - (ii) the approved design for the appliance or other part; and
    - (b) the standard part was supplied with a document that:
      - (i) was issued under the law of a Contracting State; and
      - (ii) contains a statement that identifies the standard part and the specification with which the standard part complies; and
    - (c) the standard part has zero time in service.
- Note:* For the definition of **standard part**, see Part 1 of the Dictionary.
- (2) For the purposes of determining whether a standard part complies with the specification identified in the document mentioned in paragraph (1)(b) for the standard part, CASA may:
    - (a) direct the person who is using, or proposing to use, the standard part to give CASA:
      - (i) any technical data for the type design for the aircraft, aircraft engine or propeller that relates to the standard part; or

- (ii) any technical data for the approved design for the appliance or other part that relates to the standard part; or
- (b) inspect the standard part to determine whether it complies with the specification.

*Materials*

- (3) A material may be used in the manufacture of an aircraft, aircraft engine, propeller, part or appliance if:
  - (a) the material is required by:
    - (i) the type design for the aircraft, aircraft engine or propeller; or
    - (ii) the approved design for the part or appliance; and
  - (b) the material complies with an established industry or Australian specification; and
  - (c) the material was supplied with a document that:
    - (i) was issued under the law of a Contracting State; and
    - (ii) contains a statement that identifies the material and the specification with which the material complies.
- (4) For the purposes of determining whether a material complies with the established industry or Australian specification identified in the document mentioned in paragraph (3)(c) for the material, CASA may:
  - (a) direct the person who is using, or proposing to use, the material to give CASA:
    - (i) any technical data for the type design for the aircraft, aircraft engine or propeller that relates to the material; or
    - (ii) any technical data for the approved design for the part or appliance that relates to the material; or
  - (b) inspect the material to determine whether it complies with the specification.

*Directions*

- (5) A direction under paragraph (2)(a) or (4)(a) must:
  - (a) be in writing; and
  - (b) specify the time within which the direction must be complied with.
- (6) If CASA gives a direction to a person under paragraph (2)(a) or (4)(a), the person must comply with the direction within the time mentioned in the direction.

Penalty: 50 penalty units.

- (7) In this regulation:

***approved design***, for a part or appliance, has the meaning given by subregulation 42.015(1).

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

## **Subpart 21.L—Export airworthiness approvals**

### **21.321 Applicability**

- (1) This Subpart prescribes:
  - (a) requirements for the issue of export airworthiness approvals; and
  - (b) rules governing the holders of those approvals.
- (2) For these Regulations:
  - (a) a **Class I product** is a complete aircraft, aircraft engine, or propeller, that:
    - (i) has been type certificated in accordance with these Regulations and for which civil specifications or type certificate data sheets have been issued; or
    - (ii) is identical to a type certificated product specified in subparagraph (i) in all respects except as is otherwise acceptable to the national aviation authority of the importing state; and
  - (b) a **Class II product** is a major component of a Class I product (for example, wings, fuselages, empennage assemblies, landing gears, power transmissions and control surfaces), the failure of which would jeopardise the safety of a Class I product; or any part, material, or appliance, approved and manufactured under an ATSO in the “C” series; and
  - (c) a **Class III product** is any part or component which is not a Class I or Class II product and includes standard parts (for example, those designated as AN, NAS or SAE); and
  - (d) the word **overhauled** when used to describe a product means that the product has not been operated or placed in service, except for functional testing, since having been overhauled, inspected and approved for return to service in accordance with these Regulations.

*Source* FARs section 21.321, modified.

### **21.323 Eligibility**

Any person may obtain an export airworthiness approval for a Class I, Class II or Class III product.

*Source* FARs section 21.323, modified.

### **21.324 Issue of export airworthiness approvals**

Subject to regulation 11.055, CASA, or an authorised person, must issue an export airworthiness approval for a Class I, Class II or Class III product to an applicant for the approval if the applicant:

- (a) is eligible, under regulation 21.323, to obtain the approval; and
- (b) applies for the approval in accordance with this Subpart; and
- (c) is entitled, under this Subpart, to the approval; and
- (d) otherwise complies with this Part.

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## **21.325 Export airworthiness approvals**

### *Kinds of approvals*

- (1) Export airworthiness approval of Class I products is issued:
  - (a) for an aircraft—in the form of an export certificate of airworthiness; or
  - (b) for an aircraft engine or propeller—in the form of an authorised release certificate.
- (2) An export certificate of airworthiness does not authorise the operation of aircraft.
- (3) Export airworthiness approval of Class II and III products is issued in the form of an authorised release certificate.

### *Products which may be approved*

- (4) Export airworthiness approvals may be issued for the following:
  - (a) new aircraft that are assembled and that have been flight-tested, except that export airworthiness approval may be issued for any of the following without assembly or flight-test:
    - (i) a small aeroplane type certificated by reference to Part 23 and manufactured under a production certificate;
    - (ii) a glider or manned free balloon for which a type certificate of the kind mentioned in regulation 21.021 or 21.024 is issued under this Part and that is manufactured under a production certificate;
    - (iii) a normal category rotorcraft type certificated by reference to Part 27 and manufactured under a production certificate;
  - (b) used aircraft possessing a valid certificate of airworthiness, or other used Class I or Class II products that have been maintained in accordance with the applicable provisions of CAR or CASR.
- (4A) Authorised release certificates may be issued for any of the following that are manufactured and located in Australia:
  - (a) Class I products other than aircraft;
  - (b) Class II and III products.
- (5) Despite regulation 21.324, CASA is not required to issue an export airworthiness approval for used aircraft or used Class I products mentioned in paragraph (4)(b) that are located outside Australian territory, unless there is no undue burden on CASA in administering this regulation.

### *Export airworthiness approval exceptions*

- (6) If CASA or an authorised person issues an export airworthiness approval on the basis of a written statement by the importing state as provided for in paragraph 21.327(4)(d), CASA or the authorised person must list on the export airworthiness approval, as exceptions, the requirements that are not met and the differences in configuration, if any, between the product to be exported and the related type certificated product.

## Regulation 21.327

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Penalty: 50 penalty units.

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

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

**Source** FARs section 21.325, modified.

### 21.327 Application

- (1) A person may apply, in writing, to CASA or an authorised person for an export airworthiness approval for a Class I, Class II or Class III product.
- (2) A manufacturer holding a production certificate may apply orally to CASA or an authorised person for export airworthiness approval of a Class II product approved under the manufacturer's production certificate.
- (3) A separate application must be made for:
  - (a) each aircraft; and
  - (b) each engine or propeller, except that one application may be made for more than one engine or propeller, if all are of the same type and model and are to be exported to the same purchaser and country; and
  - (c) each type of Class II product, except that one application may be made for more than one type of Class II product when:
    - (i) they are separated in the application and the type and model of the related Class I product is identified; and
    - (ii) they are to be exported to the same purchaser and country.
- (4) Each application must be accompanied by a written statement from the importing country that will validate the export airworthiness approval if the product being exported is:
  - (a) an aircraft manufactured outside Australian territory; or
  - (b) an unassembled aircraft which has not been flight-tested; or
  - (c) a product that does not meet the special requirement of the importing country; or
  - (d) a product that does not meet a requirement specified in regulation 21.329, 21.331, or 21.333, as applicable, for the issue of an export airworthiness approval; or
  - (e) a product for which the importing country does not require the weight and balance report mentioned in paragraph (6)(b).
- (5) The written statement must list any requirements mentioned in paragraph (4)(d) that are not met.
- (6) Each application for export airworthiness approval of a Class I product must include the following, as applicable:
  - (a) a statement of conformity mentioned in subregulation 21.130(2) for each new product that has not been manufactured under a production certificate;
  - (b) unless the importing country does not require it, a weight and balance report in accordance with subregulations (7), (8), (9) and (10), as



- applicable, with a loading schedule when applicable, for each aircraft in accordance with section 100.7 of the Civil Aviation Orders;
- (c) a maintenance manual for each new product when such a manual is required under these Regulations;
  - (d) evidence of compliance with the applicable airworthiness directives, or a suitable notation if any airworthiness directives are not complied with;
  - (e) when temporary installations are incorporated in an aircraft for the purpose of export delivery—a general description of the installations together with a statement that the installation will be removed and the aircraft restored to the approved configuration upon completion of the delivery flight;
  - (f) historical records such as aircraft and engine log books, repair and alteration forms, for used aircraft and overhauled products;
  - (g) for products intended for overseas shipment—a description of the methods used, if any, for the preservation and packaging of such products to protect them against corrosion and damage while in transit or storage. The description must also indicate the duration of the effectiveness of such methods;
  - (h) the aircraft's flight manual required by the applicable airworthiness regulations for the particular aircraft;
  - (i) a statement as to the date when title passed or is expected to pass to a foreign purchaser;
  - (j) the data required by the special requirements of the importing country.

*Weight and balance reports*

- (7) A weight and balance report for transport aircraft and commuter category aeroplanes must be based on an actual weighing of the aircraft within the period of 12 months preceding the application for the export airworthiness approval for the aircraft, but after any major repairs or alteration to the aircraft.
- (8) Any changes in equipment that are made after the actual weighing of the aircraft (except changes classes as major changes) may be accounted for on a "computed" basis and the report revised accordingly.
- (9) Manufacturers of new non-transport category aeroplanes, normal category rotorcraft or gliders may include computed weight and balance data in the report, instead of the results of an actual weighing of the aircraft, if fleet weight control procedures approved by CASA have been established for the aircraft. In this case, the following statement must be included in each report: "The weight and balance data shown in this report are computed on the basis of CASA's approved procedures for establishing fleet weight averages."
- (10) A weight and balance report must include an equipment list showing weights and moment arms of all required and optional items of equipment that are included in the certificated empty weight.

*Source* FARs section 21.327, modified.

## Regulation 21.329

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### **21.329 Issue of export airworthiness approvals for Class I products**

- (1) An applicant is entitled to an export airworthiness approval for a Class I product if the applicant shows, at the time the application is made, that the product meets the requirements of subregulations (2) to (6) (inclusive), as applicable, except as provided in subregulation (7).
- (2) New and used aircraft must meet:
  - (a) the airworthiness requirements for a standard certificate of airworthiness under regulation 21.183; or
  - (b) the airworthiness certification requirements for a special certificate of airworthiness for an aircraft in the primary, intermediate or restricted category under regulation 21.184, 21.184A or 21.185 respectively.
- (3) For a used aircraft to which Part 42 applies, an airworthiness review certificate must be in force for the aircraft.
- (3A) For a used aircraft to which Part 42 does not apply, and that is of a particular type and model, the aircraft must have undergone a maintenance release inspection (within the meaning given by subregulation 47(6) of CAR):
  - (a) within 30 days before the date the application is made for an export airworthiness approval for the aircraft; and
  - (b) that was conducted by:
    - (i) a person who holds a certificate of approval that covers maintenance for that type and model of aircraft; or
    - (ii) an approved maintenance organisation, within the meaning given by Part 3 of the Dictionary.
- (4) New engines and propellers must conform to the type design and must be in a condition for safe operation.
- (5) Used engines and propellers which are not being exported as part of a certificated aircraft must have been overhauled.
- (6) CASA or an authorised person must be satisfied that the special requirements of the importing country have been met.
- (7) A product need not meet a requirement mentioned in subregulation (2), (3), (4), (5) or (6) if the product is acceptable to the importing country and the importing country indicates that acceptability in accordance with paragraph 21.327(4)(d) and subregulation 21.327(5).

*Source* FARs sections 21.329 and 337, modified.

### **21.331 Issue of airworthiness approvals for Class II products**

- (1) An applicant is entitled to an export airworthiness approval for a Class II product if that applicant shows, and CASA or an authorised person is satisfied, that the product:
  - (a) is new or has been overhauled and conforms to the technical data for the design of the product; and

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Regulation 21.333

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- (b) is in a condition for safe operation; and
  - (c) is identified with at least the manufacturer's name, part number, model designation (if applicable), and serial number or equivalent; and
  - (d) meets any special requirements of the importing country.
- (2) However, a product need not meet a requirement mentioned in subregulation (1) if the product is acceptable to the importing country and the importing country indicates that acceptability in accordance with paragraph 21.327(4)(d) and subregulation 21.327(5).

*Source* FARs section 21.331 modified.

### **21.333 Issue of export airworthiness approvals for Class III products**

- (1) An applicant is entitled to an export airworthiness approval for a Class III product if the applicant shows, and CASA or an authorised person is satisfied, that the product:
- (a) conforms to the technical data for the design of the Class I or Class II product of which it is a part; and
  - (b) is in a condition for safe operation; and
  - (c) meets any special requirements of the importing country.
- (2) However, a product need not meet a requirement mentioned in subregulation (1) if it is acceptable to the importing country and the importing country indicates that acceptability in accordance with paragraph 21.327(4)(d) and subregulation 21.327(5).

*Source* FARs section 21.333 modified.

### **21.339 Export airworthiness approval for aircraft**

An applicant is entitled to an export certificate of airworthiness authorising the export of an aircraft to 2 or more foreign countries if:

- (a) the applicant gives CASA a statement to the effect that the aircraft is to be flown to each of these countries for the purpose of sale; and
- (b) a standard certificate of airworthiness or a special certificate of airworthiness is in force for the aircraft; and
- (c) the aircraft is inspected by CASA before leaving Australian territory and is found to comply with all the applicable requirements; and
- (d) a list of the foreign countries in which it is intended to conduct sales demonstrations, together with the expected dates and duration of such demonstration, is included in the application under regulation 21.327; and
- (e) for each country listed, the applicant:
  - (i) has met that country's special requirements, except those requiring documents, information, and materials to be furnished; and
  - (ii) has the documents, information, and materials necessary to meet the special requirements of that country; and
- (f) all other requirements for the issue of an export certificate of airworthiness for a Class I product are met.

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*Source* FARs section 21.33 modified.

## **Subpart 21.M—Designs of modifications of, and repairs to, aircraft, aircraft engines, propellers and appliances**

### **Division 21.M.1—Preliminary**

#### **21.400 Purpose of Subpart**

This Subpart:

- (a) sets out the requirements for the issue of modification/repair design approvals; and
- (b) sets out the rules governing the holders of such approvals; and
- (c) sets out circumstances in which certain designs are taken to be approved; and
- (d) provides for approvals of certain designs to be granted in accordance with the Part 21 Manual of Standards.

#### **21.402 Definition of *proposed airworthiness standards* for Subpart 21.M**

In this Subpart:

***proposed airworthiness standards***, for a design for which a person has applied for a modification/repair design approval, means the airworthiness standards that are stated in the application to be the proposed airworthiness standards for the design.

#### **21.403 Definition of *applicable airworthiness standards* for Subpart 21.M**

- (1) In this Subpart:

***applicable airworthiness standards***, for the design of a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance, has the meaning given in this regulation.

- (2) If, under regulation 21.414, CASA, an authorised person or a relevant approved design organisation makes a determination for the design, the ***applicable airworthiness standards*** for the design are the proposed airworthiness standards for the design and the additional standards mentioned in the determination.
- (3) If, under regulation 21.416, CASA makes a determination for the design, the ***applicable airworthiness standards*** for the design are the proposed airworthiness standards for the design other than the standards determined not to apply to the design.
- (4) If, under regulation 21.418, an authorised person or approved design organisation makes, and CASA agrees with, a determination for the design, the ***applicable airworthiness standards*** for the design are the proposed airworthiness standards for the design other than the standards determined not to apply to the design.

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- (5) In any other case, the *applicable airworthiness standards* for the design are the proposed airworthiness standards for the design.

## **Division 21.M.2—Modification/repair design approvals**

### **21.405 Applications for modification/repair design approvals**

- (1) A person may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for a modification/repair design approval for the design of a modification of, or a repair to:
    - (a) an aircraft, aircraft engine, propeller or appliance; or
    - (b) 2 or more aircraft, aircraft engines, propellers or appliances of the same type.
  - (2) An application must include the following information:
    - (a) the applicant's name and contact details;
    - (b) the make, model and serial number of each aircraft, aircraft engine, propeller or appliance to which the design of the modification or repair relates;
    - (c) if the design relates to a modification of, or repair to, one or more aircraft, the registration mark of each aircraft;
    - (d) a description of the modification or repair;
    - (e) the proposed airworthiness standards for the design;
    - (f) an outline of the means for demonstrating compliance with the proposed airworthiness standards.
- Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.
- Note 2: Part 11 deals with applications and decision making.
- (3) For an application relating to the design of a modification of, or repair to, an aircraft, aircraft engine or propeller for which there is a type certificate, type acceptance certificate or foreign type certificate, the proposed airworthiness standards for the design must be:
    - (a) both:
      - (i) the airworthiness standards that applied to the issue of the certificate, or a specified later version of those standards; and
      - (ii) any other standards the applicant considers to be directly related to those standards; or
    - (b) the standards prescribed by the Part 21 Manual of Standards.
  - (4) For an application relating to the design of a modification of, or repair to, an aircraft, aircraft engine or propeller not mentioned in subregulation (3), or an appliance, the proposed airworthiness standards for the design must be:
    - (a) both:
      - (i) the airworthiness standards that applied to the original certification (however described) of the aircraft, aircraft engine, propeller or appliance, or a specified later version of those standards; and

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- (ii) any other standards the applicant considers to be directly related to those standards; or
- (b) the standards prescribed by the Part 21 Manual of Standards.

### **21.410 Refusal to grant approval if design constitutes major change in type design**

CASA or the authorised person or approved design organisation may refuse to grant a modification/repair design approval for the design without further consideration if CASA or the authorised person or approved design organisation is satisfied that the design would constitute a major change in a type design.

**Note:** A person may apply to CASA for a supplemental type certificate for the approval of the design of a major change to a type certificated aircraft, aircraft engine or propeller—see Subpart 21.E.

### **21.414 Determination of additional airworthiness standards—special conditions**

- (1) This regulation applies if CASA or the authorised person or approved design organisation is not satisfied that the proposed airworthiness standards for the design provide an adequate safety standard for the design in a particular respect.

**Example:** The modification or repair has a novel or unusual design feature.

- (2) CASA or the authorised person or approved design organisation may determine additional airworthiness standards for the design.

**Note:** An additional airworthiness standard imposed in respect of a design is often called a 'special condition'.

- (3) The additional airworthiness standards must be appropriate to provide a level of safety for the aircraft, aircraft engine, propeller or appliance equivalent to the level of safety required by these Regulations for a comparable aircraft, aircraft engine, propeller or appliance.
- (4) CASA or the authorised person or approved design organisation must notify the applicant, in writing, of the determination.

### **21.416 Determination of non-application of airworthiness standards—application to CASA**

- (1) This regulation applies to the design if:
  - (a) the application is made to CASA; and
  - (b) the design is for a modification of, or repair to:
    - (i) an aircraft that is type certificated in the restricted category; or
    - (ii) an aircraft mentioned in subregulation 21.185(3A); and
  - (c) CASA is satisfied that a proposed airworthiness standard for the design is inappropriate for the purpose for which the aircraft is to be used.
- (2) CASA may determine that the airworthiness standard does not apply to the design.



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- (3) CASA must give the applicant written notice of the determination.

**21.418 Determination of non-application of airworthiness standards—  
application to authorised person or approved design organisation**

- (1) This regulation applies to the design if:
- (a) the application is made to an authorised person or approved design organisation; and
  - (b) the design is for a modification of or repair to:
    - (i) an aircraft that is type certificated in the restricted category; or
    - (ii) an aircraft mentioned in subregulation 21.185(3A); and
  - (c) the authorised person or approved design organisation is satisfied that a proposed airworthiness standard for the design is inappropriate for the purpose for which the aircraft is to be used.
- (2) The authorised person or approved design organisation may determine that the airworthiness standard does not apply to the design.
- (3) The authorised person or approved design organisation must give CASA written notice of the determination.
- (4) CASA must:
- (a) decide whether or not CASA agrees with the determination; and
  - (b) give the authorised person or approved design organisation written notice of its decision.
- (5) If CASA agrees with the determination, the authorised person or approved design organisation must give the applicant written notice of the determination and of CASA's agreement with the determination.

**21.420 Applicants must show compliance with applicable airworthiness standards, submit technical data and provide documents**

- (1) The applicant must:
- (a) show CASA or the authorised person or approved design organisation that the design complies with the applicable airworthiness standards for the design; and
  - (b) give all of the technical data for the design to CASA or the authorised person or approved design organisation for approval under regulation 21.009; and
  - (c) give CASA or the authorised person or approved design organisation a copy of any instructions for continued airworthiness in respect of the design that are necessary to ensure that the modified aircraft, aircraft engine, propeller or appliance remains safe throughout its lifetime.
- (2) If the design is for a modification of, or repair to, an aircraft and relates to a matter that is dealt with in the flight manual for the aircraft, the applicant must also give CASA or the authorised person or approved design organisation a copy

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of the operating instructions and limitations in respect of the design, in the form of:

- (a) an amendment to the flight manual; or
  - (b) a flight manual supplement.
- (3) For paragraph (1)(a), an applicant is taken to have shown CASA that a design complies with the applicable airworthiness requirements for the design if an approved design organisation gives CASA a certificate under subregulation (5).
- (4) Subregulation (5) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the design complies with the applicable airworthiness requirements.
- (5) If the approved design organisation is satisfied that the design complies with the applicable airworthiness requirements, the organisation may give CASA a certificate to that effect.

**21.425 Applicants to carry out necessary inspections and tests**

- (1) For paragraph 21.420(1)(a), the applicant must carry out all inspections and tests necessary to show that the design complies with the applicable airworthiness standards for the design.
- (2) Before testing a prototype of a modification or repair, the applicant must:
- (a) establish the following for the prototype:
    - (i) that the materials and processes used to produce the prototype conform to the specifications for the design;
    - (ii) that all aeronautical products used in the prototype conform to the drawings in the design;
    - (iii) that the manufacturing processes, construction and assembly of the prototype conform to the manufacturing processes, construction and assembly specified in the design; and
  - (b) ensure that the accuracy of the equipment to be used for the test has been verified by a means that is traceable to:
    - (i) a standard recommended by the manufacturer of the equipment; or
    - (ii) a nationally or internationally recognised standard.

Example: For subparagraph (b)(ii), of a standard that is nationally recognised

A standard maintained by the National Measurement Institute—see <http://www.measurement.gov.au>.

**21.430 CASA, authorised person or approved design organisation may carry out or observe certain tests**

- (1) For the purposes of considering an application, CASA or the authorised person or approved design organisation may, by written notice given to the applicant, require the applicant to allow CASA or the authorised person or approved design organisation to:
- (a) carry out an inspection or test specified in the notice; or

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- (b) observe a test specified in the notice that the applicant carries out under regulation 21.425.
- (2) The applicant must:
- (a) allow CASA or the authorised person or approved design organisation to:
    - (i) carry out an inspection or test specified in a notice under paragraph (1)(a); or
    - (ii) observe a test specified in a notice under paragraph (1)(b); and
  - (b) give CASA or the authorised person or approved design organisation written notice of when and where a test specified in a notice under paragraph (1)(b) will be carried out:
    - (i) at least 10 business days before the test; or
    - (ii) as agreed between the applicant and CASA or the authorised person or approved design organisation.
- (3) Before giving a notice under subregulation (2), the applicant must establish the matters required by subregulation 21.425(2).
- (4) The applicant must ensure that no change that would affect the validity of the test is made to the prototype of the modification or repair after the notice under subregulation (2) is given and before:
- (a) the test is carried out; or
  - (b) the aircraft, aircraft engine, propeller or appliance is tested or presented to CASA or the authorised person or approved design organisation for testing.

**21.435 Grant of modification/repair design approvals—grant by CASA**

- (1) This regulation applies if an application for a modification/repair design approval is made to CASA.
- (2) Subject to regulation 11.055, CASA must grant the approval if CASA is satisfied that:
- (a) the requirements mentioned in subregulation (4) are met; and
  - (b) the design complies with the applicable airworthiness standards for the design.
- (2A) For paragraph (2)(b), CASA is taken to be satisfied that a design complies with the applicable airworthiness requirements for the design if an approved design organisation has given CASA a certificate to that effect under subregulation 21.420(5).
- (3) Subject to regulation 11.055, CASA must grant the approval if CASA is satisfied that:
- (a) the requirements mentioned in subregulation (4) are met; and
  - (b) the design does not comply with the applicable airworthiness standards for the design; but
  - (c) for each standard with which the design does not comply—the failure to comply with the standard is compensated for by factors that provide a level of safety that is equivalent to the level of safety provided by the standard.
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- (4) For paragraphs (2)(a) and (3)(a), the requirements are that:
- (a) the applicant has complied with regulations 21.420 and 21.425; and
  - (b) if CASA has given notice to the applicant under subregulation 21.430(1)—the applicant has complied with subregulations 21.430(2), (3) and (4); and
  - (c) the technical data submitted under regulation 21.420 for the design has been approved under regulation 21.009; and
  - (d) no feature or characteristic of the design makes the relevant aircraft, aircraft engine, propeller or appliance unsafe for its intended use.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

### **21.436 Application to authorised person or approved design organisation—non-compliance with applicable airworthiness standards: determination of equivalent level of safety**

- (1) This regulation applies if:
- (a) an application for a modification/repair design approval is made to an authorised person or approved design organisation; and
  - (b) the authorised person or approved design organisation is not satisfied that the design complies with the applicable airworthiness standards.
- (2) If the authorised person or approved design organisation is approved to make an equivalent level of safety determination, the authorised person or approved design organisation must:
- (a) determine whether the non-compliance is compensated for by factors that provide an equivalent level of safety; or
  - (b) apply to CASA for a determination under subregulation (6) of whether the non-compliance is compensated for by factors that provide an equivalent level of safety.
- (3) If the authorised person or approved design organisation determines that the non-compliance is compensated for by factors that provide an equivalent level of safety, the authorised person or approved design organisation must give CASA written notice of the following:
- (a) that the design does not comply with the standard;
  - (b) that the non-compliance is compensated for by factors that provide an equivalent level of safety;
  - (c) how the non-compliance is compensated for.
- (4) If CASA receives a notice under subregulation (3), CASA must:
- (a) decide whether or not CASA agrees with the determination; and
  - (b) give the authorised person or approved design organisation written notice of its decision.
- (5) If the authorised person or approved design organisation is not approved to make an equivalent level of safety determination, the authorised person or approved
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design organisation must apply to CASA for a determination of whether the non-compliance is compensated for by factors that provide an equivalent level of safety.

- (6) If CASA receives an application under paragraph (2)(b) or subregulation (5), CASA must:
- (a) determine whether the non-compliance is compensated for by factors that provide an equivalent level of safety; and
  - (b) give the authorised person or approved design organisation written notice of CASA's determination.

**21.437 Grant of modification/repair design approvals—grant by authorised person or approved design organisation**

- (1) This regulation applies if an application for a modification/repair design approval is made to an authorised person or approved design organisation.
- (2) Subject to regulation 11.055, the authorised person or approved design organisation must grant the approval if the authorised person or approved design organisation is satisfied that:
- (a) the requirements mentioned in subregulation (4) are met; and
  - (b) the design complies with the applicable airworthiness standards for the design.
- (3) Subject to regulation 11.055, the authorised person or approved design organisation must grant the approval if:
- (a) the authorised person or approved design organisation is satisfied that the requirements mentioned in subregulation (4) are met; and
  - (b) the authorised person or approved design organisation is not satisfied that the design complies with the applicable airworthiness standards for the design; but
  - (c) for each standard with which the authorised person or approved design organisation is not satisfied that the design complies:
    - (i) the authorised person or approved design organisation has made, and CASA has agreed with, a determination under paragraph 21.436(2)(a) that the non-compliance is compensated for by factors that provide an equivalent level of safety; or
    - (ii) CASA has made a determination under subregulation 21.436(6) that the non-compliance is compensated for by factors that provide an equivalent level of safety.
- (4) For paragraphs (2)(a) and (3)(a), the requirements are that:
- (a) the applicant has complied with regulations 21.420 and 21.425; and
  - (b) if the authorised person or approved design organisation has given notice to the applicant under subregulation 21.430(1)—the applicant has complied with subregulations 21.430(2), (3) and (4); and
  - (c) the technical data submitted under regulation 21.420 for the design has been approved under regulation 21.009; and

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- (d) no feature or characteristic of the design makes the relevant aircraft, aircraft engine, propeller or appliance unsafe for its intended use.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or  
(b) a decision imposing a condition on an approval.

**21.440 Form of modification/repair design approvals**

If CASA or an authorised person or approved design organisation grants a modification/repair design approval, the document issued to the applicant under regulation 11.060 must:

- (a) set out:
- (i) what the approval is; and
  - (ii) the name of the person to whom it is granted; and
- (b) describe or otherwise identify the modification or repair; and
- (c) specify, by reference to manufacturer, model and serial number, each aircraft, aircraft engine, propeller or appliance to which the design of the modification or repair relates.

**21.445 Variation of modification/repair design approvals**

- (1) Regulations 21.405 to 21.440 apply to an application for a variation of a modification/repair design approval as if:
- (a) each reference in those regulations to an approval were a reference to a variation of an approval; and
  - (b) each reference in those regulations to a design were a reference to a variation of a design.
- (2) However, the applicant is not required to give CASA or an authorised person or approved design organisation the technical data for the design or any other information that CASA or the authorised person or approved design organisation already holds unless the data or information already given:
- (a) is no longer correct; or
  - (b) no longer describes the design.

**Division 21.M.3—Transfer of, and obligations for holders of,  
modification/repair design approvals and approvals granted  
in accordance with alternative method**

Note: For the definition of *holder*, see the Dictionary.

**21.448 Approvals to which this Division applies**

This Division applies to:

- (a) modification/repair design approvals; and
- (b) approvals mentioned in regulation 21.475.

**21.450 Transfer of modification/repair design approvals and approvals granted  
in accordance with alternative method**

- (1) The holder of an approval may transfer the approval to another person.
- (2) However, an approval may be transferred only with the written agreement of the transferee.
- (3) If an approval is transferred, the transferor must:
  - (a) write the transferee's name on the document mentioned in regulation 21.440 (the *approval document*); and
  - (b) give the transferee:
    - (i) the approval document; and
    - (ii) a copy of each document or record that the holder of the approval is required to keep under regulation 21.455.

Penalty: 50 penalty units.

- (4) If an approval is transferred, the transferor must, within 1 month after the transfer, notify CASA, in accordance with subregulation (5), of the transfer.

Penalty: 50 penalty units.

- (5) A notice under subregulation (4) must:
  - (a) be in writing; and
  - (b) identify the approval being transferred; and
  - (c) state the name and address of the transferee; and
  - (d) state the date of the transfer.
- (6) An offence against subregulation (3) or (4) is an offence of strict liability.

**Part 21** Certification and airworthiness requirements for aircraft and parts

**Subpart 21.M** Designs of modifications of, and repairs to, aircraft, aircraft engines, propellers and appliances

**Division 21.M.3** Transfer of, and obligations for holders of, modification/repair design approvals and approvals granted in accordance with alternative method

Regulation 21.455

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**21.455 Record keeping and making records available to CASA**

- (1) The holder of an approval must keep documents and records about the design covered by the approval, including all technical data and test and inspection records, until:
  - (a) the end of 12 months after the approval ceases to be in force, otherwise than by being suspended under these Regulations; or
  - (b) the holder transfers the approval to another person;whichever occurs first.

Penalty: 50 penalty units.

- (2) CASA may, by notice in writing, require the holder to make a document or record, or a copy or extract of a document or record, available for inspection by CASA within a time specified in the notice.

- (3) The holder must comply with the notice.

Penalty: 50 penalty units.

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

**21.460 Instructions for continued airworthiness and flight manual supplement to be made available**

- (1) Subregulation (2) applies if the holder of an approval was required under paragraph 21.420(1)(c), or under the method in accordance with which it was granted, to provide instructions for continued airworthiness in respect of a design.
- (2) The holder must ensure that a copy of the current version of the instructions is available (electronically or otherwise) to any person who is required to comply with them.

Penalty: 50 penalty units.

- (3) Subregulation (4) applies if the holder of an approval to which this Division applies was required under subregulation 21.420(2), or under the method in accordance with which it was granted, to provide:
  - (a) an amendment to the flight manual for an aircraft; or
  - (b) a flight manual supplement for an aircraft.
- (4) The holder must ensure that a copy of the current version of the amendment or supplement is available (electronically or otherwise) to:
  - (a) for a registered aircraft—the registered operator of the aircraft; or
  - (b) for a Part 103 aircraft that is listed with a Part 103 ASAO—the owner of the aircraft.
- (5) An offence against subregulation (2) or (4) is an offence of strict liability.



## **Division 21.M.4—Other means of approval**

### **21.465 Modifications and repairs directed by CASA**

A design for a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance is taken to have been approved for the purpose of these Regulations if the design is contained in:

- (a) a direction issued in writing by CASA; or
- (b) an airworthiness directive.

### **21.470 Foreign modification/repair designs**

A design for a modification of, or repair to, an aircraft, aircraft engine, propeller or appliance is taken to have been approved for the purpose of these Regulations if the design is:

- (a) approved by the national aviation authority of a recognised country; or
- (b) for a design of a modification or repair that relates to an aircraft, aircraft engine or propeller designed in a recognised country—published or issued by the foreign type certificate holder of the aircraft, aircraft engine or propeller under a system approved by the national aviation authority of that country; or
- (c) for a design of a modification or repair that relates to an appliance designed in a recognised country—published or issued by the manufacturer of the appliance under a system approved by the national aviation authority of that country; or
- (d) accepted by CASA under an agreement (however described) regarding approvals of designs for modifications and repairs between:
  - (i) CASA and the national aviation authority of a Contracting State; or
  - (ii) Australia and a Contracting State.

### **21.475 Part 21 Manual of Standards may prescribe alternative method of approval of modification and repair designs**

An approval of a design for the modification of, or a repair to, an aircraft, aircraft engine, propeller or appliance may be granted in accordance with a method prescribed by the Part 21 Manual of Standards.

Regulation 21.500

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## **Subpart 21.N—Approval of engines, propellers, materials, parts and appliances: imported**

### **21.500 Approval of imported aircraft engines and propellers**

- (1) Each holder or licensee of an Australian type certificate for an aircraft engine or propeller manufactured in a recognised country, or in a foreign country with which Australia has an agreement for the acceptance of those products for export and import, must furnish with each such aircraft engine or propeller imported into Australian territory by the holder or licensee, an export airworthiness approval (however described) issued by the country of manufacture certifying that the individual aircraft engine or propeller:
  - (a) conforms to its type certificate; and
  - (b) is in a condition for safe operation; and
  - (c) has been subjected by the manufacturer to a final operational check.
- (2) If these Regulations require an imported aircraft engine or propeller to be type certificated, it is taken to be type certificated under these Regulations if:
  - (a) the aircraft engine or propeller:
    - (i) is manufactured:
      - (A) in a recognised country; or
      - (B) under a manufacturing approval (however described) issued by the national aviation authority of a recognised country; or
      - (C) in a foreign country with which Australia has an agreement for the acceptance of the aircraft engine or propeller for export and import; or
    - (ii) forms part of a type design for which a type certificate or a type acceptance certificate is in force under these Regulations, or a certificate of type approval is in force under CAR; and
  - (b) the aircraft engine or propeller conforms to a valid type certificate, is in a condition for safe operation and has been subjected to a final operational check by the manufacturer; and
  - (c) an airworthiness approval (however described), issued under the law of the foreign country, is in force certifying the matters mentioned in paragraphs (a) and (b).
- (3) CASA may inspect an aircraft engine or propeller to which this regulation applies to determine whether it complies with this regulation.

*Source* FARs section 21.500 modified.

### **21.500A Approval of other imported aircraft engines and propellers**

- (1) A person may apply to CASA or a relevant approved design organisation, in writing, for approval of an imported aircraft engine, or propeller, that is not covered by regulation 21.500.

- (2) An applicant must, on request by CASA or the approved design organisation, give CASA or the approved design organisation any technical data for the design of the aircraft engine or propeller.
- (3) Subject to regulation 11.055, CASA or the approved design organisation must grant the approval.

### **21.502 Approval of imported materials, parts and appliances**

- (1) If these Regulations, or the Civil Aviation Orders, require an imported material, part or appliance to be approved, it is taken to be approved if:
  - (a) the material, part or appliance:
    - (i) is manufactured:
      - (A) in a recognised country; or
      - (B) under a manufacturing approval (however described) issued by the national aviation authority of a recognised country; or
      - (C) in a foreign country with which Australia has an agreement for the acceptance of the material, part or appliance for export and import; or
    - (ii) forms part of a type design for which a type certificate or a type acceptance certificate is in force under these Regulations, or a certificate of type approval is in force under CAR; and
  - (b) the material, part or appliance conforms to an aeronautical specification appropriate to the proposed use, meets the requirements prescribed by the Part 21 Manual of Standards and is in a condition for safe operation; and
  - (c) an airworthiness approval (however described), issued under the law of the foreign country, is in force certifying the matters mentioned in paragraphs (a) and (b).
- (2) CASA may inspect any material part or appliance to determine whether it complies with this regulation.

*Source* FARs section 21.502 modified.

### **21.502A Approval of other imported materials, parts and appliances**

- (1) A person may apply to CASA, an authorised person or a relevant approved design organisation, in writing, for approval of an imported material, part or appliance that is not covered by regulation 21.502.
- (2) An applicant must, on request by CASA or the authorised person or approved design organisation, give CASA or the authorised person or approved design organisation any technical data for the design of the material, part or appliance.
- (3) Subject to regulation 11.055, CASA or the authorised person or approved design organisation must grant the approval if satisfied that the material, part or appliance meets the requirements prescribed by the Part 21 Manual of Standards.

Regulation 21.601

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## Subpart 21.O—Australian Technical Standard Order Authorisations

### 21.601 Applicability

- (1) This Subpart prescribes:
  - (a) requirements for the issue of Australian Technical Standard Order (ATSO) authorisations; and
  - (b) rules governing the holders of ATSO authorisations; and
  - (c) requirements for the issue of a letter of ATSO design approval.
- (2) For the purpose of these Regulations:
  - (a) an **ATSO** (short for Australian Technical Standard Order) is a minimum performance standard prescribed by the Part 21 Manual of Standards for specified articles used on civil aircraft; and
  - (aa) an **ETSO** is a European Technical Standard Order issued by EASA; and
  - (ab) a **TSO** is a Technical Standard Order issued by the FAA; and
  - (b) an **ATSO authorisation** is:
    - (i) a CASA design and production approval issued to the manufacturer of an article that has been found to meet a specific ATSO, ETSO or TSO; or
    - (ii) a CASA production approval issued to the manufacturer of an article manufactured in accordance with an FAA letter of TSO design approval; and
  - (c) a **letter of ATSO design approval** is a CASA design approval for a foreign-manufactured article which has been found to meet a specific ATSO in accordance with the procedures of regulation 21.617; and
  - (ca) an **FAA letter of TSO design approval** is an FAA design approval for an article manufactured outside the United States that has been found to meet a specific TSO in accordance with the procedures of FARs section 21.617; and
  - (d) an article manufactured under an ATSO authorisation or an appliance manufactured under a letter of ATSO design approval described in regulation 21.617 is an approved article or appliance for the purpose of meeting the provisions of these Regulations that require the article to be approved; and
  - (e) an **article manufacturer** is the person who controls the design and quality of the article produced (or to be produced, in the case of an application), including the parts of them and any processes or services related to them that are procured from an outside source.
- (3) For the purpose of this Subpart, **articles** means materials, parts, processes, or appliances.

- (4) Despite subregulation 21.605(4), CASA is not required to issue an ATSO authorisation for an article if the manufacturing facilities for the article are located outside Australian territory, unless the location of the manufacturer's facilities places no undue burden on CASA in administering the applicable airworthiness requirements.

*Source* FARs section 21.601 modified.

### **21.603 ATSO marking and privileges**

- (1) Except as provided in subregulation 21.617(3), a person may identify an article with an ATSO marking only if:
- (a) the person holds an ATSO authorisation; and
  - (b) the article meets applicable ATSO, ETSO or TSO performance standards.

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*.

*Source* FARs section 21.603 modified.

### **21.605 Application and issue**

- (1) An article manufacturer may apply to CASA for an ATSO authorisation for the article.
- (2) An application must be accompanied by the following documents:
- (a) a statement of conformance certifying that the applicant has met the requirements of this Subpart and that the article concerned meets the applicable ATSO, ETSO or TSO that is effective on the date of application for that article;
  - (b) one copy of the technical data required in the applicable ATSO, ETSO or TSO;
  - (c) a description of the applicant's quality system in the detail specified in regulations 21.143 and 21.144. In complying with this regulation, the applicant may refer to current quality system data filed with CASA as part of a previous ATSO authorisation application.
- (3) When a series of minor changes in accordance with regulation 21.611 is anticipated, the applicant must set forth in the application the basic model number of the article and the part number of the components with open brackets after it to denote that suffix change letters or numbers (or combinations of them) will be added from time to time.
- (4) Subject to regulation 11.055, CASA must issue an ATSO authorisation for the article if CASA is satisfied that:
- (a) the design of the article complies with the applicable ATSO, ETSO or TSO, including any deviations approved under regulation 21.609; and
  - (b) the applicant has established, and can maintain, a quality system to ensure that each article manufactured under the authorisation will comply with the

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applicable ATSO, ETSO or TSO, including any deviations approved under regulation 21.609.

- (5) For paragraph (4)(a), CASA may satisfy itself that the design of the article complies with the applicable ATSO, ETSO or TSO, including any deviations approved under regulation 21.609, on the basis of any of the following:
  - (a) an examination of the design;
  - (b) the technical data for the design approved under regulation 21.009;
  - (c) a certificate from an approved design organisation under subregulation (7).
- (6) Subregulation (7) applies if, under regulation 21.251, CASA authorises a relevant approved design organisation to determine whether the design of the article complies with the applicable ATSO, ETSO or TSO, including any deviations approved under regulation 21.609.
- (7) If the approved design organisation is satisfied that the design of the article complies with the applicable ATSO, ETSO or TSO, including any deviations approved under regulation 21.609, the organisation may give CASA a certificate to that effect.

*Source* FARs section 21.605 modified.

### **21.607 General rules governing holders of ATSO authorisations**

- (1) An article manufacturer to whom an ATSO authorisation for the article has been issued must ensure that:
  - (a) the article is manufactured in accordance with this Part and the applicable ATSO, ETSO or TSO (including any deviations approved under subregulation 21.609(3)); and
  - (b) all tests and inspections required under these Regulations, or the applicable ATSO, ETSO or TSO, are conducted, and a quality system is established and maintained that:
    - (i) is adequate to ensure that the article meets the requirements of paragraph (a) and is in a condition for safe operation; and
    - (ii) meets the requirements prescribed by the Part 21 Manual of Standards; and
  - (c) the article is permanently and legibly marked with the following information:
    - (i) the name and address of the manufacturer;
    - (ii) the name, type, part number, or model designation of the article;
    - (iii) the serial number or the date of manufacture of the article or both;
    - (iv) unless subparagraph (v) applies, the applicable ATSO, ETSO or TSO number with the prefix 'ATSO';
    - (v) if the article was manufactured in accordance with an FAA letter of TSO design approval, the applicable TSO number with the prefix 'TSO'.

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*.

Source FARs section 21.607 modified.

### 21.609 Approval for deviation

- (1) An article manufacturer who requests approval to deviate from any performance standard of an ATSO, ETSO or TSO must show that the standards from which a deviation is requested are compensated for by factors or design features providing an equivalent level of safety.
- (2) The request for approval to deviate, together with all pertinent data, must be submitted to CASA. If the article is manufactured in another country, the request for approval to deviate, together with all pertinent data, must be submitted to CASA through the national aviation authority of that country.
- (3) Subject to regulation 11.055, CASA must grant the approval.

Source FARs section 21.609 modified.

### 21.611 Design changes

#### *Minor changes by the manufacturer holding an ATSO authorisation*

- (1) An article manufacturer manufacturing an article under an ATSO authorisation may make minor design changes (any change other than a major change) without further approval by CASA. In this case, the changed article keeps the original model number (part numbers may be used to identify minor changes).
- (2) The manufacturer must forward to CASA any revised data that are necessary for compliance with subregulation 21.605(3).

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*.

#### *Major changes by manufacturer holding an ATSO authorisation*

- (3) Any design change by the manufacturer that is extensive enough to require a substantially complete investigation to determine compliance with an ATSO, ETSO or TSO is a **major change**. Before making such a change, the manufacturer must assign a new type or model designation to the article and apply for an ATSO authorisation under regulation 21.605.

#### *Who may apply for approval of change*

- (4) A person may apply for approval for a change to the design of an article under this Subpart only if the person:
- (a) is the manufacturer that submitted the statement of conformance for the article; or

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(b) has applied for an ATSO authorisation for the article.

**Note:** A person may apply to CASA, an authorised person or an approved design organisation, in writing, for a modification/repair design approval for the design of a modification of, or a repair to, an appliance: see Subpart 21.M.

**Source** FARs section 21.611 modified.

### 21.613 Record keeping requirements

#### *Keeping the records*

- (1) An article manufacturer holding an ATSO authorisation must, for each article manufactured under that authorisation, keep the following records at its factory:
  - (a) a complete and current technical data file for each type or model article, including design drawings and specifications;
  - (b) complete and current inspection records showing that all inspections and tests required to ensure compliance with this part have been properly completed and documented.

#### *Retention of records*

- (2) The manufacturer must retain the records mentioned in paragraph (1)(a) until it no longer manufactures the article.

**Penalty:** 50 penalty units.

- (3) If the manufacturer stops manufacturing the article, the manufacturer must send copies of the records mentioned in paragraph (1)(a) to CASA within 30 days after ceasing that manufacture.

**Penalty:** 50 penalty units.

- (4) The manufacturer must retain the records mentioned in paragraph (1)(b) for at least 2 years.

**Penalty:** 50 penalty units.

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

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

**Source** FARs section 21.613 modified.

### 21.615 CASA inspection

- (1) Upon the request of CASA, an article manufacturer manufacturing an article under an ATSO authorisation must allow CASA to:
  - (a) inspect any article manufactured under that authorisation; and
  - (b) inspect the manufacturer's quality system; and
  - (c) witness any tests; and
  - (d) inspect the manufacturing facilities; and
  - (e) inspect the technical data files on that article.



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- (2) If the manufacturer does not comply with a request under subregulation (1), the ATSO authorisation is suspended until the request is complied with.

*Source* FARs section 21.615 modified.

**21.617 Issue of letters of ATSO design approval: import appliances**

- (1) A letter of ATSO design approval may be issued for an appliance that is manufactured in a foreign country with which Australia has an agreement for the acceptance of these appliances for export and import and that is to be imported into Australian territory, if:
- (a) the national aviation authority of the country in which the appliance was manufactured certifies that the appliance has been examined, tested, and found to meet the applicable ATSO approved under an ATSO authorisation, or letter of ATSO design approval, under paragraph 21.305(b) or the applicable performance standards of the country in which the appliance was manufactured and any other performance standards CASA prescribes to provide a level of safety equivalent to that provided by the ATSO approved under an ATSO authorisation, or letter of ATSO design approval, under paragraph 21.305(b); and
  - (b) the article manufacturer has submitted to CASA one copy of the technical data required in the applicable performance standard through the national aviation authority of the country in which the appliance was manufactured.
- (2) The letter of ATSO design approval will be issued by CASA and must list any deviation granted to the manufacturer under regulation 21.609.
- (3) After CASA has issued a letter of ATSO design approval and an airworthiness approval mentioned in paragraph 21.502(1)(c) has been issued, the manufacturer is authorised to identify the appliance with the ATSO marking requirements described in paragraph 21.607(c) and in the applicable ATSO. Each appliance must be accompanied by an airworthiness approval mentioned in paragraph 21.502(1)(c).

*Source* FARs section 21.617 modified.

**21.619 Non-compliance**

CASA may suspend or cancel the ATSO authorisation or letter of ATSO design approval of any article manufacturer who identifies with an ATSO marking an article not meeting the performance standards of the applicable ATSO, ETSO or TSO (including any deviations approved under subregulation 21.609(3)).

*Source* FARs section 21.619 modified.

*Note:* See also regulations 21.002C and 21.002E in relation to suspension and cancellation of ATSO authorisations or letters of ATSO design approval.

**21.621 Duration**

- (1) An ATSO authorisation or letter of ATSO design approval continues in force until surrendered or cancelled.

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- (2) However, an ATSO authorisation or a letter of ATSO design approval is not in force during any period of suspension.

*Source* FARs section 21.621 modified.

## **Subpart 21.Q—Identification of aircraft and aeronautical products**

### **Division 21.Q.1—Preliminary**

#### **21.805 Applicability of this Subpart**

This Subpart applies to an aircraft, aircraft engine, aircraft propeller, critical part or other aircraft part manufactured after this Subpart commences.

#### **21.810 Meaning of *fireproof***

- (1) A reference in this Subpart to a fireproof manufacturer's data plate is a reference to a data plate that:
  - (a) is made of material that withstands the heat of a fire at least as well as a steel plate of the same size and thickness; and
  - (b) on which the details that it is required to bear are legibly marked by a fireproof method.

- (2) In this Subpart:

***fireproof method*** of marking means marking by:

- (a) etching, stamping or engraving; or
- (b) another similar method of marking approved for a particular purpose.

## Division 21.Q.2—Aircraft, aircraft engines and aircraft propellers

### 21.815 Applicability of this Division

This Division applies to an aircraft (or an aircraft engine or aircraft propeller) manufactured after this Subpart commences.

### 21.820 Manufacturer's data plate must be attached to aircraft

- (1) This regulation sets out the requirements for attaching a manufacturer's data plate to an aircraft to which this Division applies.
- (2) The manufacturer of an aircraft to which this Division applies must attach to it, as set out in subregulations (3) and (4), a fireproof manufacturer's data plate bearing the following information:
  - (a) the name of the manufacturer;
  - (b) the identification number of the aircraft's type certificate (if any);
  - (c) the identification number of the production certificate (if any) under which the aircraft is manufactured;
  - (d) the aircraft's model designation;
  - (e) the aircraft's serial number.

Penalty: 20 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) The data plate must be attached in a way that ensures that it is not likely to be defaced or removed during normal service, nor lost or destroyed in an accident.
- (4) The data plate must be attached:
  - (a) to a manned free balloon—to the lower section of the balloon's envelope in a place where the operator can read it when the balloon is inflated; or
  - (b) to a glider—in a visible place inside the cockpit; or
  - (c) to any other aircraft—in a place where it is clearly legible:
    - (i) on the frame of the aircraft's rearmost entrance; or
    - (ii) near, but aft of, the aircraft's rearmost entrance; or
    - (iii) on the aircraft's fuselage near its tail.

Note: For the definition of *aircraft* see section 3 of the Act. For the definitions of *identification number*, *manned free balloon*, *production certificate* and *type certificate* see the Dictionary.

### 21.825 Manufacturer's data plate must be attached to basket of manned free balloon

- (1) This regulation sets out an additional requirement for attaching a manufacturer's data plate to the basket of a manned free balloon to which this Division applies.

- (2) This regulation applies to the holder of the type certificate or production certificate under which such a balloon is manufactured.
- (3) The holder of the type certificate must attach to the basket of the balloon, as set out in subregulation (4), a heat-resistant metal plate on which the following information is legibly marked by a fireproof method:
  - (a) the name of the manufacturer;
  - (d) the basket's part number;
  - (e) the basket's serial number.

Penalty: 20 penalty units.

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

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

- (4) The manufacturer's data plate must be attached to the basket in a way that ensures that the plate is not likely to be defaced or removed during normal service, nor to be lost or destroyed in an accident.

Note: For the definitions of **manned free balloon**, **production certificate** and **type certificate** see the Dictionary.

### **21.830 Heater assembly of manned free balloon must carry identification mark**

- (1) This regulation applies to a manned free balloon to which this Division applies that has a heater assembly.
- (2) The holder of the type certificate or production certificate under which the balloon is manufactured must, as set out in subregulation (3), also mark on the heater assembly, by a fireproof method, the information mentioned in subregulation (4).

Penalty: 20 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) The information must be marked in a way that ensures that it is not likely to be defaced.
- (4) The information is:
  - (a) the name of the heater's manufacturer; and
  - (b) its part number; and
  - (c) its serial number.

Note: For the definitions of **manned free balloon**, **production certificate** and **type certificate** see the Dictionary.

### **21.835 Manufacturer's data plate must be attached to aircraft engine**

- (1) This regulation sets out the requirements for attaching a manufacturer's data plate to an aircraft engine to which this Division applies.

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- (2) This regulation applies to the holder of the type certificate or production certificate under which such an aircraft engine is manufactured.
- (3) The holder of the type certificate or production certificate must attach to the engine, as set out in subregulation (4), a fireproof manufacturer's data plate bearing the following information:
  - (a) the manufacturer's name;
  - (b) the identification number of the engine's type certificate (if any);
  - (c) the identification number of the production certificate (if any) under which the engine is manufactured;
  - (d) the engine's model designation;
  - (e) its serial number;
  - (f) if its rating is stated in its type certificate, that rating.

Penalty: 20 penalty units.

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

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

- (4) The data plate must be attached to the engine:
  - (a) in a place where somebody carrying out maintenance on the engine can read it; and
  - (b) in a way that ensures that the plate is not likely to be defaced or become detached from the engine during normal service, nor to be lost or destroyed in an accident.

Note: For the definitions of *identification number*, *production certificate* and *type certificate* see the Dictionary.

### **21.840 Aircraft propellers, blades and hubs must carry identification marks**

- (1) This regulation sets out the requirements to mark information on, or attach a manufacturer's data plate to, an aircraft propeller, propeller blade or propeller hub to which this Division applies.
- (2) The holder of the type certificate or production certificate under which such a propeller, blade or hub is manufactured must:
  - (a) legibly mark on it by a fireproof method, as set out in subregulation (3), the information mentioned in subregulation (5); or
  - (b) attach to it, as set out in subregulation (4), a manufacturer's data plate on which that information is legibly marked by a fireproof method.

Penalty: 20 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 information is marked on a propeller, blade or hub, it must be marked in a way that ensures that it is not likely to be defaced.

- (4) If a manufacturer's data plate is attached to a propeller, blade or hub, the plate must be attached to a non-critical surface in a way that ensures that the plate is not likely to be defaced or become detached during normal service, nor lost in an accident.
- (5) The information is:
- (a) the manufacturer's name; and
  - (b) the identification number of the type certificate (if any) of the propeller; and
  - (c) the identification number of the production certificate (if any) under which the propeller is manufactured; and
  - (d) the model designation of the propeller, blade or hub; and
  - (e) its serial number.

Note: For the definitions of *identification number*, *production certificate* and *type certificate* see the Dictionary.

## **Division 21.Q.3—Critical parts**

### **21.845 Applicability of this Division**

This Division applies to a critical part manufactured on or after 1 October 2000.

### **21.850 Identification of critical parts**

- (1) This regulation applies to a person who manufactures, in Australia, a critical part to which this Division applies.
- (2) The person must legibly and permanently mark on the part, as set out in subregulation (3), the following information:
  - (a) the part's part number;
  - (b) its serial number.

Penalty: 20 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) The information must be marked in a way that ensures that it is not likely to be defaced.

### **21.855 Removal or alteration of identification on critical parts**

- (1) Except with CASA's written approval, a person must not engage in conduct that results in the removal or alteration of any of the information marked, in accordance with this Division, on a critical part to which this Division applies.

Penalty: 20 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) CASA must not grant an approval under subregulation (1) if the granting of the approval would adversely affect the safety of air navigation.



## **Division 21.Q.4—Aircraft parts**

### **21.860 Applicability of this Division**

This Division applies to:

- (a) an aircraft part produced under an APMA, on or after 1 October 2000; and
- (b) a modification or replacement part referred to in paragraph 21.303(2)(a) or (c) and produced after 30 November 2003; and
- (c) a Class II or Class III product produced under a production certificate that is referred to in regulation 21.133(2A) or (2B).

Note: For the definition of **APMA** see the Dictionary.

### **21.865 Identification of parts produced under an APMA**

- (1) Subregulation (2) applies to the holder of the APMA under which a part to which this Division applies is manufactured.
- (2) Subject to regulation 21.870, the holder of the APMA must legibly and permanently mark on the part, as set out in subregulation (3), the information required by subregulation (4).

Penalty: 20 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) The information must be marked in a way that ensures that it is not likely to be defaced.
- (4) The information is:
  - (a) the capital letters **APMA**; and
  - (b) the trade mark, name or symbol of the holder; and
  - (c) the part's part number; and
  - (d) the part's serial number (if any); and
  - (e) the name and model designation of each type certificated product to which the part may be fitted.

### **21.870 Identification of parts produced under an APMA if marking is impracticable**

- (1) Subregulation (2) applies to a part to which this Division applies if CASA and the holder of the APMA under which the part is manufactured agree that it is impracticable to mark on it the information required by subregulation 21.865(4).
- (2) If this subregulation applies to a part, the holder of the APMA need not comply with regulation 21.865.

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- (3) The holder of the APMA must include the information in the authorised release certificate supplied with the part or with each container of the parts.

Penalty: 20 penalty units.

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

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

- (4) If CASA and the holder agree that it is impracticable to provide the information mentioned in paragraph 21.865(4)(e) in the authorised release certificate that is supplied with the part, or with each container of the parts, the holder is not guilty of an offence under subregulation (3) if:

- (a) the information is included in a document that is published by the holder and available to any person who fits the part to an aircraft; and
- (b) the authorised release certificate identifies the document.

Note: For the definition of *authorised release certificate*, see the Dictionary.

### 21.875 Identification of other aircraft parts

- (1) Subject to regulation 21.880, the manufacturer of a part or product mentioned in paragraphs 21.860(b) or (c) must legibly and permanently mark on each of those parts or products produced, as set out in subregulation (3), the following information:

- (a) the trade mark of or name of the manufacturer;
- (b) the part number of the part or product.

Penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) The information must be marked in a way that ensures that it is not likely to be defaced.

### 21.880 Identification of other aircraft parts—other than by marking

- (1) Subregulation (2) applies to a part or product to which regulation 21.875 applies if, because of the shape, size or nature of the part or product, it is impracticable to mark on the part or product the information required by regulation 21.875.
- (2) If this subregulation applies to a part or product, the manufacturer of the part or product need not comply with regulation 21.875.
- (3) The manufacturer of a Class II or Class III product referred to in paragraph 21.860(c) must include the information required by paragraphs 21.875(1)(a) and (b) in the authorised release certificate supplied with the product or the container of the product.

## **Part 22—Airworthiness standards for sailplanes and powered sailplanes**

### **Table of contents**

22.001	Airworthiness standards
22.002	Incidental provisions
22.003	Changes to EASA CS-22
22.004	Approvals under EASA CS-22

### **22.001 Airworthiness standards**

For these Regulations, the airworthiness standards for a sailplane or powered sailplane are the airworthiness standards set out in EASA CS-22, as in force from time to time, with the changes provided under this Part.

### **22.002 Incidental provisions**

For these Regulations, the incidental provisions of EASA CS-22, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### **22.003 Changes to EASA CS-22**

For this Part, a reference in EASA CS-22 to the Agency is taken to be a reference to CASA.

### **22.004 Approvals under EASA CS-22**

For the application of EASA CS-22 under this Part:

- (a) an approval (however described) mentioned in EASA CS-22 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-22 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-22, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**Note:** Regulation 202.060 sets out transitional arrangements in relation to approvals given under this Part as in force before 1 July 2009.

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## **Part 23—Airworthiness standards for aeroplanes in the normal, utility, acrobatic or commuter category**

### **Table of contents**

23.001	Airworthiness standards
23.002	Incidental provisions
23.003	Changes to Part 23 of the FARs
23.004	Changes to EASA CS-VLA
23.005	Changes to EASA CS-23
23.006	Approvals under Part 23 of the FARs
23.007	Approvals under EASA CS-VLA
23.008	Approvals under EASA CS-23

### **23.001 Airworthiness standards**

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for an aeroplane in the normal category, utility category, acrobatic category or commuter category are as follows:
  - (a) the airworthiness standards set out in Part 23 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-VLA, as in force from time to time, with the changes provided under this Part;
  - (c) the airworthiness standards set out in EASA CS-23, as in force from time to time, with the changes provided under this Part.
- (2) An aeroplane in the normal category, utility category, acrobatic category or commuter category meets the airworthiness standards for these Regulations if the aeroplane meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b); or
  - (c) the standards mentioned in paragraph (1)(c).

### **23.002 Incidental provisions**

For these Regulations:

- (a) the incidental provisions of Part 23 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-VLA, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part; and
- (c) the incidental provisions of EASA CS-23, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### **23.003 Changes to Part 23 of the FARs**

- (1) For this Part, a reference in Part 23 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 23 of the FARs to the FAA or to the Administrator is a reference to CASA.

### **23.004 Changes to EASA CS-VLA**

For this Part, a reference in EASA CS-VLA to the Agency is taken to be a reference to CASA.

### **23.005 Changes to EASA CS-23**

For this Part, a reference in EASA CS-23 to the Agency is taken to be a reference to CASA.

### **23.006 Approvals under Part 23 of the FARs**

For the application of Part 23 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 23 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

### **23.007 Approvals under EASA CS-VLA**

For the application of EASA CS-VLA under this Part:

- (a) an approval (however described) mentioned in EASA CS-VLA may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-VLA is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-VLA, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

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### **23.008 Approvals under EASA CS-23**

For the application of EASA CS-23 under this Part:

- (a) an approval (however described) mentioned in EASA CS-23 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-23 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-23, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

Note: Regulation 202.070 sets out transitional arrangements in relation to approvals given under this Part as in force before 1 July 2009.

## **Part 25—Airworthiness standards for aeroplanes in the transport category**

### **Table of contents**

#### **Subpart 25.A—General**

- 25.001 Airworthiness standards
- 25.002 Incidental provisions

#### **Subpart 25.B—Changes to FARs and EASA CS-25**

- 25.003 Changes to Part 25 of the FARs
- 25.004 Changes to EASA CS-25
- 25.005 Approvals under Part 25 of the FARs
- 25.006 Approvals under EASA CS-25

#### **Subpart 25.C—Airworthiness standards directed by ICAO**

- 25.011 What this Subpart does
- 25.013 Least-risk bomb location

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## **Subpart 25.A—General**

### **25.001 Airworthiness standards**

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for an aeroplane in the transport category are as follows:
  - (a) the airworthiness standards set out in Part 25 of the FARs, as in force from time to time, with the changes provided under Subpart 25.B, together with the standards set out in Subpart 25.C;
  - (b) the airworthiness standards set out in EASA CS-25, as in force from time to time, with the changes provided under Subpart 25.B, together with the standards set out in Subpart 25.C.
- (2) An aeroplane in the transport category meets the airworthiness standards for these Regulations if the aeroplane meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b).

### **25.002 Incidental provisions**

For these Regulations:

- (a) the incidental provisions of Part 25 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-25, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.



## **Subpart 25.B—Changes to FARs and EASA CS-25**

### **25.003 Changes to Part 25 of the FARs**

- (1) For this Part, a reference in Part 25 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 25 of the FARs to the FAA or to the Administrator is a reference to CASA.

### **25.004 Changes to EASA CS-25**

For this Part, a reference in EASA CS-25 to the Agency is taken to be a reference to CASA.

### **25.005 Approvals under Part 25 of the FARs**

For the application of Part 25 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 25 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) for these Regulations, an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

### **25.006 Approvals under EASA CS-25**

For the application of EASA CS-25 under this Part:

- (a) an approval (however described) mentioned in EASA CS-25 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-25 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-25, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

Note: Regulation 202.090 sets out transitional arrangements in relation to approvals given under this Part as in force before 1 July 2009.

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## **Subpart 25.C—Airworthiness standards directed by ICAO**

### **25.011 What this Subpart does**

This Subpart sets out airworthiness standards giving effect to the International Civil Aviation Organization's policy of protection of an aeroplane and its occupants.

### **25.013 Least-risk bomb location**

- (1) For this regulation, a ***least-risk bomb location*** is a location on an aeroplane where an explosive device can be placed to minimise the effects on the aeroplane if the device detonates.
- (2) A least-risk bomb location on an aeroplane must be specified in the flight manual.

## **Part 26—Airworthiness standards for aircraft in the primary category or intermediate category**

### **Table of contents**

26.001	Airworthiness standards
26.002	Incidental provisions

### **26.001 Airworthiness standards**

The airworthiness standards for an aircraft in the primary category or intermediate category are so much of the airworthiness standards set out in Parts 22, 23, 27, 32, 33 and 35 as apply to an aircraft of that type.

### **26.002 Incidental provisions**

For these Regulations, the incidental provisions of an instrument mentioned in Part 22, 23, 27, 32, 33 or 35 apply to the operation of the airworthiness standards in that instrument.

## **Part 27—Airworthiness standards for rotorcraft in the normal category**

### **Table of contents**

27.001	Airworthiness standards
27.002	Incidental provisions
27.003	Changes to Part 27 of the FARs
27.003A	Changes to EASA CS-27
27.004	Approvals under Part 27 of the FARs
27.005	Approvals under EASA CS-27

### **27.001 Airworthiness standards**

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for a rotorcraft in the normal category are as follows:
  - (a) the airworthiness standards set out in Part 27 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-27, as in force from time to time, with the changes provided under this Part.
- (2) A rotorcraft in the normal category meets the airworthiness standards for these Regulations if the aircraft meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b).

### **27.002 Incidental provisions**

For these Regulations:

- (a) the incidental provisions of Part 27 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-27, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### **27.003 Changes to Part 27 of the FARs**

- (1) For this Part, a reference in Part 27 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 27 of the FARs to the FAA or to the Administrator is a reference to CASA.

**27.003A Changes to EASA CS-27**

For this Part, a reference in EASA CS-27 to the Agency is taken to be a reference to CASA.

**27.004 Approvals under Part 27 of the FARs**

For the application of Part 27 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 27 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) for these Regulations, an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**27.005 Approvals under EASA CS-27**

For the application of EASA CS-27 under this Part:

- (a) an approval (however described) mentioned in EASA CS-27 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-27 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-27, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

## Part 29—Airworthiness standards for rotorcraft in the transport category

### Table of contents

29.001	Airworthiness standards
29.002	Incidental provisions
29.003	Changes to Part 29 of the FARs
29.003A	Changes to EASA CS-29
29.004	Approvals under Part 29 of the FARs
29.005	Approvals under EASA CS-29

### 29.001 Airworthiness standards

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for a rotorcraft in the transport category are as follows:
  - (a) the airworthiness standards set out in Part 29 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-29, as in force from time to time, with the changes provided under this Part.
- (2) A rotorcraft in the transport category meets the airworthiness standards for these Regulations if the aircraft meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b).

### 29.002 Incidental provisions

For these Regulations:

- (a) the incidental provisions of Part 29 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-29, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### 29.003 Changes to Part 29 of the FARs

- (1) For this Part, a reference in Part 29 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 29 of the FARs to the FAA or to the Administrator is a reference to CASA.

**29.003A Changes to EASA CS-29**

For this Part, a reference in EASA CS-29 to the Agency is taken to be a reference to CASA.

**29.004 Approvals under Part 29 of the FARs**

For the application of Part 29 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 29 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) for these Regulations, an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**29.005 Approvals under EASA CS-29**

For the application of EASA CS-29 under this Part:

- (a) an approval (however described) mentioned in EASA CS-29 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-29 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-29, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

## Part 31—Airworthiness standards for manned free balloons

### Table of contents

31.001	Airworthiness standards
31.002	Incidental provisions
31.003	Changes to Part 31 of the FARs
31.004	Changes to EASA CS-31HB
31.005	Changes to EASA CS-31GB
31.006	Approvals under Part 31 of the FARs
31.007	Approvals under EASA CS-31HB
31.008	Approvals under EASA CS-31GB

### 31.001 Airworthiness standards

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for a manned free balloon are as follows:
  - (a) the airworthiness standards set out in Part 31 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-31HB, as in force from time to time, with the changes provided under this Part;
  - (c) the airworthiness standards set out in EASA CS-31GB, as in force from time to time, with the changes provided under this Part.
- (2) A manned free balloon meets the airworthiness standards for these Regulations if the balloon meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b); or
  - (c) the standards mentioned in paragraph (1)(c).

### 31.002 Incidental provisions

For these Regulations:

- (a) the incidental provisions of Part 31 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-31HB, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part; and
- (c) the incidental provisions of EASA CS-31GB, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.



**31.003 Changes to Part 31 of the FARs**

For this Part, a reference in Part 31 of the FARs to the FAA or to the Administrator is taken to be a reference to CASA.

**31.004 Changes to EASA CS-31HB**

For this Part, a reference in EASA CS-31HB to the Agency is taken to be a reference to CASA.

**31.005 Changes to EASA CS-31GB**

For this Part, a reference in EASA CS-31GB to the Agency is taken to be a reference to CASA.

**31.006 Approvals under Part 31 of the FARs**

For the application of Part 31 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 31 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for the FAA or the Administrator under Part 31 of the FARs is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under Part 31 of the FARs, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**31.007 Approvals under EASA CS-31HB**

For the application of EASA CS-31HB under this Part:

- (a) an approval (however described) mentioned in EASA CS-31HB may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-31HB is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-31HB, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**31.008 Approvals under EASA CS-31GB**

For the application of EASA CS-31GB under this Part:

- (a) an approval (however described) mentioned in EASA CS-31GB may be given by CASA; and

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- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-31GB is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-31GB, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

## **Part 32—Airworthiness standards for engines for very light aeroplanes**

### **Table of contents**

32.001	Airworthiness standards
32.002	Incidental provisions
32.003	Changes to EASA CS-22
32.004	Approvals under EASA CS-22

### **32.001 Airworthiness standards**

For these Regulations, the airworthiness standards for an aircraft engine for use in a very light aeroplane are the airworthiness standards set out in EASA CS-22, as in force from time to time, with the changes provided under this Part.

### **32.002 Incidental provisions**

For these Regulations, the incidental provisions of EASA CS-22, as in force from time to time, apply to the operation of the airworthiness standards in that Subpart, with the changes provided under this Part.

### **32.003 Changes to EASA CS-22**

For this Part, a reference in EASA CS-22 to the Agency is taken to be a reference to CASA.

### **32.004 Approvals under EASA CS-22**

For the application of EASA CS-22 under this Part:

- (a) an approval (however described) mentioned in EASA CS-22 may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-22 is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-22, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

Note: Regulation 202.140 sets out transitional arrangements in relation to approvals given under this Part as in force before 1 July 2009.

## Part 33—Airworthiness standards for aircraft engines

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### 33.001 Airworthiness standards

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for an aircraft engine, other than an aircraft engine for use in a very light aeroplane, are as follows:
  - (a) the airworthiness standards set out in Part 33 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-E, as in force from time to time, with the changes provided under this Part.
- (2) An aircraft engine, other than an aircraft engine for use in a very light aeroplane, meets the airworthiness standards for these Regulations if the engine meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b).

### 33.002 Incidental provisions

For these Regulations:

- (a) the incidental provisions of Part 33 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-E, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### 33.003 Changes to Part 33 of the FARs

- (1) For this Part, a reference in Part 33 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 33 of the FARs to the FAA or to the Administrator is a reference to CASA.

**33.003A Changes to EASA CS-E**

For this Part, a reference in EASA CS-E to the Agency is taken to be a reference to CASA.

**33.004 Approvals under Part 33 of the FARs**

For the application of Part 33 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 33 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) for these Regulations, an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**33.005 Approvals under EASA CS-E**

For the application of EASA CS-E under this Part:

- (a) an approval (however described) mentioned in EASA CS-E may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-E is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-E, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

## Part 35—Airworthiness standards for aircraft propellers

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### 35.001 Airworthiness standards

- (1) For these Regulations, subject to subregulation (2), the airworthiness standards for an aircraft propeller are as follows:
  - (a) the airworthiness standards set out in Part 35 of the FARs, as in force from time to time, with the changes provided under this Part;
  - (b) the airworthiness standards set out in EASA CS-P, as in force from time to time, with the changes provided under this Part.
- (2) An aircraft propeller meets the airworthiness standards for these Regulations if it meets:
  - (a) the standards mentioned in paragraph (1)(a); or
  - (b) the standards mentioned in paragraph (1)(b).

### 35.002 Incidental provisions

For these Regulations:

- (a) the incidental provisions of Part 35 of the FARs, as in force from time to time, apply to the operation of the airworthiness standards in that Part, with the changes provided under this Part; and
- (b) the incidental provisions of EASA CS-P, as in force from time to time, apply to the operation of the airworthiness standards in that instrument, with the changes provided under this Part.

### 35.003 Changes to Part 35 of the FARs

- (1) For this Part, a reference in Part 35 of the FARs to the United States is a reference to Australia or, when used in a geographical sense, to Australian territory.
- (2) For this Part, a reference in Part 35 of the FARs to the FAA or to the Administrator is a reference to CASA.

**35.003A Changes to EASA CS-P**

For this Part, a reference in EASA CS-P to the Agency is taken to be a reference to CASA.

**35.004 Approvals under Part 35 of the FARs**

For the application of Part 35 of the FARs under this Part:

- (a) an approval (however described) mentioned in Part 35 of the FARs may be given by CASA; and
- (b) CASA may suspend or cancel an approval under paragraph (a), if it is necessary in the interests of aviation safety; and
- (c) for these Regulations, an approval (however described) given by or for the FAA or the Administrator under that Part is taken to have been given by CASA; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for the FAA or the Administrator under that Part as if it had been given by CASA, if it is necessary in the interests of aviation safety.

**35.005 Approvals under EASA CS-P**

For the application of EASA CS-P under this Part:

- (a) an approval (however described) mentioned in EASA CS-P may be given by CASA; and
- (b) CASA may suspend or cancel an approval given under paragraph (a) if it is necessary in the interests of aviation safety; and
- (c) an approval (however described) given by or for EASA under EASA CS-P is taken to have been given by CASA under these Regulations; and
- (d) for these Regulations, CASA may suspend or cancel an approval given by or for EASA under EASA CS-P, as if it had been given by CASA, if it is necessary in the interests of aviation safety.

## Part 39—Airworthiness directives

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### 39.001A Definitions

In these Regulations:

***airworthiness directive*** means:

- (a) an Australian airworthiness directive; or
- (b) for a type certificated aircraft—a foreign State of Design airworthiness directive issued on or after 1 October 2009; or
- (c) for a model of type certificated aircraft that is first registered in Australia on or after 1 October 2009—a foreign State of Design airworthiness directive issued before 1 October 2009 for that model or for an aeronautical product that is part of, or used in, that model.

***Australian airworthiness directive*** means a document, as in force from time to time, issued by CASA under subregulation 39.001(1).

***foreign State of Design airworthiness directive***, for a kind of aircraft or aeronautical product for which Australia is not the State of Design, means a document, as in force from time to time, that:

- (a) is issued by the national aviation authority of the State of Design of the aircraft or aeronautical product; and
- (b) is of the same nature as an Australian airworthiness directive.

### 39.001 CASA may issue Australian airworthiness directives

- (1) For paragraph 98(5A)(b) of the Act, CASA may issue an Australian airworthiness directive for a kind of aircraft, or a kind of aeronautical product, if:
  - (a) an unsafe condition exists in an aircraft or aeronautical product of that kind; and
  - (b) the condition exists, or is likely to exist, or could develop, in other aircraft or aeronautical products of that kind.



- (2) The airworthiness directive must:
- (a) be in writing; and
  - (b) state the kind of aircraft or aeronautical product to which it relates; and
  - (c) require that the action set out in the instrument (being action that relates to aircraft or aeronautical products of the kind stated and is, in the opinion of CASA, necessary to correct the unsafe condition) be taken at the time, or in the circumstances, mentioned in the instrument.

### **39.002 Aircraft or aeronautical products covered by airworthiness directive**

- (1) If an airworthiness directive has been issued for a kind of aircraft or a kind of aeronautical product, then, except for aircraft or aeronautical products excluded from the operation of the airworthiness directive under subregulation (2) or paragraph 39.004(2)(b) or (3)(b), all aircraft or aeronautical products of that kind are covered by the airworthiness directive until:
- (a) the airworthiness directive is revoked; or
  - (b) the requirements of the airworthiness directive have been complied with; or
  - (c) the requirements of a means of compliance with the airworthiness directive, approved by CASA under paragraph 39.004(2)(a) or (3)(a), have been complied with; or
  - (d) the requirements of a means of compliance with the airworthiness directive, approved by the national aviation authority that issued the airworthiness directive, have been complied with.
- (2) An aircraft, or an aeronautical product fitted to an aircraft, is excluded from the operation of an airworthiness directive mentioned in subregulation (3) if:
- (a) the aircraft is a type certificated aircraft; and
  - (b) a standard certificate of airworthiness is not in force for the aircraft; and
  - (c) the aircraft is not type certificated in the primary, intermediate or restricted category.
- (3) The airworthiness directives are:
- (a) unless the airworthiness directive is expressed to apply to the aircraft—an airworthiness directive mentioned in paragraph (a) of the definition of *airworthiness directive* in regulation 39.001A; and
  - (b) an airworthiness directive mentioned in paragraph (b) or (c) of the definition of *airworthiness directive* in regulation 39.001A.

#### **39.002A Aircraft that become Australian aircraft—compliance with Australian airworthiness directives**

- (1) This regulation applies to an aircraft of a particular model if:
- (a) on or after 1 October 2009, the aircraft becomes an Australian aircraft; and
  - (b) the aircraft is not the first aircraft of that model to become an Australian aircraft.
- (2) The requirements of an Australian airworthiness directive for the model of aircraft are taken to have been complied with in respect of the aircraft if:
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## Regulation 39.002B

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- (a) the requirements of a foreign State of Design airworthiness directive for the model of aircraft have been complied with in respect of the aircraft; and
- (b) the requirements of the foreign State of Design airworthiness directive are equivalent to the requirements of the Australian airworthiness directive.

### **39.002B Compliance with foreign airworthiness directives**

The requirements of an Australian airworthiness directive for an aircraft are taken to have been complied with in respect of the aircraft if:

- (a) the Australian airworthiness directive was issued before 1 October 2009; and
- (b) an equivalent foreign State of Design airworthiness directive has been issued; and
- (c) the requirements of a means of compliance with the equivalent foreign State of Design airworthiness directive, approved by the national aviation authority that issued the airworthiness directive, have been complied with in respect of the aircraft.

### **39.003 Australian aircraft covered by airworthiness directive not to be operated**

- (1) A person must not operate an Australian aircraft, or a Part 103 aircraft, that is covered by an airworthiness directive (other than an aircraft to which subregulation (4) applies), or that is fitted with an aeronautical product covered by an airworthiness directive (other than an aircraft to which subregulation (5) applies):
  - (a) in breach of any requirement of the airworthiness directive that affects the operating limitations of the aircraft; or
  - (b) while any other requirement of the airworthiness directive has not been complied with.

Penalty: 50 penalty units.

- (2) The registered operator of an Australian aircraft that is covered by an airworthiness directive (other than an aircraft to which subregulation (4) applies), or that is fitted with an aeronautical product covered by an airworthiness directive (other than an aircraft to which subregulation (5) applies), must not permit a person to operate the aircraft:
  - (a) in breach of any requirement of the airworthiness directive that affects the operating limitations of the aircraft; or
  - (b) while any other requirement of the airworthiness directive has not been complied with.

Penalty: 50 penalty units.

- (3) An offence against subregulation (1) is an offence of strict liability.
- (4) This subregulation applies to an aircraft covered by an airworthiness directive if:

## Regulation 39.004

- (a) the airworthiness directive does not contain a statement to the effect that a special flight permit must not be issued for an aircraft covered by the airworthiness directive; and
  - (b) the aircraft is authorised to operate under a special flight permit that is in force.
- (5) This subregulation applies to an aircraft that is fitted with an aeronautical product covered by an airworthiness directive if:
- (a) the airworthiness directive does not contain a statement to the effect that a special flight permit must not be issued for an aircraft fitted with an aeronautical product covered by the airworthiness directive; and
  - (b) the aircraft is authorised to operate under a special flight permit that is in force.

**39.004 Approvals and exclusions in relation to airworthiness directives**

- (1) A person may, in writing, ask CASA for:
- (a) an approval of a means of compliance other than that set out in an airworthiness directive; or
  - (b) an exclusion from an airworthiness directive.

*Particular aircraft or aeronautical products*

- (2) For paragraph 98(5A)(b) of the Act, CASA may, in writing, on its own initiative or on a written request by a person:
- (a) approve, for a particular aircraft or aeronautical product, a means of compliance with an airworthiness directive other than that set out in the airworthiness directive; or
  - (b) exclude a particular aircraft or aeronautical product from the operation of an airworthiness directive.

*Kind of aircraft or aeronautical products*

- (3) For paragraph 98(5A)(b) of the Act, CASA may, in writing, on its own initiative or on a written request by a person:
- (a) approve, for a particular kind of aircraft or aeronautical product, a means of compliance with an airworthiness directive other than that set out in the airworthiness directive; or
  - (b) exclude a particular kind of aircraft or aeronautical product from the operation of an airworthiness directive.

*Decision making criteria*

- (4) When making a decision under subregulation (2) or (3), CASA must:
- (a) regard the preservation of a level of aviation safety that is at least acceptable as paramount; and
  - (b) if a person makes a request under subregulation (1)—have regard to any reasons given in the request.

## Regulation 39.005

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*Approval or exclusion may be subject to conditions*

- (6) CASA may, in an instrument of approval or exclusion, provide that the approval or exclusion is subject to 1 or more specified conditions.

*Operator must comply with conditions*

- (7) An instrument of approval or exclusion applies to a particular aircraft or aeronautical product only if the operator of the aircraft, or the aircraft that the aeronautical product is part of, or used in, complies with each condition of the approval or exclusion.

### 39.005 Documents or things to be sent to CASA

If a foreign State of Design airworthiness directive specifies that a document or thing must be sent to an national aviation authority, a person must, to comply with the airworthiness directive, send the document or thing to CASA.

### 39.006 Request for review of operation of Australian airworthiness directive

A person may ask CASA in writing to review the operation of an Australian airworthiness directive on the ground that all aircraft or aeronautical products covered by the Australian airworthiness directive, or all aircraft or aeronautical products of a kind mentioned in the request (being aircraft or aeronautical products covered by the Australian airworthiness directive), need no longer be covered by the Australian airworthiness directive because:

- (a) the instructions issued by the manufacturer or manufacturers of those aircraft or aeronautical products for the carrying out of maintenance on those aircraft or aeronautical products have been amended; and
- (b) if maintenance is carried out on those aircraft or aeronautical products in accordance with those instructions as amended, the unsafe condition that the Australian airworthiness directive seeks to correct will no longer exist, or is not likely to exist, or cannot develop, in those aircraft or aeronautical products.

### 39.007 Action to be taken by CASA on receiving request under regulation 39.006

- (1) Within 28 days after receiving a request from a person (the *applicant*) under regulation 39.006, CASA must give to the applicant a notice setting out:
  - (a) the steps that CASA proposes to take to investigate whether the ground on which the request is made can be substantiated; and
  - (b) an estimate of the time likely to be taken by the investigation.
- (2) In carrying out the investigation, CASA must consider:
  - (a) all information provided by the applicant (whether on his or her own initiative or at the request of CASA); and
  - (b) any other information that CASA reasonably considers to be relevant to the investigation.

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Regulation 39.007

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- (3) If, after carrying out the investigation, CASA is satisfied that the ground for making the request has been substantiated, CASA must revoke or amend the Australian airworthiness directive (as the case requires) so that those aircraft or aeronautical products to which the request relates are not covered by the Australian airworthiness directive.
- (4) This regulation does not affect the power that, apart from this regulation, CASA has to revoke or amend an Australian airworthiness directive.

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**Subdivision 42.H.4.1—Preliminary**

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- 42.780 Requirement not to release aeronautical product without certificate of release to service

**Subdivision 42.H.4.2—Who may issue certificate of release to service**

- 42.785 Approved maintenance organisations
- 42.790 Individuals issuing certificates of release to service on behalf of approved maintenance organisations

**Subdivision 42.H.4.3—Requirements for issuing certificate of release to service**

- 42.795 Requirements to be met before certificate of release to service may be issued
- 42.800 Requirements to be met by approved maintenance organisations before issuing certificate of release to service
- 42.805 Requirements to be met by individuals before issuing certificate of release to service

**Subdivision 42.H.4.4—Form and issue of certificate of release to service**

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**Division 42.I.6—Relationship of airworthiness review certificate to certificate of airworthiness**

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**Subpart 42.J—Approval of maintenance programs and variations of approved maintenance programs****Division 42.J.1—Preliminary**

- 42.935 Purpose of Subpart

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- 42.940 Circumstances in which continuing airworthiness management organisations may approve proposed maintenance program
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- 42.950 Requirements to be met by continuing airworthiness management organisations before approving proposed maintenance programs
- 42.955 Requirements to be met by individuals before approving proposed maintenance programs
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**Division 42.J.3—Approval of maintenance programs by CASA**

- 42.970 Application to CASA for approval of maintenance programs
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**Division 42.J.4—Approval of variations of approved maintenance programs by continuing airworthiness management organisations**

- 42.985 Circumstances in which continuing airworthiness management organisations may approve proposed variations
  - 42.990 Requirements to be met for approval of variations of maintenance programs
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- 42.995 Requirements to be met by continuing airworthiness management organisations before approving proposed variations
- 42.1000 Requirements to be met by individuals before approving proposed variations
- 42.1005 How approval is given
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**Division 42.J.5—Approval of variations of approved maintenance programs by CASA**

- 42.1015 Application to CASA for approval of variations of approved maintenance programs
- 42.1020 Form of application
- 42.1025 Approval of variations by CASA

**Subpart 42.K—Directions to vary approved maintenance programs**

- 42.1030 Purpose of Subpart
- 42.1035 CASA may direct variations of approved maintenance programs

**Subpart 42.L—Approval of reliability programs and variations of approved reliability programs**

**Division 42.L.1—Preliminary**

- 42.1040 Purpose of Subpart

**Division 42.L.2—Approval of reliability programs**

- 42.1045 Application for approval of reliability programs
- 42.1050 Approval of reliability programs

**Division 42.L.3—Approval of variations of approved reliability programs**

- 42.1055 Application for approval of variations of approved reliability programs
- 42.1060 Approval of variations of approved reliability programs

**Subpart 42.M—Requirements for pilots**

- 42.1065 Purpose of Subpart
- 42.1070 Pre-flight inspection—all aircraft
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**Subpart 42.N—Record-keeping requirements**

- 42.1080 Purpose of Subpart
- 42.1085 Requirements for making records made under Part
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**Subpart 42.O—Copying or disclosing cockpit voice recording information**

- 42.1100 Purpose of Subpart
- 42.1105 Authorisation of persons for paragraph 32AP(3A)(a) of Act

## Subpart 42.A—Preliminary

### 42.005 Purpose of Part

This Part:

- (a) sets out continuing airworthiness requirements, including requirements for carrying out maintenance, for aircraft and aeronautical products to which this Part applies; and
- (b) empowers CASA to issue a Manual of Standards for this Part.

Note: See Part 21 in relation to initial airworthiness requirements for aircraft and aeronautical products, and the issue of certificates of airworthiness for aircraft.

### 42.010 Applicability of Part

Subject to Subpart 202.BA, this Part applies to:

- (a) a registered aircraft; and
- (b) an aeronautical product for a registered aircraft.

Note 1: For the definition of **registered**, see Part 1 of the Dictionary.

Note 2: Subpart 202.BA contains application and transitional provisions for this Part. Under regulations 202.180 and 202.181, this Part applies to the following:

- (a) a registered aircraft that is used to conduct a Part 121 operation that is a scheduled air transport operation;
- (aa) a registered aircraft that is used to conduct a Part 135 operation that is a scheduled air transport operation;
- (b) a registered aircraft for which an election under regulation 202.181 is in force;
- (c) an aeronautical product for an aircraft mentioned in paragraph (a) or (b);
- (d) a Part 145 organisation that is providing maintenance services for an aircraft or aeronautical product mentioned in paragraph (a), (b) or (c);
- (e) an independent maintainer mentioned in item 4 or 5 of table 42.300 who is carrying out maintenance on an aircraft mentioned in paragraph (a) or (b).

### 42.015 Definitions for Part

(1) In this Part:

**accountable manager:**

- (a) for a Subpart 42.F organisation—has the meaning given by subregulation 42.500(1); and
- (b) for a continuing airworthiness management organisation—has the meaning given by subregulation 42.575(1).

**aircraft control system**, for an aircraft, means the system of the aircraft by which the flight path, attitude or propulsive force of the aircraft is changed.

**airworthiness review** means a review carried out under Division 42.I.3.

**airworthiness review certificate** means a document that complies with regulation 42.860.

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***airworthiness review employee*** means an individual who is authorised by a continuing airworthiness management organisation in accordance with the Part 42 Manual of Standards to do the following on behalf of the organisation:

- (a) carry out an airworthiness review for an aircraft;
- (b) issue an airworthiness review certificate.

***airworthy*** has the meaning given by subregulation (2).

***approval certificate:***

- (a) for a Subpart 42.F organisation—has the meaning given by subregulation 42.500(1); and
- (b) for a continuing airworthiness management organisation—has the meaning given by subregulation 42.575(1).

***approval certificate reference number*** means:

- (a) for a Subpart 42.F organisation—the number determined by CASA under subregulation 42.520(2); and
- (b) for a continuing airworthiness management organisation—the number determined by CASA under subregulation 42.595(2); and
- (c) for a Part 145 organisation—the number determined by CASA under subregulation 145.035(2).

***approval rating*** means a rating for a kind of aircraft, aeronautical product or specialist maintenance specified in the Part 42 Manual of Standards.

***approved design*** means:

- (a) for an aircraft, aircraft engine or propeller:
  - (i) the type design for the aircraft, engine or propeller; and
  - (ii) any changes to the type design made in accordance with a Part 21 approval; and
- (b) for an aeronautical product, other than an aircraft engine or propeller, that is approved in a manner mentioned in regulation 21.305 or 21.305A:
  - (i) the design specifications for the product; and
  - (ii) any changes to the design specifications made in accordance with a Part 21 approval.

***approved maintenance program***, for an aircraft, means a maintenance program for the aircraft that has been approved in accordance with Subpart 42.J, including any variations to the program that have been approved in accordance with Subpart 42.J.

***approved reliability program***, for an aircraft, means a reliability program for the aircraft that has been approved in accordance with Subpart 42.L, including any variations to the program that have been approved in accordance with Subpart 42.L.

***certification authorisation number*** means:



- (a) for a certification authorisation issued by a Subpart 42.F organisation—the authorisation reference number allocated to the authorisation by the organisation in accordance with the Part 42 Manual of Standards; and
- (b) for a certification authorisation issued by a Part 145 organisation—the authorisation reference number allocated to the authorisation by the organisation in accordance with the Part 145 Manual of Standards.

**competent**, to carry out maintenance on an aircraft or aeronautical product, has the meaning given by subregulation 42.315(1).

**configuration deviation list**, for an aircraft, means a document that:

- (a) is prepared by the aircraft's type certificate holder or foreign type certificate holder; and
- (b) is approved by the State of Design for the aircraft; and
- (c) lists each external part of the aircraft that is permitted to be missing from the aircraft, under conditions specified in the document, at the commencement of a flight by the aircraft.

**continuing airworthiness management service** has the meaning given by subregulation 42.575(1).

**continuing airworthiness manager**, for a continuing airworthiness management organisation, has the meaning given by subregulation 42.575(1).

**continuing airworthiness record**, for an aircraft, has the meaning given by subregulation (3).

**continuing airworthiness records system**, for an aircraft, means the system required by regulation 42.170 for the aircraft.

**continuing airworthiness responsibility**, for a continuing airworthiness management organisation, has the meaning given by subregulation 42.575(1).

**creation date** has the meaning given by subregulation 42.260(2).

**critical control system maintenance**, for an aircraft:

- (a) means maintenance carried out on the aircraft control system for the aircraft that, if not carried out correctly, may result in a failure, malfunction or defect of the system that will endanger the safe operation of the aircraft; and
- (b) does not include optional dual flight control maintenance.

**eligible to be fitted**, for a part, has the meaning given by subregulation (4).

**eligible to be used**, for a material, has the meaning given by subregulation (5).

**exposition**:

- (a) for a Subpart 42.F organisation—has the meaning given by subregulation 42.500(1); and
- (b) for a continuing airworthiness management organisation—has the meaning given by subregulation 42.575(1); and

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- (c) for a Part 145 organisation—has the meaning given by subregulation 145.010(1).

**independent individual**, for critical control system maintenance for an aircraft, has the meaning given by regulation 42.335.

**independent maintainer** means an individual mentioned in item 1, 3, 4 or 5 of table 42.300.

**life limit**, for an aeronautical product that is fitted, or is to be fitted, to an aircraft or another aeronautical product (the **second aeronautical product**), means:

- (a) if an airworthiness directive specifies an amount of use, or an age, after which the product must not be used—that amount of use, or age; or
- (b) if paragraph (a) does not apply, and the approved design for the aircraft specifies an amount of use, or an age, after which the product must not be used—that amount of use, or age; or
- (c) if paragraphs (a) and (b) do not apply, and the approved design for the second aeronautical product specifies an amount of use, or an age, after which the product must not be used—that amount of use, or age; or
- (d) if none of paragraphs (a), (b) and (c) apply—the amount of use, or age, specified in the approved design for the product as the amount of use, or age, after which the product must not be used.

Note: Life limit may be expressed in a number of ways, including the amount of operating time, the number of operating cycles or a calendar period.

**main location**, for a Part 145 organisation, has the meaning given by the Part 145 Manual of Standards.

**maintenance program**, for an aircraft that is authorised to operate under an AOC or a large aircraft, means the approved maintenance program for the aircraft.

**maintenance program approval employee**, for a continuing airworthiness management organisation, means an individual who is authorised by the organisation in accordance with the Part 42 Manual of Standards:

- (a) to approve a maintenance program for an aircraft; or
- (b) to approve a variation to a maintenance program for an aircraft.

**maintenance record** means:

- (a) for maintenance carried out on an aircraft—a record that contains:
  - (i) the information required under regulation 42.395; and
  - (ii) the maintenance certification for the maintenance; and
- (b) for maintenance carried out on an aeronautical product—a record required to be made under regulation 42.400.

**optional dual flight control maintenance** means maintenance:

- (a) that involves only the connection or disconnection of optional dual flight controls without using tools; and
- (b) that does not involve the assembly, adjustment, repair, modification or replacement of any other part of the aircraft control system.

**Part 21 approval** means:

- (a) for a change to the type design of an aircraft, aircraft engine or propeller:
  - (i) an approval under regulation 21.095 or 21.098; or
  - (ii) an approval in a supplemental type certificate or a foreign supplemental type certificate; or
  - (iii) a modification/repair design approval; or
  - (iv) an approval taken to have been given under regulation 21.465 or 21.470; or
  - (v) an approval mentioned in regulation 21.475; or
  - (vi) an approval that continues in force under regulation 202.054, 202.055 or 202.056; and
- (b) for a change to the design of an aeronautical product other than an aircraft engine or propeller:
  - (i) a modification/repair design approval; or
  - (ii) an approval taken to have been given under regulation 21.465 or 21.470; or
  - (iii) an approval mentioned in regulation 21.475; or
  - (iv) an approval that continues in force under regulation 202.054, 202.055 or 202.056.

Note: For the definition of *modification/repair design approval*, see Part 1 of the Dictionary.

**Part 90 Manual of Standards** means the Manual of Standards issued by CASA under regulation 90.020.

**person responsible for continuing airworthiness**, for an aircraft, has the meaning given by regulation 42.105.

**qualified individual**, for a defect in an aircraft, has the meaning given by regulation 42.350.

**quality manager**, for a continuing airworthiness management organisation, has the meaning given by subregulation 42.575(1).

**responsibility start date**, for a person and an aircraft, means the day on which the person becomes the person responsible for continuing airworthiness for the aircraft.

**responsible manager**:

- (a) for a Subpart 42.F organisation—has the meaning given by subregulation 42.500(1); and
- (b) for a continuing airworthiness management organisation—has the meaning given by subregulation 42.575(1).

**serviceable**, in relation to an aeronautical product, has the meaning given by subregulation (6).

**significant change**:

- (a) for a Subpart 42.F organisation—has the meaning given by subregulation 42.500(1); and

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- (b) for a continuing airworthiness management organisation—has the meaning given by subregulation 42.575(1).

**unapproved**, in relation to a part, has the meaning given by regulation 42.470.

**unsalvageable**, in relation to an aeronautical product, has the meaning given by subregulation (7).

Note: See the Dictionary for definitions of other terms used in this Part.

- (2) An aircraft is **airworthy** if it is in a state that conforms with its approved design and is in a condition for safe operation.
- (3) Each of the following is a **continuing airworthiness record** for an aircraft:
- (a) a record made under paragraph 42.130(3)(b) for the aircraft;
  - (b) a record made under Subdivision 42.C.3.2 for the aircraft;
  - (c) a document kept under regulation 42.215 for the aircraft;
  - (d) a record made under this Part in the flight technical log for the aircraft;
  - (e) a record made by a means, other than a flight technical log, approved by CASA under regulation 42.250;
  - (f) a record made under regulation 42.345 for the aircraft;
  - (g) a record made under regulation 42.370 for the aircraft;
  - (h) a maintenance record for maintenance carried out on the aircraft;
  - (i) a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft;
  - (j) a copy of the design of a modification or repair that is unique to the aircraft;
  - (k) if an aircraft maintenance record was kept for the aircraft in accordance with Division 10 of Part 4A of CAR—that aircraft maintenance record;
  - (l) a document for the aircraft:
    - (i) that is equivalent to a document mentioned in paragraphs (a) to (k); and
    - (ii) that was issued or kept under a law of a foreign country;
  - (m) a record of information for the aircraft:
    - (i) that is equivalent to a record mentioned in paragraphs (a) to (k); and
    - (ii) that was made or kept under a law of a foreign country.

Note: For paragraph (d), see the notes to regulation 42.220.

- (4) A part is **eligible to be fitted** to an aircraft or another aeronautical product if the fitting is permitted:
- (a) by the approved design for the aircraft or the other aeronautical product that the aeronautical product will be fitted to; or
  - (b) by an Australian Parts Manufacturer Approval; or
  - (c) by a Parts Manufacturer Approval issued by the FAA; or
  - (d) by a parts manufacturer approval issued by a national aviation authority to which subregulation (4A) applies.

- (4A) For paragraph (4)(d), this subregulation applies to the national aviation authority of a Contracting State if:
- (a) Australia has an agreement (however described) with the Contracting State for the acceptance of parts manufacturer approvals; or
  - (b) CASA has an agreement (however described) with the national aviation authority for the acceptance of parts manufacturer approvals.
- (5) A material is **eligible to be used** in or on an aircraft or an aeronautical product if the use is permitted:
- (a) by the approved design for the aircraft or the aeronautical product; or
  - (b) by maintenance data for maintenance to be carried out on the aircraft or aeronautical product.
- (6) An aeronautical product is **serviceable** if the product:
- (a) conforms with its approved design; and
  - (b) is fit for its intended use.
- (7) An aeronautical product is **unsalvageable** if the product:
- (a) is unserviceable; and
  - (b) cannot be made serviceable.

## **42.020 Part 42 Manual of Standards**

### *Power to issue Manual of Standards*

- (1) For subsection 98(5A) of the Act, CASA may issue a Manual of Standards for this Part that specifies matters affecting the maintenance or airworthiness of aircraft.

### *Matters—general*

- (2) In particular, a Manual of Standards may specify the following matters:
- (a) for paragraph (b) of the definition of **authorised release certificate** in subclause 18(2) of Part 2 of the Dictionary, that a specified kind of document issued under a law of a specified foreign country is equivalent to a document mentioned in paragraph (a) of that definition;
  - (b) for paragraph (d) of the definition of **authorised release certificate** in subclause 18(2) of Part 2 of the Dictionary, that a specified kind of document issued under a law of a specified foreign country is equivalent to a document mentioned in paragraph (c) of that definition;
  - (c) for subparagraph (b)(ii) of the definition of **large aircraft** in clause 1 of Part 3 of the Dictionary, that a particular type and model of aeroplane is a large aircraft;
  - (d) for subparagraph (d)(ii) of the definition of **large aircraft** in clause 1 of Part 3 of the Dictionary, that a particular type and model of helicopter is a large aircraft;

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- (e) for subparagraph (b)(ii) of the definition of ***small aircraft*** in clause 1 of Part 3 of the Dictionary, that a particular type and model of aeroplane is a small aircraft;
- (f) for subparagraph (d)(ii) of the definition of ***small aircraft*** in clause 1 of Part 3 of the Dictionary, that a particular type and model of helicopter is a small aircraft;
- (g) maintenance for items 1 and 2 of table 42.300;
- (h) maintenance for item 3 of table 42.300;
- (i) maintenance for items 4 and 5 of table 42.300;
- (ia) countries for regulations 42.301 and 42.306;
- (j) requirements for a maintenance program;
- (k) requirements for a reliability program;
- (l) that a document is an aviation industry standard;
- (m) the matters mentioned in subregulation (3) for Subpart 42.F;
- (n) the matters mentioned in subregulation (4) for Subpart 42.G.

### *Matters for Subpart 42.F*

- (3) For paragraph (2)(m), the matters are the following:
  - (a) maintenance that is specialist maintenance for a Subpart 42.F organisation;
  - (b) ratings for kinds of aircraft, aeronautical products and specialist maintenance;
  - (c) the privileges that apply to an approval rating;
  - (d) requirements for a Subpart 42.F organisation's exposition;
  - (e) requirements for a Subpart 42.F organisation, including requirements in relation to the following:
    - (i) facilities;
    - (ii) managers;
    - (iii) employees;
    - (iv) employee qualifications;
    - (v) the grant of certification authorisations;
    - (vi) equipment, tools and materials;
    - (vii) maintenance data;
    - (viii) the fabrication of parts in the course of carrying out maintenance;
    - (ix) records;
    - (x) an annual review of the organisation's compliance with this Part, the Part 42 Manual of Standards and the organisation's exposition;
    - (xi) a procedure for making changes to the organisation that are not significant changes.

### *Matters for Subpart 42.G*

- (4) For paragraph (2)(n), the matters are the following:
  - (a) requirements for a continuing airworthiness management organisation's exposition;

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- (b) requirements for a continuing airworthiness management organisation, including requirements in relation to the following:
  - (i) facilities;
  - (ii) managers;
  - (iii) employees;
  - (iv) employee qualifications;
  - (v) equipment;
  - (vi) a quality management system, including auditing;
  - (vii) writing procedures for carrying out maintenance;
  - (viii) instructions for continuing airworthiness;
  - (ix) records;
  - (x) a procedure for making changes to the organisation that are not significant changes.

## **Subpart 42.B—Requirements for registered operators**

### **Division 42.B.1—Preliminary**

#### **42.025 Purpose of Subpart**

This Subpart sets out:

- (a) requirements relating to the continuing airworthiness of an aircraft that apply to the registered operator of the aircraft; and
- (b) record-keeping requirements for the registered operator of an aircraft in relation to authorisations under regulation 42.630.



**Division 42.B.2—Continuing airworthiness requirements****42.030 Continuing airworthiness requirements—all aircraft**

- (1) The registered operator of an aircraft commits an offence if:
- (a) the registered operator operates the aircraft for a flight, or permits it to be operated for a flight; and
  - (b) a requirement mentioned in subregulation (2) is not met for the aircraft before the flight commences.

Penalty: 50 penalty units.

- (2) The requirements are that:
- (a) the registered operator has ensured that the requirements mentioned in Division 42.C.2 are met for the aircraft; and
  - (b) if maintenance has been carried out on the aircraft since it was last operated for a flight—one of the following documents has been issued for the aircraft in relation to the maintenance:
    - (i) a certificate of release to service;
    - (ii) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301; and
  - (c) if the aircraft is a large aircraft or an aircraft operating under an AOC:
    - (i) the requirements of regulation 42.040 for the aircraft are met; and
    - (ii) an airworthiness review certificate is in force for the aircraft; and
  - (d) each item of operational or emergency equipment that is not required by the certification basis for the aircraft, but is required by or under these Regulations for the flight, is fitted to the aircraft; and
  - (e) if there is a defect in the aircraft:
    - (i) operation of the aircraft for the flight with the defect is permitted by:
      - (A) the minimum equipment list for the aircraft; or
      - (B) the configuration deviation list for the aircraft; or
      - (C) a special flight permit for the flight; or
    - (ii) the rectification of the defect is deferred in accordance with Subdivision 42.D.6.1; or
    - (iii) the defect is in an item of operational or emergency equipment that:
      - (A) is fitted to the aircraft; and
      - (B) is not required by the certification basis for the aircraft; and
      - (C) is not required by or under these Regulations for the operation of the aircraft for the flight; and
  - (f) the flight technical log for the aircraft records the details of any defect in the aircraft mentioned in subparagraph (e)(i) or (iii).

Note 1: For paragraph (b), under subregulation 42.760(2), a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft must be included in the flight technical log for the aircraft.

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Note 2: For subparagraph (c)(ii), for how long an airworthiness review certificate remains in force, see regulation 42.870.

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

### **42.035 Condition of AOC—aircraft authorised to operate under AOCs**

For paragraph 28BA(1)(b) of the Act, it is a condition of an AOC that the requirements of regulation 42.040 are met for each aircraft that is authorised to operate under the AOC.

### **42.040 Aircraft authorised to operate under AOCs and large aircraft must have continuing airworthiness management organisations**

*Aircraft authorised to operate under Australian air transport AOC*

- (1) The registered operator of an aircraft that is authorised to operate under an Australian air transport AOC must be approved by CASA under Subpart 42.G as a continuing airworthiness management organisation for the type and model of aircraft.

*Aircraft authorised to operate under AOC other than Australian air transport AOC*

- (2) The registered operator of an aircraft that is authorised to operate under an AOC, other than an Australian air transport AOC, must:
- (a) be approved by CASA under Subpart 42.G as a continuing airworthiness management organisation for the type and model of aircraft; or
  - (b) have a contract with a single continuing airworthiness management organisation for that organisation to ensure that all of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

*Large aircraft not authorised to operate under AOC*

- (3) The registered operator of a large aircraft that is not authorised to operate under an AOC must:
- (a) be approved by CASA under Subpart 42.G as a continuing airworthiness management organisation for the type and model of aircraft; or
  - (b) have a contract with a single continuing airworthiness management organisation for that organisation to ensure that all of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

### **42.045 Small aircraft not authorised to operate under AOCs may have continuing airworthiness management organisations**

- (1) The registered operator of a small aircraft that is not authorised to operate under an AOC may enter into a contract with a continuing airworthiness management organisation for the organisation to ensure that 1 or more of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

- (2) The registered operator must not, at any time, have a contract mentioned in subregulation (1) with more than 1 continuing airworthiness management organisation in relation to the aircraft.

#### **42.050 Form of continuing airworthiness management contract—all aircraft**

- (1) If the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045, the registered operator must ensure that the contract:

- (a) is in writing; and
- (b) includes provisions dealing with the matters mentioned in subregulation (2).

Penalty: 50 penalty units.

- (2) For paragraph (1)(b), the matters are the following:
- (a) the details of the aircraft covered by the contract, including the registration mark, type, model, and serial number for the aircraft;
  - (b) the registered operator's name and address;
  - (c) the continuing airworthiness management organisation's name, address and approval reference number;
  - (d) the matters relating to the continuing airworthiness of the aircraft for which the registered operator is responsible, including the requirements of Subpart 42.C for which the registered operator is responsible;
  - (e) the matters relating to the continuing airworthiness of the aircraft for which the continuing airworthiness management organisation is responsible, including the requirements of Subpart 42.C for which the organisation is responsible;
  - (f) that each party will give the other party information about the continuing airworthiness of the aircraft that relates to the matters mentioned in paragraphs (d) and (e);
  - (g) details of the information to be provided by each party as mentioned in paragraph (f);
  - (h) how the information mentioned in paragraph (f) will be provided by each party;
  - (i) the date of effect of the contract.

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

#### **42.055 Giving information in accordance with contract**

If:

- (a) the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045; and
- (b) the registered operator has information about the continuing airworthiness of the aircraft that relates to a matter mentioned in paragraph 42.050(2)(e);

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the registered operator must give the information to the organisation in accordance with the contract.

Penalty: 50 penalty units.

Note: See regulation 42.670 for the requirement for the continuing airworthiness management organisation for an aircraft to give information to the registered operator of the aircraft.

### **42.060 Copy of certain provisions of contract to be given to CASA**

- (1) If the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045, the registered operator must give CASA a copy of the provisions of the contract dealing with the matters mentioned in subregulation 42.050(2) within 14 days after the contract has been made.

Penalty: 50 penalty units.

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

### **42.065 Copy of variation of certain provisions of contract to be given to CASA**

- (1) If:
- (a) the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045; and
  - (b) a provision of the contract dealing with a matter mentioned in subregulation 42.050(2) is varied;

the registered operator must give CASA a copy of the varied provision within 14 days after the variation has been made.

Penalty: 50 penalty units.

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

### **42.070 Notice of termination of contract to be given to CASA**

- (1) If:
- (a) the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045; and
  - (b) the contract is terminated;

the registered operator must give CASA written notice of the termination within 14 days after the contract is terminated.

Penalty: 50 penalty units.

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

**42.075 Notice of contravention of Part to be given to CASA**

- (1) If:
- (a) the registered operator of an aircraft enters into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045; and
  - (b) the registered operator has reasonable grounds to believe that the organisation has contravened a provision of this Part;

the registered operator must give CASA written notice of the contravention within 7 days after the registered operator forms the belief that the contravention has occurred.

Penalty: 50 penalty units.

- (2) If the registered operator is an individual, he or she is not excused from giving a notice under subregulation (1) on the ground that the information in the notice might tend to incriminate the individual or expose the individual to a penalty.
- (3) However:
- (a) the information in the notice; or
  - (b) any information, document or thing obtained as a direct or indirect consequence of giving the notice;

is not admissible in evidence against the individual in criminal proceedings other than proceedings for an offence against subsections 136.1(1) or (4), 137.1(1) or 137.2(1) of the *Criminal Code*.

Note 1: Subsections 136.1(1) and (4), 137.1(1) and 137.2(1) of the *Criminal Code* provide for offences in relation to false or misleading statements in applications and false or misleading information or documents.

Note 2: See regulation 42.675 for the equivalent requirement for a continuing airworthiness management organisation.

**42.080 Maintenance of aircraft and aeronautical products***Maintenance carried out on an aircraft*

- (1) The registered operator of an aircraft must ensure that maintenance carried out on the aircraft is carried out by a person who is permitted to carry out the maintenance under regulation 42.295, 42.300 or 42.301.

Penalty: 50 penalty units.

- (2) The registered operator of an aircraft must ensure that a person mentioned in item 4 or 5 of table 42.300 carries out maintenance on the aircraft at a place only if no approved maintenance organisation is able to carry out the maintenance at that place.

Penalty: 50 penalty units.

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*Maintenance carried out on an aeronautical product*

- (3) The registered operator of an aircraft must ensure that maintenance carried out on an aeronautical product for the aircraft is carried out by a person who is permitted to carry out the maintenance under regulation 42.305 or 42.306.

Penalty: 50 penalty units.

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

## **Division 42.B.3—Record-keeping requirements in relation to authorisations under regulation 42.630**

### **42.085 Application of Division**

This Division applies to the registered operator of an aircraft if, under subregulation 42.660(1), a continuing airworthiness management organisation gives the registered operator a copy of an authorisation issued under regulation 42.630.

### **42.090 Retaining copies of authorisations**

- (1) The registered operator must retain a copy of the authorisation for at least 2 years after the authorisation ceases to be in force.

Penalty: 50 penalty units.

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

### **42.095 Keeping lists of authorised pilot licence holders and flight engineers**

- (1) The registered operator must, at all times, keep a list, in accordance with subregulation (2), of the pilot licence holders and flight engineers who hold authorisations issued under regulation 42.630 to provide maintenance services for the registered operator's aircraft.

Penalty: 50 penalty units.

- (2) The list must include the following information for each pilot licence holder and flight engineer:
  - (a) the name of the continuing airworthiness management organisation that issued the authorisation;
  - (b) the name and licence number of the pilot licence holder or flight engineer;
  - (c) the maintenance services that the pilot licence holder or flight engineer is authorised to provide;
  - (d) the period for which the authorisation is valid;
  - (e) the aircraft for which the authorisation is issued.

- (3) If there is a change to the information mentioned in subregulation (2), the registered operator must update the list within 28 days after the change occurs.

Penalty: 50 penalty units.

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

## **Subpart 42.C—Continuing airworthiness management— requirements for person responsible for continuing airworthiness for aircraft**

### **Division 42.C.1—Preliminary**

#### **42.100 Purpose of Subpart**

This Subpart sets out requirements relating to the continuing airworthiness of an aircraft that apply to the person responsible for continuing airworthiness for the aircraft.

#### **42.105 Meaning of *person responsible for continuing airworthiness* for aircraft**

- (1) If the registered operator of an aircraft has entered into a contract with a continuing airworthiness management organisation as mentioned in regulation 42.040 or 42.045, the ***person responsible for continuing airworthiness*** for the aircraft is:
  - (a) for a requirement of this Subpart for which, under the contract, the registered operator is responsible—the registered operator of the aircraft; and
  - (b) for a requirement of this Subpart for which, under the contract, the organisation is responsible—the organisation.

Note 1: Under regulation 42.050, a contract between the registered operator of an aircraft and a continuing airworthiness management organisation must deal with:

- (a) the matters relating to the continuing airworthiness of the aircraft for which the registered operator is responsible, including the requirements of this Subpart for which the registered operator is responsible; and
- (b) the matters relating to the continuing airworthiness of the aircraft for which the continuing airworthiness management organisation is responsible, including the requirements of this Subpart for which the organisation is responsible.

Note 2: Under subregulation 42.040(2), a contract between the registered operator of an aircraft that is authorised to operate under an AOC, other than an Australian air transport AOC, and a continuing airworthiness management organisation must provide that the organisation is to ensure that all of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

Note 3: Under subregulation 42.040(3), a contract between the registered operator of a large aircraft that is not authorised to operate under an AOC and a continuing airworthiness management organisation must provide that the organisation is to ensure that all of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

Note 4: Under regulation 42.045, a contract between the registered operator of a small aircraft that is not authorised to operate under an AOC may provide that the organisation is to ensure that 1 or more of the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met for the aircraft.

- (2) If subregulation (1) does not apply, the ***person responsible for continuing airworthiness*** for an aircraft is the registered operator of the aircraft.



## **Division 42.C.2—Continuing airworthiness management tasks**

### **42.110 Complying with regulations in this Division**

- (1) The person responsible for continuing airworthiness for an aircraft must comply with each of regulations 42.115 to 42.165 in relation to the aircraft.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) in relation to any of regulations 42.120 to 42.165 is an offence of strict liability.

### **42.115 Rectification of defect to aircraft before flight—all aircraft**

- (1) If:
- (a) the person responsible for continuing airworthiness for an aircraft becomes aware that there is a defect in the aircraft; and
  - (b) operation of the aircraft for a flight with the defect is not permitted by:
    - (i) the minimum equipment list for the aircraft; or
    - (ii) the configuration deviation list for the aircraft; or
    - (iii) a special flight permit for the flight; and
  - (c) rectification of the defect is not deferred in accordance with Subdivision 42.D.6.1;

the person must ensure that the defect is rectified before the aircraft is next operated for flight.

- (2) This regulation does not apply in relation to a defect in an item of operational or emergency equipment that:
- (a) is fitted to the aircraft; and
  - (b) is not required by the certification basis for the aircraft; and
  - (c) is not required by or under these Regulations for operation of the aircraft for the flight.

Note 1: For paragraph (c), see Part 90 and the Part 90 Manual of Standards, regulation 207 of CAR and Civil Aviation Order 20.4, Civil Aviation Order 20.11 and Civil Aviation Order 20.18.

Note 2: See also Division 42.D.6 for other requirements relating to defects.

Note 3: Under regulation 42.110, failure to comply with this regulation is an offence.

### **42.120 Compliance with airworthiness directives—all aircraft**

If:

- (a) an airworthiness directive applies to:
  - (i) an aircraft; or
  - (ii) an aeronautical product that is part of, or used in, an aircraft; and

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- (b) the aircraft or aeronautical product is not excluded from the operation of the airworthiness directive under subregulation 39.002(2) or paragraph 39.004(2)(b) or (3)(b);

the person responsible for continuing airworthiness for the aircraft must ensure that the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) are complied with in relation to the aircraft or aeronautical product.

Note 1: Paragraph 39.002(1)(b) refers to the requirements of an airworthiness directive, and paragraphs 39.002(1)(c) and (d) refer to the requirements of a means of compliance with the airworthiness directive approved by CASA or an national aviation authority. An airworthiness directive, and a means of compliance with the airworthiness directive approved by CASA or an national aviation authority, will specify when the action required by the airworthiness directive or means of compliance must be carried out.

Note 2: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.125 Approval of design for modifications or repairs to aircraft—all aircraft**

- (1) The person responsible for continuing airworthiness for an aircraft must ensure that the aircraft is not modified unless:
- (a) there is a Part 21 approval for the design of the modification; and
  - (b) the modification is compatible with the configuration of the aircraft at the time the modification is made.
- (2) The person responsible for continuing airworthiness for an aircraft contravenes subregulation (1) if:
- (a) the aircraft is modified; and
  - (b) either:
    - (i) there is no Part 21 approval for the design of the modification; or
    - (ii) the modification is not compatible with the configuration of the aircraft at the time the modification is made.
- (3) The person responsible for continuing airworthiness for an aircraft must ensure that a repair that involves a change to the approved design of the aircraft is not made unless:
- (a) there is a Part 21 approval for the design of the change involved in the repair; and
  - (b) the repair is compatible with the configuration of the aircraft at the time the repair is made.
- (4) The person responsible for continuing airworthiness for an aircraft contravenes subregulation (3) if:
- (a) the aircraft is repaired; and
  - (b) the repair involves a change to the approved design for the aircraft; and
  - (c) either:
    - (i) there is no Part 21 approval for the change involved in the repair; or
    - (ii) the repair is not compatible with the configuration of the aircraft at the time the modification is made.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

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**42.130 Dealing with certain instructions for continuing airworthiness—aircraft authorised to operate under AOCs and large aircraft**

- (1) This regulation applies to the person responsible for continuing airworthiness for an aircraft that is authorised to operate under an AOC or a large aircraft if:
- (a) an instruction for continuing airworthiness, issued by a person mentioned in subregulation (2), applies to the aircraft, or the aircraft's engine or propeller; and
  - (b) the instruction requires maintenance to be carried out on the aircraft, aircraft engine or propeller; and
  - (c) the person is not required, by another provision of these Regulations or by an airworthiness directive, to comply with the instruction.

Example: A service bulletin that is not mentioned in an airworthiness directive.

- (2) For paragraph (1)(a), the persons are the following:
- (a) the type certificate holder or foreign type certificate holder for the aircraft, aircraft engine or propeller;
  - (b) the supplemental type certificate holder or foreign supplemental type certificate holder for the aircraft, aircraft engine or propeller.
- (3) The person must, within the time specified in the instruction:
- (a) ensure that the instruction is complied with; or
  - (b) record, in writing, in the continuing airworthiness records system for the aircraft:
    - (i) information identifying the instruction; and
    - (ii) the reason for not complying with the instruction.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.135 Replacement of life limited aeronautical product—all aircraft**

If:

- (a) an aeronautical product that has a life limit is fitted to an aircraft; and
- (b) the aircraft is to be operated for a flight; and
- (c) the product's life limit is reached before, or would be reached during, the flight;

the person responsible for continuing airworthiness for the aircraft must ensure that the product is replaced before the flight.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.140 Approved maintenance program required—aircraft authorised to operate under AOCs and large aircraft**

The person responsible for continuing airworthiness for an aircraft that is authorised to operate under an AOC or a large aircraft must ensure that there is an approved maintenance program for the aircraft before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.

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Note 1: For the requirements for approval of maintenance programs, including compliance with the requirements specified in the Part 42 Manual of Standards, see Subpart 42.J.

Note 2: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.145 Compliance with maintenance program required—all aircraft**

The person responsible for continuing airworthiness for an aircraft must ensure that maintenance is carried out on the aircraft as required by the maintenance program for the aircraft.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.150 Updating approved maintenance program following change to instructions for continuing airworthiness**

- (1) This regulation applies to the person responsible for continuing airworthiness for an aircraft if:
  - (a) there is an approved maintenance program for the aircraft; and
  - (b) there is a change to the requirements in the instructions for continuing airworthiness for the aircraft, or an aeronautical product fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis; and
  - (c) as a result of the change, the program no longer complies with the requirements.
- (2) The person must, within 90 days after the occurrence of the change:
  - (a) vary the program so that it complies with the requirements; and
  - (b) either:
    - (i) approve the variation in accordance with Division 42.J.4; or
    - (ii) apply for approval of the variation in accordance with Division 42.J.5.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.155 Ensuring effectiveness of approved maintenance program using approved reliability programs—certain aircraft**

- (1) The person responsible for continuing airworthiness for an aircraft mentioned in subregulation (2) must ensure that there is an approved reliability program for the aircraft before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.
- (2) The aircraft are the following:
  - (a) a large aircraft, if the approved maintenance program for the aircraft:
    - (i) requires the carrying out of maintenance that was developed using the specification, known as ‘ATA MSG-3’, published by the Air Transport Association of America, as in force from time to time; or
    - (ii) requires condition monitoring of an aeronautical product or a system of the aircraft;

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- (b) an aircraft for which an approval under regulation 121.010 for the purposes of paragraph 121.035(1)(b) is in force;
- (ba) an aircraft for which an approval under regulation 135.020 for the purposes of subregulation 135.035(1) is in force;
- (c) an aircraft, if the instructions for continuing airworthiness for the aircraft require the use of a reliability program for the aircraft.

Note 1: The purpose of a reliability program for an aircraft is to ensure the effectiveness of the approved maintenance program for the aircraft in ensuring the continuing airworthiness of the aircraft.

Note 2: For the requirements for approval of reliability programs, including compliance with the requirements specified in the Part 42 Manual of Standards, see Subpart 42.L.

Note 3: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.160 Ensuring effectiveness of approved maintenance program—other aircraft authorised to operate under AOCs and large aircraft**

- (1) This regulation applies to the person responsible for continuing airworthiness for:
  - (a) a large aircraft to which regulation 42.155 does not apply; or
  - (b) an aircraft:
    - (i) that is authorised to operate under an AOC; and
    - (ii) to which regulation 42.155 does not apply.
- (2) The person must, at least once every 12 months:
  - (a) analyse the effectiveness of the approved maintenance program for the aircraft in ensuring the continuing airworthiness of the aircraft; and
  - (b) record in writing:
    - (i) the results of the analysis; and
    - (ii) information that substantiates the results of the analysis.
- (3) If the results of the analysis indicate that the approved maintenance program should be varied, the person must, within 30 days after completing the analysis:
  - (a) approve the variation in accordance with Division 42.J.4; or
  - (b) apply for approval of the variation in accordance with Division 42.J.5.
- (4) The person must retain a record mentioned in paragraph (2)(b) for 2 years after the record is made.

Note: Under regulation 42.110, failure to comply with this regulation is an offence.

**42.165 Removal of aeronautical products fitted as permitted by regulation 42.440**

If an aeronautical product is fitted to an aircraft as permitted by regulation 42.440, the person responsible for continuing airworthiness for the aircraft must, within 36 flight hours after it is fitted:

- (a) obtain an authorised release certificate for the product; or
- (b) ensure that the product is removed from the aircraft.

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Note: Under regulation 42.110, failure to comply with this regulation is an offence.

## **Division 42.C.3—Continuing airworthiness records—all aircraft**

### **Subdivision 42.C.3.1—Continuing airworthiness records system**

#### **42.170 Continuing airworthiness records system**

The person responsible for continuing airworthiness for an aircraft must, at all times, have a system:

- (a) that is capable of containing the continuing airworthiness records for the aircraft; and
- (b) that identifies the aircraft by:
  - (i) its make; and
  - (ii) its type and model designation; and
  - (iii) its registration mark; and
  - (iv) its serial number.

Penalty: 50 penalty units.

Note: For how long records must be retained, see regulation 42.260.

### **Subdivision 42.C.3.2—Information about aircraft**

#### **42.175 Requirement to record information**

- (1) The person responsible for continuing airworthiness for an aircraft must comply with each of regulations 42.180 to 42.210 in relation to the aircraft.

Penalty: 50 penalty units.

- (2) If, under any of regulations 42.180 to 42.210, the person is required to ensure that information in relation to the aircraft is recorded, the person must ensure that the information is recorded in writing in the continuing airworthiness records system for the aircraft.

Penalty: 50 penalty units.

- (3) If, under any of regulations 42.180 to 42.210, the person is required to ensure that a record of information in relation to the aircraft is updated, the person must ensure that the record is updated in writing in the continuing airworthiness records system for the aircraft.

Penalty: 50 penalty units.

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

Note: See regulation 42.1085 for requirements relating to records.

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**42.180 Information about aircraft engines and propellers**

*Required information*

- (1) For this regulation, the following information is the **required information** for an aircraft engine or propeller:
  - (a) its make;
  - (b) its type and model designation;
  - (c) its serial number.

*Required information to be recorded before first flight*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that the required information for each of the aircraft's engines and propellers is recorded before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.

*Required information to be recorded if engine or propeller replaced*

- (3) If, on or after the responsibility start date, an aircraft engine or propeller is replaced, the person must ensure that the required information for the replacement aircraft engine or propeller is recorded before the time mentioned in subregulation (4).
- (4) The time is the end of 30 days after the day one of the following documents is issued for the aircraft in relation to the maintenance that included the replacement of the engine or propeller:
  - (a) a certificate of release to service;
  - (b) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301.

**42.185 Information about empty weight of aircraft**

*Required information*

- (1) For this regulation, the following information is the **required information** for an aircraft:
  - (a) the empty weight of the aircraft, determined in accordance with the method set out in Civil Aviation Order 100.7;
  - (b) the position of the centre of gravity on the aircraft when the aircraft is in its empty weight configuration, determined in accordance with the method set out in Civil Aviation Order 100.7.

*Required information to be recorded before first flight*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that:
  - (a) the required information for the aircraft is recorded; and
  - (b) the record of that information is up to date;



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before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft (the **first flight**).

*Updating record of required information*

- (3) If, after the aircraft is operated for its first flight, there is a change to:
- (a) the empty weight of the aircraft; or
  - (b) the position of the centre of gravity on the aircraft when the aircraft is in its empty weight configuration;

the person must ensure that the record of the required information is updated before the aircraft is next operated for flight.

Note 1: Under subregulation 42.175(1), failure to comply with this regulation is an offence.

Note 2: Under subregulations 42.175(2) and (3), information recorded or updated under this regulation must be recorded and updated in writing in the continuing airworthiness records system for the aircraft.

**42.190 Information about utilisation of aircraft**

*Required information*

- (1) For this regulation, the **required information** for an aircraft is information about the utilisation of the aircraft, or of an aeronautical product fitted to the aircraft, that:
- (a) the person responsible for continuing airworthiness for the aircraft uses in ensuring that a requirement mentioned in regulation 42.120, 42.130, 42.135 or 42.145 is met; and
  - (b) includes the total time-in-service of:
    - (i) the aircraft; and
    - (ii) each of the aircraft's engines; and
    - (iii) each of the aircraft's propellers.

Example 1: For paragraph (a), for an aircraft

The total number of landings the aircraft has carried out.

Example 2: For paragraph (a), for an aeronautical product fitted to an aircraft

For an aircraft engine, the total number of engine cycles the engine has performed.

*Required information to be recorded before first flight*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that:
- (a) the required information for the aircraft is recorded; and
  - (b) the record of that information is up to date;
- before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.

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### *Updating record of required information*

- (3) If, on or after the responsibility start date, the aircraft is operated for flight, the person must ensure that the record of the required information for the aircraft is updated before the earlier of the following:
- (a) when a requirement mentioned in regulation 42.120, 42.130, 42.135 or 42.145 is due to be met;
  - (b) the end of 3 days after the completion of the flight.

Note 1: Under subregulation 42.175(1), failure to comply with this regulation is an offence.

Note 2: Under subregulations 42.175(2) and (3), information recorded or updated under this regulation must be recorded and updated in writing in the continuing airworthiness records system for the aircraft.

## **42.195 Information about compliance with airworthiness directives**

### *Required information*

- (1) For this regulation, the following information is the **required information** for an airworthiness directive that applies to an aircraft, or to an aeronautical product fitted to the aircraft:
- (a) information identifying the airworthiness directive;
  - (b) if action is required to meet the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) for the airworthiness directive—when the action is due, or next due, to be carried out;
  - (c) if the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) have been met for the airworthiness directive in relation to the aircraft or aeronautical product:
    - (i) when the requirements were last met; and
    - (ii) if the requirements of a means of compliance with the airworthiness directive mentioned in paragraph 39.002(1)(c) or (d) have been met—information identifying that means of compliance; and
    - (iii) if the airworthiness directive applies to an aeronautical product—the part and serial number (if any) for the product.

### *Required information to be recorded before first flight—applicable airworthiness directives*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that the information mentioned in subregulation (3) is recorded before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.
- (3) The information is the required information for each airworthiness directive that, immediately before the responsibility start date, applied to the aircraft or an aeronautical product fitted to the aircraft.

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*Required information to be recorded—airworthiness directives that become applicable*

- (4) If, on or after the responsibility start date, an airworthiness directive becomes applicable to the aircraft, or to an aeronautical product fitted to the aircraft, the person must ensure that the required information for the airworthiness directive is recorded before the earlier of the following:
- (a) when action is due to be carried out to meet the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) for the airworthiness directive;
  - (b) the end of 30 days after the airworthiness directive becomes applicable to the aircraft or the aeronautical product.

*Updating record of required information*

- (5) If, on or after the responsibility start date, action is carried out to meet the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) for an airworthiness directive that applies to the aircraft, or to an aeronautical product fitted to the aircraft, the person must comply with subregulation (6).
- (6) The person must ensure that the record of the required information for the airworthiness directive is updated before the earlier of the following:
- (a) when action is next due to be carried out to meet the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) for the airworthiness directive (if applicable);
  - (b) the end of 30 days after the day the action is carried out.

Note 1: Under subregulation 42.175(1), failure to comply with this regulation is an offence.

Note 2: Under subregulations 42.175(2) and (3), information recorded or updated under this regulation must be recorded and updated in writing in the continuing airworthiness records system for the aircraft.

## **42.200 Information about compliance with maintenance program**

*Required information*

- (1) For this regulation, the following information is the **required information** for maintenance that is required by the aircraft's maintenance program to be carried out on the aircraft or on an aeronautical product fitted to the aircraft:
- (a) information identifying the maintenance;
  - (b) the interval at which the maintenance is required by the aircraft's maintenance program to be carried out;
  - (c) if the maintenance relates to an aeronautical product—the part and serial number (if any) for the product;
  - (d) if the maintenance has been carried out—when the maintenance was carried out;
  - (e) when the maintenance is next due to be carried out.
- (2) However, the **required information** mentioned in subregulation (1) does not include information mentioned in subregulation 42.195(1).

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*Required information to be recorded before first flight*

- (3) The person responsible for continuing airworthiness for an aircraft must ensure that:
- (a) the required information for the maintenance is recorded; and
  - (b) the record of that information is up to date;
- before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft (the **first flight**).

*Required information to be updated if maintenance carried out*

- (4) If, after the aircraft is operated for its first flight, the maintenance is carried out on the aircraft or on the aeronautical product, the person must ensure that the record is updated before the earlier of the following:
- (a) when maintenance is next due to be carried out on the aircraft, or on an aeronautical product fitted to the aircraft, to comply with regulation 42.145;
  - (b) the end of 30 days after one of the following documents is issued for the aircraft in relation to the maintenance:
    - (i) a certificate of release to service;
    - (ii) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301.

*Required information to be updated if maintenance program changed*

- (5) If, after the aircraft is operated for its first flight, there is a change to the aircraft's maintenance program in relation to the maintenance, the person must ensure that the record of the required information for the maintenance is updated before the earlier of the following:
- (a) when maintenance is due to be carried out on the aircraft, or on an aeronautical product fitted to the aircraft, to comply with regulation 42.145;
  - (b) the end of 30 days after the change is made.

*Required information to be updated if aeronautical product fitted*

- (6) If:
- (a) the maintenance relates to an aeronautical product; and
  - (b) after the aircraft is operated for its first flight, the aeronautical product is fitted to the aircraft;
- the person must ensure that the record is updated before the time mentioned in subregulation (7).
- (7) The time is the earlier of the following:
- (a) when maintenance is due to be carried out on the aircraft, or on an aeronautical product fitted to the aircraft, to comply with regulation 42.145;

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- (b) the end of 30 days after one of the following documents is issued for the aircraft in relation to the maintenance that included the fitting of the aeronautical product:
- (i) a certificate of release to service;
  - (ii) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301.

Note 1: Under subregulation 42.175(1), failure to comply with this regulation is an offence.

Note 2: Under subregulations 42.175(2) and (3), information recorded or updated under this regulation must be recorded and updated in writing in the continuing airworthiness records system for the aircraft.

## 42.205 Information about modifications

### *Required information*

- (1) For this regulation, the following information is the **required information** for a modification made to an aircraft or to an aeronautical product fitted to the aircraft:
- (a) a description of the modification;
  - (b) a reference to the design data used for the modification;
  - (c) when the modification is made;
  - (d) if the modification relates to an aeronautical product—the part and serial number (if any) for the product.

### *Required information to be recorded before first flight*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that the information mentioned in subregulation (3) is recorded before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.
- (3) The information is the required information for each modification that was made, before the responsibility start date, to the aircraft or an aeronautical product fitted to the aircraft.

### *Required information to be recorded for subsequent modifications*

- (4) If, on or after the responsibility start date, a modification is made to the aircraft or to an aeronautical product fitted to the aircraft, the person must ensure that the required information for the modification is recorded before the time mentioned in subregulation (5).
- (5) The time is the end of 30 days after one of the following documents is issued for the aircraft in relation to the maintenance that included the modification:
- (a) a certificate of release to service;
  - (b) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301.

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**42.210 Information about aeronautical products with life limit**

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*Required information*

- (1) For this regulation, the following information is the **required information** for an aeronautical product that is fitted to an aircraft and that has a life limit:
  - (a) details that identify the aeronautical product, including its part and serial number (if any);
  - (b) the life limit for the aeronautical product;
  - (c) when the aeronautical product is due to be removed from the aircraft.

*Required information to be recorded before first flight*

- (2) The person responsible for continuing airworthiness for an aircraft must ensure that the information mentioned in subregulation (3) is recorded before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft.
- (3) The information is the required information for an aeronautical product that, immediately before the responsibility start date:
  - (a) was fitted to the aircraft; and
  - (b) had a life limit.

*Required information to be recorded for aeronautical products fitted on or after responsibility start date*

- (4) If, on or after the responsibility start date, an aeronautical product that has a life limit is fitted to the aircraft, the person must ensure that the required information for the product is recorded before the earlier of the following:
  - (a) the time that the product reaches its life limit;
  - (b) the end of 30 days after one of the following documents is issued for the aircraft in relation to the maintenance that included the fitting of the product to the aircraft:
    - (i) a certificate of release to service;
    - (ii) an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301.

*Required information to be recorded if life limit becomes applicable on or after responsibility start date*

- (5) If, on or after the responsibility start date, a life limit becomes applicable to an aeronautical product fitted to the aircraft, the person must ensure that the required information for the product is recorded before the earlier of the following:
  - (a) the time that the product reaches its life limit;
  - (b) the end of 30 days after the life limit becomes applicable to the product.

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*Updating record of required information*

- (6) If, on or after the responsibility start date, there is a change to the life limit for an aeronautical product fitted to the aircraft, the person must ensure that the record of the required information for the product is updated before the earlier of the following:

- (a) the time that the product reaches its life limit;
- (b) the end of 30 days after the change is made.

Note 1: Under subregulation 42.175(1), failure to comply with this regulation is an offence.

Note 2: Under subregulations 42.175(2) and (3), information recorded or updated under this regulation must be recorded and updated in writing in the continuing airworthiness records system for the aircraft.

### **Subdivision 42.C.3.3—Substantiating documents**

#### **42.215 Substantiating documents**

- (1) The person responsible for continuing airworthiness for an aircraft must keep documents that substantiate the information recorded under regulations 42.180, 42.185, 42.190, 42.195, 42.200, 42.205 and 42.210 for the aircraft.

Penalty: 50 penalty units.

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

Note: For how long substantiating documents must be retained, see regulation 42.260.

### **Subdivision 42.C.3.4—Flight technical log**

#### **42.220 Flight technical log**

- (1) The person responsible for continuing airworthiness for an aircraft must, at all times, have a log for the aircraft that:
- (a) includes details identifying the aircraft, including the type, model and registration mark for the aircraft; and
  - (b) is capable of containing the documents and information for the aircraft that, under this Part, are required to be included in the log.

Penalty: 50 penalty units.

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

Note 1: Under paragraph 42.030(2)(e), before an aircraft undertakes a flight, the flight technical log for an aircraft must record the details of any item of operational or emergency equipment that is fitted to the aircraft and is unserviceable.

Note 2: Under regulation 42.230, if the person responsible for continuing airworthiness for an aircraft is not a continuing airworthiness management organisation, and CASA has not, under regulation 42.235, approved another means of recording the required information for the aircraft (within the meaning given by subregulation 42.230(2)), the person must ensure that that information is recorded and updated in the flight technical log for the aircraft.

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- Note 3: Under regulation 42.370, a qualified individual must enter information relating to the deferral of the rectification of a defect in an aircraft in the flight technical log for the aircraft if the defect affects the operation of the aircraft.
- Note 4: Under paragraph 42.440(g) an entry mentioned in that paragraph must be made in the flight technical log for an aircraft if a part is fitted to the aircraft as permitted by regulation 42.440.
- Note 5: Under subregulation 42.760(2), a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft must be included in the flight technical log for the aircraft.
- Note 6: Under subregulation 42.1075(1), the pilot in command of an aircraft for a flight must ensure that the information mentioned in that subregulation for the flight is recorded in the flight technical log for the aircraft.
- Note 7: Under regulation 42.245, the person responsible for continuing airworthiness for the aircraft must ensure that the aircraft's flight technical log is capable of containing the information mentioned in regulation 42.190 for each flight for the aircraft if CASA has not, under regulation 42.250, approved another means of recording the information.
- Note 8: Under subregulation 42.1075(2), the pilot in command of an aircraft for a flight must record the information mentioned in regulation 42.190 for the flight in the aircraft's flight technical log if the log is capable of containing the information.

**42.225 Availability of flight technical log**

- (1) The person responsible for continuing airworthiness for an aircraft must ensure that the flight technical log for the aircraft is available to a person who is the pilot in command of the aircraft while the person is the pilot in command of the aircraft.

Penalty: 50 penalty units.

- (2) The person must ensure that the flight technical log for the aircraft is available to a person who is carrying out maintenance on the aircraft while the person is carrying out the maintenance.

Penalty: 50 penalty units.

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

**Subdivision 42.C.3.5—Recording next maintenance due to be carried out**

**42.230 Recording details of next maintenance due to be carried out in flight technical log**

*When this regulation applies*

- (1) This regulation applies if:
- (a) the person responsible for continuing airworthiness for an aircraft is not a continuing airworthiness management organisation; and
  - (b) CASA has not, under regulation 42.235, approved another means of recording the required information for the aircraft.

Note: If the person responsible for continuing airworthiness for an aircraft is a continuing airworthiness management organisation, the person is required to record the required

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information for the aircraft in the continuing airworthiness records for the aircraft—see regulation 42.200.

*Required information*

- (2) For this regulation, the **required information** for an aircraft at a particular time is:
- (a) information identifying the next maintenance that is due to be carried out on the aircraft in accordance with the aircraft's maintenance program; and
  - (b) when the maintenance is due to be carried out.

*Information to be recorded before first flight*

- (3) The person must ensure that the required information for the aircraft is recorded in the aircraft's flight technical log before the aircraft is operated for its first flight on or after the responsibility start date for the person and the aircraft (the **first flight**).

Penalty: 50 penalty units.

*Updating record of required information*

- (4) If, after the first flight, maintenance is carried out on the aircraft in accordance with the aircraft's maintenance program, the person must ensure that the record of the required information for the aircraft is updated in the aircraft's flight technical log before the aircraft is next operated for flight.

Penalty: 50 penalty units.

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

**42.235 Approval of another means of recording next maintenance due to be carried out**

- (1) If the person responsible for continuing airworthiness for an aircraft is not a continuing airworthiness management organisation, the person may apply, in writing, to CASA for approval of:
- (a) a means, other than a flight technical log, of recording the required information for the aircraft (within the meaning given by subregulation 42.230(2)) for the purpose of informing the aircraft's flight crew of the required information; and
  - (b) the time within which the required information must be recorded by the other means.
- (2) Subject to regulation 11.055, CASA must approve the means if CASA is satisfied that the means is at least as reliable a means of recording the required information for the aircraft as the use of the flight technical log.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

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- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

**42.240 Recording details of next maintenance due to be carried out by approved other means**

(1) If:

- (a) the person responsible for continuing airworthiness for an aircraft is not a continuing airworthiness management organisation; and
- (b) CASA has, under regulation 42.235, approved:
  - (i) another means of recording the required information for the aircraft (within the meaning given by subregulation 42.230(2)); and
  - (ii) the time within which the required information must be recorded by the other means;

the person must ensure that the required information for the aircraft is recorded in accordance with the approval.

Penalty: 50 penalty units.

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

**Subdivision 42.C.3.6—Recording utilisation information**

**42.245 Ensuring flight technical log can contain utilisation information mentioned in regulation 42.190 for each flight if another means not approved**

(1) If CASA has not, under regulation 42.250, approved:

- (a) another means of recording the information mentioned in regulation 42.190 for each flight for an aircraft; and
- (b) the time within which the information must be recorded by the other means;

the person responsible for continuing airworthiness for the aircraft must ensure that the aircraft's flight technical log is capable of containing the information.

Penalty: 50 penalty units.

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

**Note:** Under subregulation 42.1075(2), the pilot in command of an aircraft for a flight must record the information mentioned in regulation 42.190 for the flight in the aircraft's flight technical log if the log is capable of containing the information.

**42.250 Approval of another means of recording utilisation information mentioned in regulation 42.190 for each flight**

- (1) The person responsible for continuing airworthiness for an aircraft may apply, in writing, to CASA for approval of:
- (a) a means, other than a flight technical log, for recording the information mentioned in regulation 42.190 for each flight for the aircraft; and

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(b) the time within which the information must be recorded by the other means.

- (2) Subject to regulation 11.055, CASA must approve the means if CASA is satisfied that the means is at least as reliable a means of recording the information as the use of the flight technical log.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

**42.255 Recording utilisation information mentioned in regulation 42.190 for each flight by approved other means**

- (1) If CASA has, under regulation 42.250, approved:
- (a) another means of recording the information mentioned in regulation 42.190 for each flight for an aircraft; and
  - (b) the time within which the information must be recorded by the other means;

the person responsible for continuing airworthiness for the aircraft must ensure that the information is recorded in accordance with the approval.

Penalty: 50 penalty units.

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

**Subdivision 42.C.3.7—Retention and transfer of records**

**42.260 Retention of continuing airworthiness records**

- (1) The person responsible for continuing airworthiness for an aircraft must retain a record or document mentioned in an item of the following table for the period:
- (a) starting on:
    - (i) if the person created the record or document, and is the person responsible for continuing airworthiness for the aircraft on the creation date for the record or document—the creation date for the record or document; or
    - (ii) if the person did not create the record or document, and is the person responsible for continuing airworthiness for the aircraft on the creation date for the record or document—the date that the person receives the record or document; or
    - (iii) if the person is not the person responsible for continuing airworthiness for the aircraft on the creation date for the record or document—the date the person receives the continuing airworthiness records for the aircraft under regulation 42.265; and
  - (b) ending on the first-occurring of the following:
    - (i) the end date (if any) mentioned in the item;

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- (ii) the date the person gives the records to the person who becomes the person responsible for continuing airworthiness for the aircraft under regulation 42.265.

Item	Record or document	End date
1	A document kept under regulation 42.215 for the aircraft	The date that the information substantiated by the document is superseded by other information
2	A copy of a maintenance record, that is not covered by item 1, for maintenance carried out on the aircraft	1 year after the creation date for the maintenance record
3	A copy of a document that: (a) is equivalent to a maintenance record for maintenance carried out on the aircraft; and (b) is issued under a law of a foreign country; and (c) is not covered by item 1	1 year after the creation date for the document
4	A certificate of release to service, or an equivalent document issued in accordance with an NAA arrangement mentioned in regulation 42.301, for the aircraft in relation to maintenance carried out on the aircraft	The later of the following: (a) 1 year after the date of issue of the certificate or equivalent document; (b) the date a certificate of release to service or equivalent document is next issued for the aircraft in relation to maintenance carried out on the aircraft
5	A record of information: (a) that is made in the flight technical log for an aircraft in accordance with this Part; and (b) that is not covered by item 1, 2 or 4	1 year after the creation date for the record
6	A copy of the design of a modification or repair that is unique to the aircraft	—

**Penalty:** 50 penalty units.

**Example 1:** For item 1, an authorised release certificate for an aeronautical product that is fitted to an aircraft must be kept until the date the aeronautical product is removed from the aircraft.

**Example 2:** For item 1, an in-house release document for an aeronautical product that is fitted to an aircraft must be kept until the date the aeronautical product is removed from the aircraft.

**Example 3:** For item 1, a document mentioned in paragraph 42.440(e) for an aeronautical product fitted to an aircraft as permitted by regulation 42.440 must be kept until the date the aeronautical product is removed from the aircraft.

**Example 4:** For item 1, a document that substantiates the empty weight of the aircraft and the centre of gravity position on the aircraft at its empty weight configuration must be kept until the date that the aircraft is next weighed and its empty weight, and its centre of gravity in its empty weight configuration, is determined.

**Note:** For item 5, see the notes to regulation 42.220.

(2) In this regulation:

*creation date* means:

- (a) for a record of information—the date the record is made; and
- (b) for a document—the date the document is created.

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

#### **42.265 Transfer of continuing airworthiness records for aircraft**

(1) This regulation applies if:

- (a) a person (the *first person*) ceases to be the person responsible for continuing airworthiness for an aircraft; and
- (b) another person (the *second person*) becomes the person responsible for continuing airworthiness for the aircraft.

(2) Within 30 days after the first person ceases to be the person responsible for continuing airworthiness for the aircraft, the first person must give the continuing airworthiness records for the aircraft to the second person.

Penalty: 50 penalty units.

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

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**Division 42.C.4—Major defects—reporting and investigating**

**42.270 Reporting major defects—all aircraft**

- (1) If the person responsible for continuing airworthiness for an aircraft becomes aware of a major defect in the aircraft, the person must, within 2 days after becoming aware of the defect, report the defect, in accordance with subregulation (2), to:
  - (a) CASA; and
  - (b) if the defect does not relate to a modification mentioned in paragraph (c), (d), (e) or (f)—the type certificate holder or foreign type certificate holder for the aircraft; and
  - (c) if the defect relates to a modification made to the aircraft that is covered by a supplemental type certificate for the aircraft—the supplemental type certificate holder or foreign supplemental type certificate holder for the aircraft; and
  - (d) if the defect relates to a part produced in accordance with an Australian Parts Manufacturer Approval—the holder of the Australian Parts Manufacturer Approval; and
  - (e) if the defect relates to a part produced in accordance with a Parts Manufacturer Approval issued by the FAA—the holder of the Parts Manufacturer Approval; and
  - (ea) if the defect relates to a part produced in accordance with a parts manufacturer approval issued by a national aviation authority to which subregulation (1A) applies—the holder of the approval; and
  - (f) if the defect relates to a modification made in accordance with a design covered by any of the following approvals—the holder of the approval:
    - (i) a modification/repair design approval;
    - (ii) an approval mentioned in regulation 21.475;
    - (iii) an approval that continues in force under regulation 202.054, 202.055 or 202.056.

Penalty: 50 penalty units.

- (1A) For paragraph (1)(ea), this subregulation applies to the national aviation authority of a Contracting State if:
  - (a) Australia has an agreement (however described) with the Contracting State for the acceptance of parts manufacturer approvals; or
  - (b) CASA has an agreement (however described) with the national aviation authority for the acceptance of parts manufacturer approvals.
- (2) The report must be made:
  - (a) in writing; and
  - (b) in the approved form.

Note: Under regulation 11.018, a report in the approved form is not complete unless it contains all of the information required by the form.

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- (3) It is a defence to a prosecution under subregulation (1) that relates to a failure to report a defect to the holder of an approval mentioned in subparagraph (1)(f)(iii) that the defendant:
- (a) made all reasonable efforts to identify the holder of the approval; and
  - (b) was unable to identify the holder.

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

Note 2: See also Division 42.D.6 for other requirements relating to defects.

**42.275 Investigating major defects—large aircraft and aircraft authorised to operate under AOC**

If the person responsible for continuing airworthiness for a large aircraft or an aircraft that is authorised to operate under an AOC becomes aware of a major defect in the aircraft, the person must:

- (a) investigate the cause of the defect; and
- (b) give CASA a report containing the findings of the investigation within 14 days after completing the investigation.

Penalty: 50 penalty units.

Note: See also Division 42.D.6 for other requirements relating to defects.

**42.280 Action by CASA following report of major defect**

- (1) If CASA receives a report about a major defect under regulation 42.270, CASA may, by notice in writing, require the person who made the report:
- (a) to give CASA further information in relation to the major defect within a period specified in the notice; or
  - (b) to keep the aircraft, or the part of the aircraft that is defective, in a state that will allow CASA to investigate the defect; or
  - (c) to give to CASA any document, aeronautical product or other thing in the possession, or under the control, of the person that relates to the defect.
- (2) The person must comply with the notice.

Penalty: 50 penalty units.

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

**42.285 Action by certificate holder or approval holder following report of major defect**

- (1) If a person mentioned in paragraph 42.270(1)(b), (c), (d), (e) or (f) (the **first person**) receives a report about a major defect under regulation 42.270, the first person may, by notice in writing, require the person who made the report (the **second person**) to give the first person further information in relation to the major defect.

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- (2) The notice must specify the period within which the further information must be provided.
- (3) The period specified in the notice must be at least 14 days from the date of the request.
- (4) The second person must comply with the notice.

Penalty: 50 penalty units.

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



## **Subpart 42.D—Maintenance**

### **Division 42.D.1—Preliminary**

#### **42.290 Purpose of Subpart**

This Subpart sets out:

- (a) who is permitted to carry out maintenance; and
- (b) requirements for carrying out maintenance on an aircraft or an aeronautical product; and
- (c) requirements for critical control system maintenance; and
- (d) requirements for dealing with defects; and
- (e) requirements for making and keeping records for an approved maintenance organisation or independent maintainer who carries out maintenance on an aircraft or aeronautical product.

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**Division 42.D.2—Permissions for section 20AB of Act—aircraft**

**42.295 Who is permitted to carry out maintenance on aircraft—approved maintenance organisations**

For subsection 20AB(2) of the Act, a person mentioned in column 2 of an item in the following table is permitted to carry out maintenance on an Australian aircraft:

- (a) to which this Part applies; and
- (b) that is mentioned in column 3 of the item.

Item	Person	Aircraft
1	A Part 145 organisation	An aircraft of a kind for which the Part 145 organisation is approved to provide maintenance services
2	An individual carrying out maintenance on behalf of a Part 145 organisation	An aircraft for which the Part 145 organisation is providing maintenance services
3	A Subpart 42.F organisation	A small aircraft: <ul style="list-style-type: none"><li>(a) that is not authorised to operate under an Australian air transport AOC; and</li><li>(b) that is of a kind for which the Subpart 42.F organisation is approved to provide maintenance services</li></ul>
4	An individual carrying out maintenance on behalf of a Subpart 42.F organisation	An aircraft for which the Subpart 42.F organisation is providing maintenance services

Note 1: The kinds of aircraft for which a Part 145 organisation is approved to provide maintenance services are determined by CASA—see regulation 145.030.

Note 2: The kinds of aircraft for which a Subpart 42.F organisation is approved to provide maintenance services are determined by CASA—see regulation 42.515.

**42.300 Who is permitted to carry out maintenance on aircraft—individuals not working for approved maintenance organisations**

- (1) For subsection 20AB(2) of the Act:
  - (a) an individual mentioned in column 2 of an item in table 42.300 is permitted to carry out maintenance on an Australian aircraft:
    - (i) to which this Part applies; and
    - (ii) that is mentioned in column 3 of the item; and
  - (b) the individual is permitted to carry out the maintenance subject to the conditions mentioned in column 4 of the item.
- (2) However, an individual mentioned in item 2, 3, 4 or 5 of table 42.300 is not permitted to supervise the carrying out of maintenance by another individual.

## Regulation 42.300

**Table 42.300 Individuals, not working for approved maintenance organisations, permitted to carry out maintenance on aircraft**

<b>Item</b>	<b>Individual</b>	<b>Aircraft</b>	<b>Conditions</b>
1	A licensed aircraft maintenance engineer	An aircraft: (a) that is a small aircraft; and (b) that is not authorised to operate under an AOC	The conditions are that: (a) the person's aircraft engineer licence permits him or her to perform maintenance certification for the maintenance; and (b) the maintenance is not specified in the Part 42 Manual of Standards for this item
2	An individual who is carrying out maintenance under the supervision of an individual mentioned in item 1	An aircraft for which the individual mentioned in item 1 is providing maintenance services	
3	A pilot licence holder who is carrying out maintenance other than under an authorisation issued under regulation 42.630 that is in force	An aircraft: (a) that is a small aircraft; and (b) that is not authorised to operate under an AOC; and (c) that the pilot licence holder is authorised, under Part 61, to fly	The conditions are that: (a) the maintenance is specified in the Part 42 Manual of Standards for this item; and (b) either: (i) the pilot licence holder is the registered operator of the aircraft; or (ii) the registered operator of the aircraft has given the pilot licence holder permission to carry out the maintenance
4	A pilot licence holder who is carrying out maintenance under an authorisation issued under regulation 42.630 that is in force	An aircraft: (a) that is a large aircraft, or is authorised to operate under an AOC; and (b) that the pilot licence holder is authorised, under Part 61, to fly	The conditions are that: (a) the pilot licence holder is a member of the aircraft's flight crew; and (b) the maintenance is specified in the Part 42 Manual of Standards for this item

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Item	Individual	Aircraft	Conditions
5	A flight engineer who is carrying out maintenance under an authorisation issued under regulation 42.630 that is in force	An aircraft: (a) that is a large aircraft, or is authorised to operate under an AOC; and (b) in relation to which the flight engineer is authorised, under Part 61, to perform the duties of flight engineer	The conditions are that: (a) the flight engineer is a member of the aircraft's flight crew; and (b) the maintenance is specified in the Part 42 Manual of Standards for this item

Note 1: For item 2, under regulation 42.320, an independent maintainer who is supervising the carrying out of maintenance by another individual must not instruct or permit the individual to carry out maintenance that the independent maintainer is not permitted to carry out.

Note 2: For items 4 and 5, under subregulation 42.080(2), the registered operator of an aircraft must ensure that a person mentioned in item 4 or 5 carries out maintenance on the aircraft at a place only if no approved maintenance organisation is able to carry out the maintenance at that place

Note 3: For items 4 and 5, an authorisation under regulation 42.630 must include the maintenance services that the pilot licence holder or flight engineer is authorised to provide—see paragraph 42.630(3)(c).

**42.301 Who is permitted to carry out maintenance—organisations under NAA arrangement**

- (1) For subsection 20AB(2) of the Act, an organisation is permitted to carry out maintenance outside Australian territory on an Australian aircraft to which this Part applies if:
  - (a) the organisation is approved to carry out the maintenance by the national aviation authority of a foreign country under a law of that country; and
  - (b) the country is specified for this regulation in the Part 42 Manual of Standards; and
  - (c) there is an arrangement (the *NAA arrangement*) between CASA and the national aviation authority, or Australia and the foreign country, that permits the organisation to carry out the maintenance.
- (2) The permission in subregulation (1) is subject to the condition that the organisation must carry out and certify the maintenance in accordance with the NAA arrangement.

## **Division 42.D.3—Permissions for section 20AB of Act—aeronautical products**

### **42.305 Who is permitted to carry out maintenance on aeronautical products**

For subsection 20AB(2) of the Act, a person mentioned in column 2 of an item in the following table is permitted to carry out maintenance on:

- (a) an aeronautical product in Australian territory:
  - (i) to which this Part applies; and
  - (ii) that is of the kind mentioned in column 3 of the item; and
- (b) an aeronautical product for an Australian aircraft:
  - (i) to which this Part applies; and
  - (ii) that is of the kind mentioned in column 3 of the item.

<b>Item</b>	<b>Person</b>	<b>Aeronautical product</b>
1	A Part 145 organisation	An aeronautical product of a kind for which the Part 145 organisation is approved to provide maintenance services
2	An individual carrying out maintenance on behalf of a Part 145 organisation	An aeronautical product for which the Part 145 organisation is providing maintenance services
3	A Subpart 42.F organisation	An aeronautical product of a kind for which the Subpart 42.F organisation is approved to provide maintenance services
4	An individual carrying out maintenance on behalf of a Subpart 42.F organisation	An aeronautical product for which the Subpart 42.F organisation is providing maintenance services

Note 1: The kinds of aeronautical products for which a Part 145 organisation is approved to provide maintenance services are determined by CASA—see regulation 145.030.

Note 2: The kinds of aeronautical products for which a Subpart 42.F organisation is approved to provide maintenance services are determined by CASA—see regulation 42.515.

### **42.306 Who is permitted to carry out maintenance on aeronautical products—foreign organisations approved by national aviation authority**

- (1) For subsection 20AB(2) of the Act, an organisation is permitted to carry out maintenance outside Australian territory on an aeronautical product for an Australian aircraft to which this Part applies if:
  - (a) the organisation is approved to carry out the maintenance by the national aviation authority of a foreign country under a law of that country; and
  - (b) the country is specified for this regulation in the Part 42 Manual of Standards.
- (2) The permission in subregulation (1) is subject to the condition that the organisation must carry out and certify the maintenance:

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- (a) if there is an arrangement (the *NAA arrangement*) between CASA and the national aviation authority that permits the organisation to carry out the maintenance—in accordance with the NAA arrangement; or
- (b) otherwise—in accordance with the law of the foreign country.

## **Division 42.D.4—Requirements for carrying out maintenance**

### **42.310 General requirements for carrying out maintenance**

#### *Obligation*

- (1) If an individual carries out maintenance on an aircraft or on an aeronautical product, the individual must:
  - (a) carry out the maintenance:
    - (i) in accordance with current maintenance data for the maintenance; and
    - (ii) using facilities that are appropriate for carrying out maintenance of the kind that is being carried out; and
  - (b) if tools, equipment or materials are mentioned in the maintenance data for the maintenance—use those tools, equipment or materials; and
  - (c) if using measuring or testing equipment—ensure that the accuracy of the equipment:
    - (i) is appropriate for the maintenance; and
    - (ii) has been verified, at appropriate intervals, by a means that is traceable to a standard that is nationally or internationally recognised.

Example: For subparagraph (c)(ii), of a standard that is nationally recognised

A standard maintained by the National Measurement Institute—see <http://www.measurement.gov.au>.

#### *Offence—approved maintenance organisation*

- (2) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation (1).

Penalty: 50 penalty units.

#### *Offences—independent maintainer*

- (3) An independent maintainer must comply with subregulation (1) when carrying out maintenance on an aircraft.

Penalty: 50 penalty units.

- (4) If an independent maintainer is supervising the carrying out of maintenance on an aircraft by another individual, the independent maintainer must ensure that the individual complies with subregulation (1).

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

## Regulation 42.315

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### 42.315 Ensuring individuals are competent to carry out maintenance

#### *Meaning of competent*

- (1) An individual is **competent** to carry out maintenance on an aircraft or aeronautical product if he or she has the skills and knowledge to carry out the maintenance to the standard required by the maintenance data for the maintenance.

#### *Obligation for approved maintenance organisation*

- (2) An approved maintenance organisation must ensure that an individual does not carry out maintenance on an aircraft or aeronautical product on behalf of the organisation unless:
  - (a) the organisation has assessed the individual as being competent to carry out the maintenance; or
  - (b) if the organisation has not assessed the individual as being competent to carry out the maintenance—the carrying out of the maintenance by the individual is supervised by an individual that the organisation has assessed as being competent to carry out the maintenance.

#### *Offences for breach of obligation*

- (3) An approved maintenance organisation commits an offence if:
  - (a) an individual carries out maintenance on an aircraft or aeronautical product on behalf of the organisation; and
  - (b) before the maintenance is carried out, the organisation has not assessed the individual as being competent to carry out the maintenance; and
  - (c) the carrying out of the maintenance by the individual is not supervised.

Penalty: 50 penalty units.

- (4) An approved maintenance organisation commits an offence if:
  - (a) an individual carries out maintenance on an aircraft or aeronautical product on behalf of the organisation; and
  - (b) before the maintenance is carried out, the organisation has not assessed the individual as being competent to carry out the maintenance; and
  - (c) the carrying out of the maintenance by the individual is supervised; and
  - (d) before the maintenance is carried out, the organisation has not assessed the individual who supervised the carrying out of the maintenance as being competent to carry out the maintenance.

Penalty: 50 penalty units.

#### *Obligation for certain independent maintainers*

- (5) An independent maintainer mentioned in item 1 or 3 of table 42.300 must not carry out maintenance on an aircraft unless the independent maintainer is competent to carry out the maintenance.



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- (6) An independent maintainer must not supervise the carrying out of maintenance on an aircraft by another individual unless the independent maintainer is competent to carry out the maintenance.

Note 1: The competence of an independent maintainer mentioned in item 4 or 5 of table 42.300 to carry out maintenance is dealt with by a continuing airworthiness management organisation—see paragraph 42.630(2)(e).

Note 2: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

*Offences for breach of obligation*

- (7) An independent maintainer mentioned in item 1 or 3 of table 42.300 commits an offence if:
- (a) he or she carries out maintenance on an aircraft; and
  - (b) he or she is not competent to carry out the maintenance.

Penalty: 50 penalty units.

- (8) An independent maintainer commits an offence if:
- (a) the independent maintainer supervises the carrying out of maintenance on an aircraft by another individual; and
  - (b) the independent maintainer is not competent to carry out the maintenance.

Penalty: 50 penalty units.

**42.320 Restriction on maintenance that independent maintainers may instruct or permit supervised individuals to carry out**

- (1) An independent maintainer who is supervising the carrying out of maintenance by another individual must not instruct or permit the individual to carry out maintenance that the independent maintainer is not permitted to carry out.

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

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

**42.325 Maintenance involving modifications and certain repairs***Obligation*

- (1) This regulation applies if an individual carries out maintenance on an aircraft or aeronautical product that involves:
- (a) making a modification to the aircraft or aeronautical product; or
  - (b) a repair of the aircraft or aeronautical product that involves a change to the approved design for the aircraft or aeronautical product.

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- (2) Before a certificate of release to service is issued for the aircraft or aeronautical product in relation to the maintenance, the individual must ensure that:
- (a) there is a Part 21 approval for the design of the modification or repair; and
  - (b) the modification or repair complies with the design.

Note: For who issues a certificate of release to service for an aircraft, see Subdivision 42.H.3.2. For who issues a certificate of release to service for an aeronautical product, see Subdivision 42.H.4.2.

*Offence—approved maintenance organisation*

- (3) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation (2).

Penalty: 50 penalty units.

*Offences—independent maintainer*

- (4) An independent maintainer must comply with subregulation (2):
- (a) when carrying out maintenance on an aircraft; and
  - (b) when supervising the carrying out of maintenance on an aircraft by another individual.

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

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

**42.330 Removal of tools etc after carrying out maintenance**

*Obligation*

- (1) If an individual carries out maintenance on an aircraft or aeronautical product, the individual must remove from the aircraft or aeronautical product any tools, equipment or other things extraneous to the aircraft or the aeronautical product before a certificate of release to service is issued for the aircraft or aeronautical product in relation to the maintenance.

Note: For who issues a certificate of release to service for an aircraft, see Subdivision 42.H.3.2. For who issues a certificate of release to service for an aeronautical product, see Subdivision 42.H.4.2.

*Offence—approved maintenance organisation*

- (2) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation (1).

Penalty: 50 penalty units.

*Offences—independent maintainer*

- (3) An independent maintainer must comply with subregulation (1) when carrying out maintenance on an aircraft.

Penalty: 50 penalty units.

- (4) An independent maintainer who is supervising the carrying out of maintenance on an aircraft by another individual must ensure that the individual complies with subregulation (1).

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

## **Division 42.D.5—Requirements for independent inspection of critical control system maintenance**

### **42.335 Meaning of *independent individual***

An *independent individual*, for critical control system maintenance carried out on an aircraft, means an individual who:

- (a) did not perform maintenance certification for the maintenance; and
- (b) if the maintenance is carried out by a Part 145 organisation—is a certifying employee of that organisation authorised to perform maintenance certification:
  - (i) for the maintenance; or
  - (ii) for similar maintenance carried out on another aircraft that has an aircraft control system of similar technology and construction; and
- (c) if the maintenance is not carried out by a Part 145 organisation—is 1 of the following:
  - (i) a licensed aircraft maintenance engineer whose aircraft engineer licence permits the individual to perform maintenance certification for the maintenance, or for similar maintenance carried out on another aircraft that has an aircraft control system of similar technology and construction;
  - (ii) a pilot licence holder who is authorised under Part 61 to fly the aircraft.

### **42.340 Requirement for verification and record for critical control system maintenance**

#### *Offence—approved maintenance organisation*

- (1) If an individual carries out critical control system maintenance on an aircraft on behalf of an approved maintenance organisation, the organisation must ensure that an independent individual has:
  - (a) verified the matters mentioned in subregulation 42.345(1); and
  - (b) made a record, in writing, in accordance with regulation 42.345;before the organisation issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

#### *Offence—independent maintainer*

- (2) If an independent maintainer carries out critical control system maintenance on an aircraft, or supervises the carrying out of critical control system maintenance on an aircraft by another individual, the independent maintainer must ensure that an independent individual has:
  - (a) verified the matters mentioned in subregulation 42.345(1); and

(b) made a record, in writing, in accordance with regulation 42.345;  
before the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

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

#### **42.345 Verification and record for critical control system maintenance**

(1) An independent individual may record the information mentioned in subregulation (3) in the continuing airworthiness records system for an aircraft in relation to critical control system maintenance carried out on the aircraft only if he or she has verified that:

- (a) the part of the aircraft control system on which the maintenance was carried out is assembled and configured in accordance with the maintenance data for the maintenance; and
- (b) the aircraft control system is functioning correctly.

(2) An independent individual commits an offence if:

- (a) he or she records the information mentioned in subregulation (3) in the continuing airworthiness records system for an aircraft in relation to critical control system maintenance carried out on the aircraft; and
- (b) the recording of the information is not permitted under subregulation (1).

Penalty: 50 penalty units.

(3) The information is the following:

- (a) that the individual has verified the matters mentioned in subregulation (1);
- (b) information identifying the critical control system maintenance to which the verification related;
- (c) the individual's name, signature and licence or certification authorisation number;
- (d) the date the verification was performed.

## Division 42.D.6—Requirements for dealing with defects

### Subdivision 42.D.6.1—Dealing with defects

#### 42.350 Meaning of *qualified individual*

- (1) For a defect in an aircraft that is authorised to operate under an Australian air transport AOC or a large aircraft, ***qualified individual*** means a certifying employee of a Part 145 organisation who is authorised to perform maintenance certification for the maintenance that would be necessary to rectify the defect.
- (2) For a defect in an aircraft, other than an aircraft mentioned in subregulation (1), ***qualified individual*** means a licensed aircraft maintenance engineer whose aircraft engineer licence permits the holder to perform maintenance certification for the maintenance that would be necessary to rectify the defect.

#### 42.355 Recording defects

If an individual:

- (a) is carrying out maintenance on an aircraft; and
- (b) is, or becomes, aware of a defect in the aircraft;

the individual must ensure that the defect is recorded in the continuing airworthiness records system for the aircraft before a certificate of release to service is issued for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

Note: For who issues a certificate of release to service for an aircraft, see Subdivision 42.H.3.2.

#### 42.360 When *qualified individual* may defer rectification of defect

- (1) A qualified individual may defer the rectification of a defect in an aircraft only if the deferral is permitted by subregulation (3).
- (2) The qualified individual commits an offence if:
  - (a) he or she defers the rectification of the defect; and
  - (b) the deferral is not permitted by subregulation (3).

Penalty: 50 penalty units.

- (3) Deferral of the rectification of the defect is permitted only if:
  - (a) the defect does not adversely affect the airworthiness of the aircraft; or
  - (b) the operation of the aircraft for a flight with the defect is permitted by any of the following:
    - (i) the instructions for continuing airworthiness for the aircraft;
    - (ii) the minimum equipment list for the aircraft;
    - (iii) the configuration deviation list for the aircraft;

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- (iv) an airworthiness directive; or
- (c) the defect is approved as a permissible unserviceability under regulation 21.007; or
- (d) the defect is in an item of operational or emergency equipment that:
  - (i) is fitted to the aircraft; and
  - (ii) is not required by the certification basis for the aircraft; and
  - (iii) is not required by or under these Regulations for the operation of the aircraft for a flight.

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

**42.365 How rectification of defect is deferred**

To defer the rectification of a defect in an aircraft under regulation 42.360, the qualified individual must:

- (a) make a record that complies with regulation 42.370; and
- (b) sign the record; and
- (c) record, in that record:
  - (i) his or her aircraft engineer licence number or certification authorisation number; and
  - (ii) the date of the deferral.

**42.370 Record for deferral of rectification of defect**

- (1) A record of the deferral of the rectification of a defect must be made in:
  - (a) the flight technical log for the aircraft, if:
    - (i) the defect affects the operation of the aircraft; or
    - (ii) the deferral was permitted by subparagraph 42.360(3)(b)(ii) or (iii); or
  - (b) the continuing airworthiness records system for the aircraft, in any other case.
- (2) The record must contain:
  - (a) a description of the defect; and
  - (b) a statement of the reasons for the qualified individual's decision to defer the rectification of the defect; and
  - (c) any limitations or conditions mentioned in a document mentioned in paragraph 42.360(3)(b) in relation to the deferral of the rectification of the defect and the operation of the aircraft.
- (3) A qualified individual commits an offence if:
  - (a) he or she makes a record of the deferral of the rectification of a defect; and
  - (b) the record does not comply with this regulation.

Penalty: 50 penalty units.

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

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**Subdivision 42.D.6.2—Reporting defects**

**42.375 Major defect reporting—independent maintainer carrying out maintenance on aircraft**

If:

- (a) an independent maintainer is carrying out maintenance on an aircraft, or is supervising the carrying out of maintenance on an aircraft by another individual; and
- (b) the independent maintainer becomes aware of a major defect in the aircraft; the independent maintainer must report the defect to the person responsible for continuing airworthiness for the aircraft.

Penalty: 50 penalty units.

Note 1: See also regulations 42.110, 42.115 and 42.270 for other requirements relating to defects.

Note 2: See regulation 42.390 for the requirements for making a report.

Note 3: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

**42.380 Major defect reporting—approved maintenance organisation carrying out maintenance on aircraft**

If:

- (a) an approved maintenance organisation is carrying out maintenance on an aircraft; and
- (b) the organisation becomes aware of a major defect in the aircraft; the organisation must report the defect to the person responsible for continuing airworthiness for the aircraft.

Penalty: 50 penalty units.

Note 1: See regulation 42.390 for the requirements for making a report.

Note 2: See also regulations 42.110, 42.115 and 42.270 for other requirements relating to defects.

**42.385 Major defect reporting—approved maintenance organisation carrying out maintenance on aeronautical product**

If:

- (a) an approved maintenance organisation is carrying out maintenance on an aeronautical product; and
- (b) the organisation becomes aware of a major defect in the aeronautical product; the organisation must report the defect to CASA.

Penalty: 50 penalty units.



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Note 1: See regulation 42.390 for the requirements for making a report.

Note 2: See also regulations 42.110, 42.115 and 42.270 for other requirements relating to defects.

### **42.390 Reporting requirements**

A person who is required to make a report under regulation 42.375, 42.380 or 42.385 must:

- (a) make the report in the approved form; and
- (b) make the report within 2 days after the person becomes aware of the major defect to which the report relates.

Penalty: 50 penalty units.

Note 1: See also regulations 42.110, 42.115 and 42.270 for other requirements relating to defects.

Note 2: Under regulation 11.018, a report in the approved form is not complete unless it contains all of the information required by the form.

## **Division 42.D.7—Requirements for recording maintenance for aircraft or aeronautical products**

### **42.395 Recording maintenance information for aircraft**

#### *Offence—approved maintenance organisation*

- (1) If an individual carries out maintenance on an aircraft on behalf of an approved maintenance organisation, the organisation must ensure that the information mentioned in subregulation (3) is recorded in writing before the organisation issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

#### *Offence—independent maintainer*

- (2) If an independent maintainer:
- (a) carries out maintenance on an aircraft; or
  - (b) supervises the carrying out of maintenance on an aircraft by another individual;
- the independent maintainer must record the information mentioned in subregulation (3) in writing before the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

#### *Information to be recorded*

- (3) The information is the following:
- (a) the registration mark for the aircraft;
  - (b) the date on which the maintenance was completed;
  - (c) a description of the maintenance;
  - (d) information identifying the maintenance data for the maintenance;
  - (e) if the maintenance is a modification or repair involving a change to the approved design for the aircraft—information identifying the design of the modification or repair;
  - (f) if a part was fitted to the aircraft when the maintenance was carried out—a description of the part, including:
    - (i) the part number for the part; and
    - (ii) the serial number for the part (if any); and
    - (iii) if the part is not a standard part—the information mentioned in subregulation (4).
- (4) For subparagraph (3)(f)(iii), the information is:
- (a) if the fitting of the part was permitted by subparagraph 42.420(5)(a)(i) or (b)(i)—the number of the authorised release certificate mentioned in that

- subparagraph for the part, or information that enables the identification of that authorised release certificate; and
- (b) if the fitting of the part was permitted by subparagraph 42.420(5)(b)(ii)—information that enables the identification of the in-house release document mentioned in that subparagraph for the part; and
  - (c) if the fitting of the part is permitted under regulation 42.430—information identifying the aircraft from which the part was removed; and
  - (d) if the fitting of the part is permitted under regulation 42.435—a statement that the part is a product fabricated by an approved maintenance organisation; and
  - (e) if the fitting of the part is permitted under regulation 42.440—information that enables the identification of the document mentioned in paragraph 42.440(e) that accompanied the part.

- Note 1: The information required under this regulation about maintenance, and the maintenance certification for the maintenance, together constitute the maintenance record for the maintenance—see the definition of ***maintenance record*** in regulation 42.015. For maintenance certification, see regulation 42.715.
- Note 2: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).
- Note 3: See Division 42.H.3 in relation to the issue of a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft.

#### **42.400 Making maintenance record for aeronautical products**

- (1) If an individual carries out maintenance on an aeronautical product (the ***first aeronautical product***) on behalf of an approved maintenance organisation, the organisation must ensure that the information mentioned in this regulation (the ***maintenance record***) is recorded:
  - (a) in writing; and
  - (b) before the organisation issues a certificate of release to service for the aeronautical product in relation to the maintenance.

Penalty: 50 penalty units.

- (2) The information is:
  - (a) information that identifies the first aeronautical product, including:
    - (i) the part number for the product; and
    - (ii) the serial number for the product (if any); and
  - (b) the date on which the maintenance was completed; and
  - (c) a description of the maintenance; and
  - (d) information identifying the maintenance data for the maintenance; and
  - (e) if the maintenance is a modification or repair involving a change to the approved design of the aeronautical product—information identifying the design of the modification or repair.

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- (3) If an aeronautical product (the *second aeronautical product*) was fitted to the first aeronautical product when the maintenance was carried out, the information must include a description of the second aeronautical product, including:
  - (a) the part number for the product; and
  - (b) the serial number for the product (if any); and
  - (c) if the product is not a standard part—the information mentioned in subregulation (4).
- (4) For paragraph (3)(c), the information is:
  - (a) if the fitting of the second aeronautical product was permitted by subparagraph 42.420(5)(a)(i) or (b)(i):
    - (i) the number of the authorised release certificate mentioned in that subparagraph for the product; or
    - (ii) information that enables the identification of that authorised release certificate; or
  - (b) if the fitting of the second aeronautical product was permitted by subparagraph 42.420(5)(b)(ii)—information that enables the identification of the in-house release document mentioned in that subparagraph for the product.
- (5) An offence against subregulation (1) is an offence of strict liability.

**42.405 Provision of maintenance record and other documents to registered operator**

*Offence—approved maintenance organisation*

- (1) If an individual carries out maintenance on an aircraft on behalf of an approved maintenance organisation, the organisation must comply with subregulation (2).

Penalty: 50 penalty units.

- (2) The organisation must ensure that the maintenance record for the maintenance is given to the person responsible for continuing airworthiness for the aircraft within 30 days after the organisation issues a certificate of release to service for the aircraft in relation to the maintenance.

*Offence—independent maintainer*

- (3) If an independent maintainer:
  - (a) carries out maintenance on an aircraft; or
  - (b) supervises the carrying out of maintenance on an aircraft by another individual;

the independent maintainer must give the maintenance record for the maintenance to the person responsible for continuing airworthiness for the aircraft within 30 days after the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

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

**42.410 Retention of copy of maintenance record by approved maintenance organisations**

- (1) If a maintenance record is made for maintenance carried out on an aircraft or an aeronautical product by an individual on behalf of an approved maintenance organisation, the organisation must keep a copy of the record for the period mentioned in subregulation (2).

Penalty: 50 penalty units.

- (2) The records must be kept for 2 years beginning on the date when the organisation issued the certificate of release to service for the aircraft or aeronautical product in relation to the maintenance.
- (3) An offence against subregulation (1) is an offence of strict liability.

## **Subpart 42.E—Aeronautical products**

### **Division 42.E.1—Preliminary**

#### **42.415 Purpose of Subpart**

This Subpart sets out requirements for:

- (a) fitting parts to, and using materials in, aircraft and aeronautical products;  
and
- (b) the control of unserviceable and unsalvageable parts; and
- (c) the control of unapproved parts.

**Division 42.E.2—Requirements for fitting parts and using materials****42.420 Fitting parts other than standard parts**

- (1) If an individual is carrying out maintenance on an aircraft or aeronautical product, the individual must not fit a part that is not a standard part to the aircraft or aeronautical product unless the fitting of the part is permitted under:
  - (a) regulation 42.450; or
  - (b) subregulation (2).
- (2) For paragraph (1)(b), the part may be fitted if:
  - (a) either:
    - (i) the part is serviceable; or
    - (ii) if the part is unserviceable because of a defect in the part—the fitting of the part is permitted under subregulation (3); and
  - (b) the part is eligible to be fitted to the aircraft or the aeronautical product; and
  - (c) if the manufacturer of the part has specified a storage life for the part—the storage life for the part has not expired; and
  - (d) the fitting of the part is permitted under subregulation (5).

Note: For the definition of *eligible to be fitted*, see regulation 42.015.

- (3) For subparagraph (2)(a)(ii), the part may be fitted if:
  - (a) the operation of the aircraft for a flight with the defect is permitted by the minimum equipment list for the aircraft; and
  - (b) subregulation (4) does not apply to the part.
- (4) This regulation applies to a part if:
  - (a) before the proposed fitting of the part, the part was fitted to an aircraft; and
  - (b) the aircraft to which the part was most recently fitted was operated for a flight with the defect; and
  - (c) the operation of the aircraft for the flight with the defect was permitted by the minimum equipment list for that aircraft.
- (5) For paragraph (2)(d), the part may be fitted if:
  - (a) for a part on which maintenance has not been carried out since its manufacture, and that has not been used in an aircraft since its manufacture:
    - (i) an authorised release certificate has been issued for the part in relation to its manufacture; or
    - (ii) the fitting of the part is permitted under regulation 42.435 or 42.440; or
  - (b) for a part on which maintenance has been carried out, and that has not been used in an aircraft since the maintenance was carried out:
    - (i) an authorised release certificate has been issued for the part in relation to the maintenance; or

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- (ii) if the maintenance was in-house maintenance—an in-house release document has been issued for the part in relation to the maintenance; or
- (iii) the fitting of the part is permitted under regulation 42.440; or
- (c) the fitting of the part is permitted under regulation 42.430.

**42.425 Obligations and offences for fitting parts other than standard parts**

*Obligation for approved maintenance organisation*

- (1) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation 42.420(1).

*Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual is carrying out maintenance on an aircraft or aeronautical product on behalf of the organisation; and
  - (b) the individual fits a part that is not a standard part to the aircraft or aeronautical product; and
  - (c) the fitting of the part is not permitted by subregulation 42.420(1).

Penalty: 50 penalty units.

*Obligation for independent maintainer*

- (3) An independent maintainer must:
  - (a) comply with subregulation 42.420(1) when carrying out maintenance on an aircraft; and
  - (b) if the independent maintainer is supervising the carrying out of maintenance on an aircraft by another individual—ensure that the individual complies with subregulation 42.420(1).

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

*Offences for breach of obligation*

- (4) An independent maintainer commits an offence if:
  - (a) he or she is carrying out maintenance on an aircraft; and
  - (b) he or she fits a part that is not a standard part to the aircraft; and
  - (c) the fitting of the part is not permitted by subregulation 42.420(1).

Penalty: 50 penalty units.

- (5) An independent maintainer commits an offence if:
  - (a) he or she is supervising the carrying out of maintenance on an aircraft by another individual; and
  - (b) the individual fits a part that is not a standard part to the aircraft; and



- (c) the fitting of the part is not permitted by subregulation 42.420(1).

Penalty: 50 penalty units.

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

**42.430 Fitting parts removed from aircraft—permission for paragraph 42.420(5)(c)**

- (1) For paragraph 42.420(5)(c), the part may be fitted if:
- (a) the part is removed from a place on an aircraft; and
  - (b) maintenance is not carried out on the part after its removal from the aircraft; and
  - (c) the part is to be fitted in a different place on the aircraft.
- (2) For paragraph 42.420(5)(c), the part may be fitted if:
- (a) the part was removed from a registered aircraft (the *first aircraft*) by a person who was, at the time the part was removed, permitted under these Regulations to carry out the maintenance that comprises removing the part from the aircraft; and
  - (b) maintenance has not been carried out on the part after its removal from the first aircraft; and
  - (c) for a part that has been stored—the storage was in accordance with the instructions (if any) issued by the manufacturer of the part in relation to storage; and
  - (d) the part is to be fitted to another aircraft (the *second aircraft*); and
  - (e) the part has not been subjected to:
    - (i) immersion; or
    - (ii) extremes of stress or temperature; and
  - (f) the person responsible for continuing airworthiness for the second aircraft agrees to the fitting of the part to the second aircraft.

Note: For paragraph (a), for the definition of *registered*, see Part 1 of the Dictionary.

**42.435 Fitting parts fabricated by approved maintenance organisations—permission for subparagraph 42.420(5)(a)(ii)**

For subparagraph 42.420(5)(a)(ii), the part may be fitted if:

- (a) the part has been fabricated by an approved maintenance organisation; and
- (b) the part is to be fitted to an aircraft on which the organisation is carrying out maintenance.

**42.440 Fitting parts for which there is no authorised release certificate—permission for subparagraphs 42.420(5)(a)(ii) and (b)(iii)**

For subparagraphs 42.420(5)(a)(ii) and (b)(iii), a part of a particular kind may be fitted to an aircraft if:

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- (a) the part is to be fitted by an individual carrying out maintenance on behalf of a Part 145 organisation; and
- (b) the aircraft is grounded at a location that is not the organisation's main location; and
- (c) the aircraft is grounded because of a defect in the aircraft that cannot be rectified without fitting a part of that kind; and
- (d) a part of that kind in respect of which there is an authorised release certificate is not available at that location; and
- (e) the part is accompanied by a document that:
  - (i) states that the part is serviceable; and
  - (ii) identifies the organisation that issued the document; and
  - (iii) includes details of the national aviation authority under whose authority the document was issued; and
- (f) the person responsible for continuing airworthiness for the aircraft agrees to the fitting of the part to the aircraft; and
- (g) an entry is made in the aircraft's flight technical log that, within 36 flight hours after it is fitted:
  - (i) the person responsible for continuing airworthiness for the aircraft must obtain an authorised release certificate for the part; or
  - (ii) the part must be removed.

Note: Under regulation 42.165, if an aeronautical product is fitted to an aircraft as permitted by this regulation, the person responsible for continuing airworthiness for the aircraft must, within 36 flight hours after it is fitted, obtain an authorised release certificate for the product or ensure that the product is removed from the aircraft.

### 42.445 Fitting standard parts

- (1) An individual who is carrying out maintenance on an aircraft or aeronautical product must not fit a standard part to the aircraft or aeronautical product unless the fitting of the part is permitted under:
  - (a) regulation 42.450; or
  - (b) subregulation (2).
- (2) For paragraph (1)(b), the standard part may be fitted if:
  - (a) the standard part is serviceable; and
  - (b) the standard part is accompanied by:
    - (i) information that identifies the specification with which the part complies; and
    - (ii) information that allows the part to be traced to its manufacturer; and
  - (c) the standard part is accompanied by evidence that the standard part complies with the specification; and
  - (d) the standard part is eligible to be fitted to the aircraft or the aeronautical product; and
  - (e) if the manufacturer of the standard part has specified a storage life for the part—the storage life for the part has not expired.

*Obligation for approved maintenance organisation*

- (3) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation (1).

*Offence for breach of obligation*

- (4) An approved maintenance organisation commits an offence if:
- (a) an individual is carrying out maintenance on an aircraft or aeronautical product on behalf of the organisation; and
  - (b) the individual fits a standard part to the aircraft or aeronautical product; and
  - (c) the fitting of the standard part is not permitted by subregulation (1).

Penalty: 50 penalty units.

*Obligation for independent maintainer*

- (5) An independent maintainer must:
- (a) comply with subregulation (1) when carrying out maintenance on an aircraft; and
  - (b) if the independent maintainer is supervising the carrying out of maintenance on an aircraft by another individual—ensure that the individual complies with subregulation (1).

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

*Offences for breach of obligation*

- (6) An independent maintainer commits an offence if:
- (a) he or she is carrying out maintenance on an aircraft; and
  - (b) he or she fits a standard part to the aircraft; and
  - (c) the fitting of the standard part is not permitted by subregulation (1).

Penalty: 50 penalty units.

- (7) An independent maintainer commits an offence if:
- (a) he or she is supervising the carrying out of maintenance on an aircraft by another individual; and
  - (b) the individual fits a standard part to the aircraft; and
  - (c) the fitting of the standard part is not permitted by subregulation (1).

Penalty: 50 penalty units.

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

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**42.450 Fitting parts removed from same place on aircraft—permission for paragraphs 42.420(1)(a) and 42.445(1)(a)**

For paragraphs 42.420(1)(a) and 42.445(1)(a), a part may be fitted to a place on an aircraft or aeronautical product if:

- (a) the part was removed from that place on the aircraft or aeronautical product; and
- (b) maintenance is not carried out on the part between the removal of the part and its fitting to the aircraft or aeronautical product.

**42.455 Using materials**

- (1) An individual who is carrying out maintenance must not use a material in or on an aircraft or aeronautical product unless:
  - (a) the material is accompanied by:
    - (i) information that identifies the specification with which the material complies; and
    - (ii) information that allows the material to be traced to its manufacturer; and
    - (iii) evidence that the material complies with the specification; and
  - (b) the material is eligible to be used in or on the aircraft or aeronautical product; and
  - (c) the material appears to be in a satisfactory condition; and
  - (d) if the manufacturer of the material has specified a storage life for the material—the storage life for the material has not expired.

Note: For the definition of *eligible to be used*, see regulation 42.015.

*Obligation for approved maintenance organisation*

- (2) An approved maintenance organisation must ensure that an individual who carries out maintenance on its behalf complies with subregulation (1).

*Offence for breach of obligation*

- (3) An approved maintenance organisation commits an offence if:
  - (a) an individual is carrying out maintenance on an aircraft or aeronautical product on behalf of the organisation; and
  - (b) the individual uses a material in the aircraft or aeronautical product; and
  - (c) the use of the material is not permitted by subregulation (1).

Penalty: 50 penalty units.

*Obligation for independent maintainer*

- (4) An independent maintainer must:
  - (a) comply with subregulation (1) when carrying out maintenance on an aircraft; and

- (b) if the independent maintainer is supervising the carrying out of maintenance on an aircraft by another individual—ensure that the individual complies with subregulation (1).

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

*Offences for breach of obligation*

- (5) An independent maintainer commits an offence if:
  - (a) he or she is carrying out maintenance on an aircraft; and
  - (b) he or she uses a material in the aircraft; and
  - (c) the use of the material is not permitted by subregulation (1).

Penalty: 50 penalty units.

- (6) An independent maintainer commits an offence if:
  - (a) he or she is supervising the carrying out of maintenance on an aircraft by another individual; and
  - (b) the individual uses a material in the aircraft; and
  - (c) the use of the material is not permitted by subregulation (1).

Penalty: 50 penalty units.

- (7) An offence against subregulation (3), (5) or (6) is an offence of strict liability.

## **Division 42.E.3—Requirements for controlling unserviceable and unsalvageable parts**

### **42.460 Control of unserviceable parts**

- (1) If an approved maintenance organisation knows that a part that is not fitted to an aircraft is unserviceable, the organisation must ensure that the steps mentioned in subregulation (3) are taken within 2 days after the organisation first knew that the part was unserviceable.

Penalty: 50 penalty units.

- (2) If an independent maintainer knows that a part that is not fitted to an aircraft is unserviceable, the independent maintainer must take the steps mentioned in subregulation (3) within 2 days after the independent maintainer first knew that the part was unserviceable.

Penalty: 50 penalty units.

- (3) The steps are:

- (a) applying a label, or attaching a tag, to the part recording the following:
  - (i) sufficient information to identify the part, including the part's name, part number and serial number (if any);
  - (ii) that the part is unserviceable;
  - (iii) the origin of the part, including information about the aircraft or aeronautical product from which the part has been removed, if relevant and if known to the independent maintainer or organisation;
  - (iv) the reason that the part is unserviceable; and
- (b) if the independent maintainer or organisation keeps the part—storing the part separately from serviceable aeronautical products and in a secure location.

### **42.465 Control of unsalvageable parts**

- (1) If an approved maintenance organisation knows that a part that is not fitted to an aircraft is unsalvageable, the organisation must ensure that the steps mentioned in subregulation (3) are taken within 2 days after the organisation first knew that the part was unsalvageable.

Penalty: 50 penalty units.

- (2) If an independent maintainer knows that a part that is not fitted to an aircraft is unsalvageable, the independent maintainer must take the steps mentioned in subregulation (3) within 2 days after the independent maintainer first knew that the part was unsalvageable.

Penalty: 50 penalty units.

- (3) The steps are:
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- (a) applying a label, or attaching a tag, to the part recording the following:
    - (i) sufficient information to identify the part, including the part's name, part number and serial number (if any);
    - (ii) that the part is unsalvageable;
    - (iii) the origin of the part, including any information about the aircraft or aeronautical product from which the part has been removed, if relevant and if known to the independent maintainer or organisation;
    - (iv) the reason that the part is unsalvageable; and
  - (b) doing 1 of the following:
    - (i) storing the part separately from serviceable aeronautical products and in a secure location;
    - (ii) if the organisation or independent maintainer is not the owner of the part—giving the part to the owner of the part;
    - (iii) mutilating the part, or arranging for the part to be mutilated, in a manner that ensures that the part cannot be used in aviation.
- (4) If the owner of a part receives the part under subparagraph (3)(b)(ii), the owner must, within 3 days of receiving the part:
- (a) store the part separately from serviceable aeronautical products and in a secure location; or
  - (b) mutilate the part, or arrange for the part to be mutilated, in a manner that ensures that the part cannot be used in aviation.

Penalty: 50 penalty units.

## **Division 42.E.4—Requirements for controlling unapproved parts**

### **42.470 Meaning of *unapproved* for parts**

A part is *unapproved* if:

- (a) the part is counterfeit; or
- (b) the part has not been approved in a manner mentioned in paragraph 21.305(a), (b), (c) or (e) or regulation 21.305A; or
- (c) the part:
  - (i) is not a standard part; and
  - (ii) has been produced other than under an authorisation (however described) granted by CASA or an national aviation authority; or
- (d) maintenance has been carried out on the part other than in accordance with an authorisation (however described) granted by CASA or an national aviation authority; or
- (e) the part has been modified other than in accordance with a design for which there is a Part 21 approval; or
- (f) the part:
  - (i) is unserviceable or unsalvageable; and
  - (ii) has been fraudulently represented as serviceable; or
- (g) the part is accompanied by a fraudulent document.

### **42.475 Control of unapproved parts**

- (1) If a person becomes aware that a part is unapproved, the person must ensure that the steps mentioned in subregulation (2) are taken within 2 days after the person first became aware that the part was unapproved.

Penalty: 50 penalty units.

- (2) The steps are:
  - (a) applying a label, or attaching a tag, to the part recording the following:
    - (i) sufficient information to identify the part, including the part's name, part number and serial number (if any);
    - (ii) that the part is unapproved;
    - (iii) the origin of the part, including any information about the aircraft or aeronautical product from which the part has been removed, if relevant and if known to the person;
    - (iv) the reason that the part is unapproved; and
  - (b) storing the part, and any documents that accompanied the part, separately from serviceable aeronautical products and in a secure location; and
  - (c) making a report about the part in accordance with regulation 42.480.

### **42.480 Reporting unapproved parts**

- (1) For paragraph 42.475(2)(c), the person must give a report about the part to:
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- (a) CASA; and
  - (b) if the person knows that the part was fitted to an aircraft or aeronautical product—the type certificate holder or foreign type certificate holder for the aircraft or aeronautical product; and
  - (c) if the person knows that the part was fitted to an aircraft—the person responsible for continuing airworthiness for the aircraft.
- (2) The report must be made in the approved form.

Note: Under regulation 11.018, a report in the approved form is not complete unless it contains all of the information required by the form.

**42.485 Action by CASA following report of unapproved parts**

- (1) If CASA receives a report about a part under regulation 42.480, CASA may, by notice in writing:
- (a) require the person who made the report to give CASA further information in relation to the part within a period specified in the notice; or
  - (b) tell the person who made the report that the part does not have to be kept.
- (2) The person must comply with a notice under paragraph (1)(a).
- Penalty: 50 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

**42.490 Action required if parts not required to be kept**

- (1) If CASA has given a person a notice under paragraph 42.485(1)(b) in relation to a part, the person must, within 2 days after receiving the notice:
- (a) if the person is not the owner of the part—give the part to the owner of the part; or
  - (b) store the part, and any documents that accompanied the part, separately from serviceable aeronautical products and in a secure location; or
  - (c) mutilate the part, or arrange for the part to be mutilated, in a manner that ensures that the part cannot be used in aviation.

Penalty: 50 penalty units.

- (2) If the owner of a part receives the part under paragraph (1)(a), the owner must, within 2 days of receiving the part:
- (a) store the part separately from serviceable aeronautical products and in a secure location; or
  - (b) mutilate the part, or arrange for the part to be mutilated, in a manner that ensures that the part cannot be used in aviation.

Penalty: 50 penalty units.

## Subpart 42.F—Subpart 42.F approved maintenance organisations

### Division 42.F.1—General

#### 42.495 Purpose of Subpart

This Subpart sets out matters relating to Subpart 42.F organisations, including:

- (a) requirements for approval as a Subpart 42.F organisation; and
- (b) requirements that apply to Subpart 42.F organisations.

Note: For other matters relating to Subpart 42.F organisations, see the Part 42 Manual of Standards.

#### 42.500 Definitions for Subpart

(1) In this Subpart:

**accountable manager**, for a Subpart 42.F organisation, means the individual, appointed by the organisation, who is responsible for:

- (a) ensuring that the organisation complies with its exposition, each approval rating that it holds, and these Regulations; and
- (b) ensuring that the organisation is able to finance the provision of the maintenance services set out in its exposition; and
- (c) ensuring that the organisation has adequate resources available to enable the organisation to provide maintenance services in accordance with its exposition.

**approval certificate** means a certificate issued under regulation 42.520.

**exposition**, for a Subpart 42.F organisation, means the document that is approved by CASA under regulation 42.515 in relation to the organisation, including:

- (a) if a change to the document is approved by CASA under regulation 42.540—that change; and
- (b) if the document is updated and the organisation gives CASA a copy of the updated part of the document under regulation 42.545—the updated part of the document; and
- (c) if the organisation makes a change to the document in accordance with a direction given by CASA under regulation 42.550—that change.

**responsible manager**, for a Subpart 42.F organisation, means an individual appointed by the organisation to be responsible to the accountable manager for ensuring that the organisation complies with its exposition and these Regulations in relation to a particular matter.

**significant change**, in relation to a Subpart 42.F organisation, has the meaning given by subregulation (2).

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Note: See regulation 42.015 and the Dictionary for definitions of other terms used in this Subpart.

- (2) A **significant change**, in relation to a Subpart 42.F organisation, means any of the following changes:
- (a) a change to the organisation's name;
  - (b) a change to the location of the organisation's maintenance facility, including the addition of a new maintenance facility;
  - (c) a change in the personnel holding:
    - (i) the position of accountable manager in the organisation; or
    - (ii) any of the positions of responsible manager in the organisation;
  - (d) a change to the maintenance services provided by the organisation, if the change would require a change to the approval ratings mentioned in the organisation's approval certificate;
  - (e) a change to the organisation's facilities, equipment, tools, materials, procedures or certifying employees that could adversely affect the organisation's ability to provide maintenance services that it is approved to provide.

**42.505 Regulations 11.070 to 11.075 do not apply in relation to certain matters**

Regulations 11.070 to 11.075 do not apply to:

- (a) a significant change to a Subpart 42.F organisation that is approved by CASA under regulation 42.540; or
- (b) a change to a Subpart 42.F organisation of which CASA is notified under regulation 42.545; or
- (c) a change to a Subpart 42.F organisation that is made as a consequence of a change made to the organisation's exposition in accordance with a direction given by CASA under regulation 42.550.

## **Division 42.F.2—Approval of Subpart 42.F organisations**

### **42.510 Applying for approval**

- (1) A person (the *applicant*) may apply to CASA for approval as a Subpart 42.F organisation.
- (2) The application must:
  - (a) be in writing; and
  - (b) be signed by a person who is, or who proposes to be, the applicant's accountable manager.
- (3) The application must include the following:
  - (a) a copy of the applicant's proposed exposition;
  - (b) the approval rating sought by the applicant for:
    - (i) each kind of aircraft or aeronautical product for which the applicant proposes to provide maintenance services; and
    - (ii) each kind of specialist maintenance the applicant proposes to provide.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: Part 11 deals with applications and decision making.

### **42.515 Issuing approval**

- (1) Subject to regulation 11.055, CASA must approve an applicant as a Subpart 42.F organisation if CASA is satisfied that:
  - (a) the applicant has an exposition that complies with the requirements specified in the Part 42 Manual of Standards; and
  - (b) the applicant has facilities, equipment, materials, maintenance data and tools that are suitable for:
    - (i) providing maintenance services for the kinds of aircraft or aeronautical product for which the applicant proposes to provide maintenance services; and
    - (ii) providing the specialist maintenance that the applicant proposes to provide; and
  - (c) the facilities, equipment, materials, maintenance data and tools mentioned in paragraph (b) comply with the requirements specified in the Part 42 Manual of Standards; and
  - (d) the applicant has nominated an individual for the position of accountable manager in the organisation; and
  - (e) the applicant has nominated an individual for each position of responsible manager in the organisation; and
  - (f) each individual nominated for a position mentioned in paragraph (d) or (e) is appropriately qualified to hold the position.

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Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

- (2) If CASA decides to approve an applicant as a Subpart 42.F organisation, CASA must determine:
  - (a) the approval rating for each kind of aircraft or aeronautical product for which the applicant is approved to provide maintenance services; and
  - (b) the approval rating for each kind of specialist maintenance that the applicant is approved to provide; and
  - (c) any limitations applying to an approval rating mentioned in paragraph (a) or (b).
- (3) In approving the applicant, CASA also approves the applicant's proposed exposition.

### 42.520 Approval certificate

- (1) If CASA approves an applicant as a Subpart 42.F organisation, CASA must issue a certificate setting out the matters mentioned in subregulation 42.515(2).
- (2) The certificate issued by CASA must include an approval certificate reference number determined by CASA.
- (3) If CASA approves a significant change to a Subpart 42.F organisation under regulation 42.540, CASA may issue a new approval certificate to the organisation.

### 42.525 Privileges for Subpart 42.F organisations

A Subpart 42.F organisation may provide maintenance services that it is approved to provide.

### 42.530 Approval subject to conditions

It is a condition of approval of a Subpart 42.F organisation that:

- (a) the organisation must, at all times, comply with the requirements of:
  - (i) its exposition; and
  - (ii) the approval rating for each kind of aircraft or aeronautical product for which the organisation is approved to provide maintenance services; and
  - (iii) the approval rating for each kind of specialist maintenance that the organisation is approved to provide; and
  - (iv) any limitations applying to an approval rating mentioned in subparagraph (ii) or (iii); and
  - (v) the Part 42 Manual of Standards; and
  - (vi) this Part; and

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- (b) the organisation must ensure that, at all times, its employees comply with the requirements mentioned in paragraph (a).

Note 1: The approval is also subject to the conditions set out in Part 11.

Note 2: Subpart 11.G empowers CASA to issue directions.

## **Division 42.F.3—Changes to Subpart 42.F organisations**

### **42.535 Application for approval of significant changes to Subpart 42.F organisations**

- (1) If a Subpart 42.F organisation proposes to make a significant change, the organisation must apply to CASA for approval of the change.
- (2) The application must:
  - (a) be in writing; and
  - (b) set out the proposed change; and
  - (c) include a copy of the part of the exposition consequentially affected by the change, showing the proposed change.
- (3) Subject to subregulation (4), the application must be made before the change is made.
- (4) If:
  - (a) the change is of the kind mentioned in paragraph 42.500(2)(c); and
  - (b) the organisation does not apply, in accordance with subregulation (2), before making the change;the organisation must apply in accordance with subregulation (2) within 7 days after making the change.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: Part 11 deals with applications and decision making.

Note 3: Making a significant change without applying for approval in accordance with this regulation will be a breach of condition of an approval—see regulation 42.530.

### **42.540 Approval of significant changes**

- (1) Subject to regulation 11.055, CASA must approve a significant change to a Subpart 42.F organisation if CASA is satisfied that, after making the change, the requirements mentioned in subregulation 42.515(1) will continue to be met.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

  - (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
  - (b) a decision imposing a condition on an approval.
- (2) In approving the significant change, CASA also approves the consequential changes to the applicant's exposition.

### **42.545 Changes to Subpart 42.F organisations that are not significant changes**

- (1) A change that is not a significant change to a Subpart 42.F organisation must be made in accordance with the procedure set out in the organisation's exposition for making changes to the organisation that are not significant changes.

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- (2) If such a change is made, the organisation must, within 28 days after making the change:
  - (a) update its exposition; and
  - (b) give CASA written notice of the change and a copy of the updated part of the exposition.

### **42.550 CASA may direct Subpart 42.F organisations to change expositions**

- (1) CASA may direct a Subpart 42.F organisation to change its exposition:
  - (a) to remove particular information from the exposition; or
  - (b) to include particular information in the exposition; or
  - (c) to revise or vary the information in the exposition.
- (2) CASA may give a direction under this regulation only if CASA is satisfied that it is necessary to do so to ensure that the exposition complies with the requirements specified in the Part 42 Manual of Standards.
- (3) A direction under this regulation must:
  - (a) be in writing; and
  - (b) specify the time within which the direction must be complied with.

Note: The Subpart 42.F organisation must comply with the direction—see regulation 42.565.



## **Division 42.F.4—Requirements and offences for Subpart 42.F organisations**

### **42.555 Provision of maintenance services**

- (1) If a Subpart 42.F organisation provides maintenance services, it must provide the services only in accordance with:
  - (a) its exposition; and
  - (b) the approval rating for each kind of aircraft or aeronautical product for which the organisation is approved to provide maintenance services; and
  - (c) the approval rating for each kind of specialist maintenance that the organisation is approved to provide; and
  - (d) any limitations applying to an approval rating mentioned in paragraph (b) or (c); and
  - (e) the privileges that apply to the approval rating under the Part 42 Manual of Standards.

Penalty: 50 penalty units.

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

### **42.560 Providing employees with exposition**

- (1) If a Subpart 42.F organisation's exposition relates to the duties of an employee of the organisation, the organisation must make the part of the organisation's exposition that relates to those duties available to the employee before the employee begins carrying out the duties.

Penalty: 50 penalty units.

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

### **42.565 Complying with directions**

- (1) If CASA gives a direction to a Subpart 42.F organisation under regulation 42.550, the organisation must comply with the direction within the time mentioned in the direction.

Penalty: 50 penalty units.

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

## Subpart 42.G—Continuing airworthiness management organisations

### Division 42.G.1—General

#### 42.570 Purpose of Subpart

This Subpart sets out matters relating to continuing airworthiness management organisations, including:

- (a) requirements for approval as a continuing airworthiness management organisation; and
- (b) requirements that apply to continuing airworthiness management organisations.

Note: For other matters relating to a continuing airworthiness management organisation, see the Part 42 Manual of Standards.

#### 42.575 Definitions for Subpart

(1) In this Subpart:

**accountable manager**, for a continuing airworthiness management organisation, means the individual, appointed by the organisation, who is responsible for:

- (a) ensuring that the organisation complies with its exposition, its approval and these Regulations; and
- (b) ensuring that the organisation is able to finance the provision of the continuing airworthiness management services set out in its exposition; and
- (c) ensuring that the organisation has adequate resources available to enable the organisation to provide continuing airworthiness management services in accordance with its exposition.

**approval certificate** means a certificate issued under regulation 42.595.

**continuing airworthiness management service** means any of the following services for an aircraft:

- (a) ensuring that the requirements mentioned in Divisions 42.C.2, 42.C.3 and 42.C.4 are met;
- (b) the issue of an airworthiness review certificate under Division 42.I.2;
- (c) the extension of an airworthiness review certificate under Division 42.I.3;
- (d) the carrying out of an airworthiness review under Division 42.I.4;
- (e) the approval of:
  - (i) a maintenance program under Division 42.J.2; or
  - (ii) a variation of a maintenance program under Division 42.J.4.

**continuing airworthiness manager**, for a continuing airworthiness management organisation that is required by the Part 42 Manual of Standards to have a continuing airworthiness manager, means the individual, appointed by the

organisation, who has continuing airworthiness responsibility for the organisation.

**continuing airworthiness responsibility**, for a continuing airworthiness management organisation, means responsibility to the accountable manager for ensuring that the organisation complies with its exposition and these Regulations in relation to providing continuing airworthiness management services.

**exposition**, for a continuing airworthiness management organisation, means the document that is approved by CASA under regulation 42.590 in relation to the organisation, including:

- (a) if a change to the document is approved by CASA under regulation 42.615—that change; and
- (b) if the document is updated and the organisation gives CASA a copy of the updated part of the document under regulation 42.620—the updated part of the document; and
- (c) if the organisation makes a change to the document in accordance with a direction given by CASA under regulation 42.625—that change.

**quality manager**, for a continuing airworthiness management organisation that is required by the Part 42 Manual of Standards to have a quality management system, means the individual, appointed by the organisation, who is responsible for the organisation's quality management system.

**responsible manager**, for a continuing airworthiness management organisation, means an individual appointed by the organisation to be responsible for ensuring that the organisation complies with its exposition and these Regulations in relation to a particular matter.

**significant change**, in relation to a continuing airworthiness management organisation, has the meaning given by subregulation (2).

Note: See regulation 42.015 and the Dictionary for definitions of other terms used in this Subpart.

- (2) A **significant change**, in relation to a continuing airworthiness management organisation, means any of the following changes:
- (a) a change to the organisation's name;
  - (b) a change to the location of the organisation's continuing airworthiness management facility, including the addition of a new facility;
  - (c) a change in the personnel holding:
    - (i) the position of accountable manager in the organisation; or
    - (ii) any of the positions of responsible manager in the organisation; or
    - (iii) the position of continuing airworthiness manager (if any) in the organisation; or
    - (iv) the position of quality manager (if any) in the organisation;
  - (d) a change to:
    - (i) the aircraft types and models for which the organisation provides continuing airworthiness management services; or

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- (ii) the kinds of continuing airworthiness management services that the organisation provides for each aircraft type and model;
- (e) a change to the organisation's facilities, equipment, procedures or personnel that could adversely affect the organisation's ability to provide the continuing airworthiness management services that it is approved to provide.

**42.580 Regulations 11.070 to 11.075 do not apply in relation to certain matters**

Regulations 11.070 to 11.075 do not apply to:

- (a) a significant change to a continuing airworthiness management organisation that is approved by CASA under regulation 42.615; or
- (b) a change to a continuing airworthiness management organisation of which CASA is notified under regulation 42.620; or
- (c) a change to a continuing airworthiness management organisation that is made as a consequence of a change made to the organisation's exposition in accordance with a direction given by CASA under regulation 42.625.

## **Division 42.G.2—Approval of continuing airworthiness management organisations**

### **42.585 Applying for approval**

- (1) A person (the ***applicant***) may apply to CASA for approval as a continuing airworthiness management organisation.
- (2) The application must:
  - (a) be in writing; and
  - (b) be signed by a person who is, or who proposes to be, the applicant's accountable manager.
- (3) The application must include the following:
  - (a) a copy of the applicant's proposed exposition;
  - (b) information showing that each individual nominated for a position of accountable manager or responsible manager in the organisation has the qualifications specified for the position in the Part 42 Manual of Standards;
  - (c) if the organisation is required by the Part 42 Manual of Standards to have a continuing airworthiness manager—information showing that the individual nominated for the position of continuing airworthiness manager in the organisation has the qualifications specified for the position in the Part 42 Manual of Standards;
  - (d) if the organisation is required by the Part 42 Manual of Standards to have a quality management system—information showing that the individual nominated for the position of quality manager in the organisation has the qualifications specified for the position in the Part 42 Manual of Standards;
  - (e) the aircraft types and models for which the applicant proposes to provide continuing airworthiness management services;
  - (f) the kinds of continuing airworthiness management services that the applicant proposes to provide for each aircraft type and model.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: Part 11 deals with applications and decision making.

### **42.590 Issuing approval**

- (1) Subject to regulation 11.055, CASA must approve an applicant as a continuing airworthiness management organisation if CASA is satisfied that:
  - (a) the applicant has an exposition that complies with the requirements specified in the Part 42 Manual of Standards; and
  - (b) the applicant has facilities, equipment, personnel and instructions for continuing airworthiness:
    - (i) that are suitable for the continuing airworthiness management services that the applicant proposes to provide; and

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- (ii) that comply with the requirements specified in the Part 42 Manual of Standards; and
- (c) the applicant has nominated an individual for the position of accountable manager in the organisation; and
- (d) the applicant has nominated an individual for each position of responsible manager in the organisation; and
- (e) if the applicant is required by the Part 42 Manual of Standards to have a continuing airworthiness manager—the applicant has nominated an individual for the position of continuing airworthiness manager in the organisation; and
- (f) if the applicant is required by the Part 42 Manual of Standards to have a quality management system:
  - (i) the applicant has a quality management system that complies with the requirements specified in the Part 42 Manual of Standards; and
  - (ii) the applicant has nominated an individual for the position of quality manager in the organisation; and
  - (iii) the individual nominated for the position of quality manager is not also nominated for the position of accountable manager, continuing airworthiness manager (if any) or responsible manager; and
- (g) each individual nominated for a position mentioned in paragraph (c), (d) or (e) or subparagraph (f)(ii) holds the qualifications specified for the position in the Part 42 Manual of Standards.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
  - (b) a decision imposing a condition on an approval.
- (2) If CASA decides to approve an applicant as a continuing airworthiness management organisation, CASA must determine:
  - (a) the aircraft types and models for which the applicant is approved to provide continuing airworthiness management services; and
  - (b) the kinds of continuing airworthiness management services that the applicant is approved to provide for each permitted aircraft type and model; and
  - (c) any limitations applying to the approval.
- (3) In approving the applicant, CASA also approves the applicant's proposed exposition.

### **42.595 Approval certificate**

- (1) If CASA approves an applicant as a continuing airworthiness management organisation, CASA must issue a certificate setting out the matters mentioned in subregulation 42.590(2).
- (2) The certificate issued by CASA must include an approval certificate reference number determined by CASA.

- (3) If CASA approves a significant change to a continuing airworthiness management organisation under regulation 42.615, CASA may issue a new approval certificate to the organisation.

#### **42.600 Privileges for continuing airworthiness management organisations**

A continuing airworthiness management organisation may provide continuing airworthiness management services that it is approved to provide.

#### **42.605 Approval subject to conditions**

It is a condition of approval of a continuing airworthiness management organisation that:

- (a) the organisation must, at all times, comply with the requirements of:
  - (i) its exposition; and
  - (ii) its approval, including any limitations applying to the approval; and
  - (iii) the Part 42 Manual of Standards; and
  - (iv) this Part; and
- (b) the organisation must ensure that, at all times, its employees comply with the requirements mentioned in paragraph (a).

Note 1: The approval is also subject to the conditions set out in Part 11.

Note 2: Subpart 11.G empowers CASA to issue directions.

## **Division 42.G.3—Changes to continuing airworthiness management organisations**

### **42.610 Application for approval of significant changes to continuing airworthiness management organisations**

- (1) If a continuing airworthiness management organisation proposes to make a significant change, the organisation must apply to CASA for approval of the change.
- (2) The application must:
  - (a) be in writing; and
  - (b) set out the proposed change; and
  - (c) include a copy of the part of the exposition consequentially affected by the change, showing the proposed change.
- (3) Subject to subregulation (4), the application must be made before the change is made.
- (4) If:
  - (a) the change is of the kind mentioned in paragraph 42.575(2)(c); and
  - (b) the organisation does not apply, in accordance with subregulation (2), before making the change;

the organisation must apply in accordance with subregulation (2) within 7 days after making the change.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

Note 2: Part 11 deals with applications and decision making.

Note 3: Making a significant change without applying for approval in accordance with this regulation will be a breach of condition of an approval—see regulation 42.605.

### **42.615 Approval of significant changes**

- (1) Subject to regulation 11.055, CASA must approve a significant change to a continuing airworthiness management organisation if CASA is satisfied that, after making the change, the requirements mentioned in subregulation 42.590(1) will continue to be met.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

  - (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
  - (b) a decision imposing a condition on an approval.
- (2) In approving the significant change, CASA also approves the consequential changes to the applicant's exposition.



**42.620 Changes to continuing airworthiness management organisations that are not significant changes**

- (1) A change that is not a significant change to a continuing airworthiness management organisation must be made in accordance with the procedure set out in the organisation's exposition for making changes to the organisation that are not significant changes.
- (2) If such a change is made, the organisation must, within 28 days after making the change:
  - (a) update its exposition; and
  - (b) give CASA written notice of the change and a copy of the updated part of the exposition.

**42.625 CASA may direct continuing airworthiness management organisations to change expositions**

- (1) CASA may direct a continuing airworthiness management organisation to change its exposition:
  - (a) to remove particular information from the exposition; or
  - (b) to include particular information in the exposition; or
  - (c) to revise or vary the information in the exposition.
- (2) CASA may give a direction under this regulation only if CASA is satisfied that it is necessary to do so to ensure that the exposition complies with the requirements specified in the Part 42 Manual of Standards.
- (3) A direction under this regulation must:
  - (a) be in writing; and
  - (b) specify the time within which the direction must be complied with.

Note: The continuing airworthiness management organisation must comply with the direction—see regulation 42.665.

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**Division 42.G.4—Authorisation of pilot licence holders and flight engineers to provide maintenance services**

**42.630 When pilot licence holders and flight engineers may be authorised**

- (1) A continuing airworthiness management organisation may issue an authorisation to provide specified maintenance services for a large aircraft or an aircraft that is authorised to operate under an AOC to a pilot licence holder or a flight engineer if:
  - (a) for an aircraft for which the continuing airworthiness management organisation is not the registered operator—the registered operator of the aircraft asks the organisation to issue the authorisation; and
  - (b) the organisation is responsible for providing continuing airworthiness management services for the aircraft; and
  - (c) the requirements mentioned in subregulation (2) are met.
- (2) The requirements are that:
  - (a) the maintenance to be carried out by the pilot licence holder or flight engineer under the authorisation is specified in the Part 42 Manual of Standards for items 4 and 5 of table 42.300; and
  - (b) the pilot licence holder or flight engineer is at least 21; and
  - (c) the authorisation is for a type and model of aircraft:
    - (i) that the pilot licence holder is authorised, under Part 61, to fly; or
    - (ii) in relation to which the flight engineer is authorised, under Part 61, to perform the duties of flight engineer; and
  - (d) the pilot licence holder or flight engineer has a written statement from a Part 145 organisation or a maintenance training organisation to the effect that:
    - (i) the pilot licence holder or flight engineer has been trained and assessed in the maintenance mentioned in paragraph (a); and
    - (ii) the pilot licence holder or flight engineer is competent to carry out the maintenance; and
  - (e) at the time the organisation issues the authorisation, the organisation is satisfied that the pilot licence holder or flight engineer:
    - (i) is competent to carry out the maintenance mentioned in paragraph (a); and
    - (ii) has comprehensive knowledge of the requirements of Subparts 42.D, 42.E and 42.H; and
    - (iii) has comprehensive knowledge of the continuing airworthiness records system for the aircraft in relation to performing maintenance certification and issuing certificates of release to service.
- (3) The authorisation must:
  - (a) be in writing; and

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- (b) be signed by the responsible manager in the organisation who is responsible for ensuring that the organisation complies with its exposition and these Regulations in relation to authorisations under this regulation; and
  - (c) include the following information:
    - (i) the name of the continuing airworthiness management organisation;
    - (ii) the name and licence number of the pilot licence holder or flight engineer being authorised;
    - (iii) the maintenance services that the pilot licence holder or flight engineer is authorised to provide;
    - (iv) the date that the authorisation is issued;
    - (v) the period for which the authorisation is in force;
    - (vi) the aircraft for which the authorisation is issued;
    - (vii) the name of the registered operator of the aircraft.
  - (4) The period for which the authorisation is in force:
    - (a) must not exceed 2 years; and
    - (b) must not include a period before the date that the authorisation is issued.

**42.635 Ceasing of authorisation if organisation ceases to be responsible for providing continuing airworthiness management services for aircraft**

- (1) This regulation applies if:
  - (a) a continuing airworthiness management organisation has issued an authorisation under regulation 42.630 to a pilot licence holder or a flight engineer to provide maintenance services for an aircraft; and
  - (b) the organisation ceases to be responsible for providing continuing airworthiness management services for the aircraft.
- (2) The authorisation ceases to be in force at the time the organisation ceases to be responsible for providing continuing airworthiness management services for the aircraft.

**42.640 Directions in relation to authorisations**

- (1) If CASA is satisfied that, when an authorisation was issued under regulation 42.630, a requirement mentioned in subregulation 42.630(1) or (2) was not met, CASA may give the continuing airworthiness management organisation that issued the authorisation a direction:
  - (a) to make a change to the authorisation; or
  - (b) to cancel the authorisation.
- (2) A direction under this regulation must:
  - (a) be in writing; and
  - (b) specify the time within which the direction must be complied with.

Note: The continuing airworthiness management organisation must comply with the direction—see regulation 42.665.

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**42.645 Notice of cancellation of authorisation**

- (1) If a continuing airworthiness management organisation cancels an authorisation issued under regulation 42.630, the organisation must give the holder of the authorisation notice in writing of the cancellation, including the date on which the cancellation takes effect.

Penalty: 50 penalty units.

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

## **Division 42.G.5—Requirements and offences for continuing airworthiness management organisations**

### **42.650 Provision of continuing airworthiness management services**

- (1) If a continuing airworthiness management organisation provides continuing airworthiness management services it must provide the services only in accordance with:
  - (a) its exposition; and
  - (b) its approval, including any limitations applying to the approval.

Penalty: 50 penalty units.

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

### **42.655 Providing employees with exposition**

- (1) If a continuing airworthiness management organisation's exposition relates to the duties of an employee of the organisation, the organisation must make the part of the organisation's exposition that relates to those duties available to the employee before the employee begins carrying out the duties.

Penalty: 50 penalty units.

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

### **42.660 Copies of authorisations and records**

- (1) If a continuing airworthiness management organisation issues an authorisation under regulation 42.630 in relation to an aircraft, the organisation must, within 14 days after issuing the authorisation, give a copy of the authorisation to the registered operator of the aircraft.

Penalty: 50 penalty units.

- (2) The continuing airworthiness management organisation must retain a copy of the authorisation for at least 2 years after the authorisation ceases to be in force.

Penalty: 50 penalty units.

- (3) The organisation must keep any record evidencing the matters mentioned in paragraph 42.630(2)(e) in relation to an authorisation under regulation 42.630 for at least 2 years after the authorisation ceases to be in force.

Penalty: 50 penalty units.

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

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**42.665 Complying with directions**

- (1) If CASA gives a direction to a continuing airworthiness management organisation under regulation 42.625 or 42.640, the organisation must comply with the direction within the time mentioned in the direction.

Penalty: 50 penalty units.

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

**42.670 Giving information in accordance with contract**

If:

- (a) a continuing airworthiness management organisation enters into a contract with the registered operator of an aircraft as mentioned in regulation 42.040 or 42.045; and
- (b) the organisation has information about the continuing airworthiness of the aircraft that relates to a matter mentioned in paragraph 42.050(2)(d);

the organisation must give the information to the registered operator in accordance with the contract.

Penalty: 50 penalty units.

Note: See regulation 42.055 for the requirement for the registered operator of an aircraft to give information to the continuing airworthiness management organisation for the aircraft.

**42.675 Notice of contravention of Part to be given to CASA**

- (1) If:

- (a) a continuing airworthiness management organisation enters into a contract with the registered operator of an aircraft as mentioned in regulation 42.040 or 42.045; and
- (b) the organisation has reasonable grounds to believe that the registered operator has contravened a provision of this Part;

the organisation must give CASA written notice of the contravention within 7 days after the organisation forms the belief that the contravention has occurred.

Penalty: 50 penalty units.

- (2) If the organisation is an individual, he or she is not excused from giving a notice under subregulation (1) on the ground that the information in the notice might tend to incriminate the individual or expose the individual to a penalty.

- (3) However:

- (a) the information in the notice; or
- (b) any information, document or thing obtained as a direct or indirect consequence of giving the notice;

is not admissible in evidence against the individual in criminal proceedings other than proceedings for an offence against subsections 136.1(1) or (4), 137.1(1) or 137.2(1) of the *Criminal Code*.

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- Note 1: Subsections 136.1(1) and (4), 137.1(1) and 137.2(1) of the *Criminal Code* provide for offences in relation to false or misleading statements in applications and false or misleading information or documents.
- Note 2: See regulation 42.075 for the equivalent requirement for a registered operator.

## **Subpart 42.H—Maintenance certification and certificate of release to service**

### **Division 42.H.1—General**

#### **42.680 Purpose of Subpart**

This Subpart sets out requirements for the performance of maintenance certification and the issue of certificates of release to service when maintenance has been carried out.



## **Division 42.H.2—Maintenance certification for maintenance carried out on aircraft**

### **Subdivision 42.H.2.1—Application of Division**

#### **42.685 Application of Division**

This Division applies if an individual carries out maintenance on an aircraft.

### **Subdivision 42.H.2.2—Who must perform maintenance certification**

#### **42.690 Approved maintenance organisations**

- (1) If the maintenance is carried out by an individual on behalf of an approved maintenance organisation, the organisation must ensure that maintenance certification for the maintenance is performed on behalf of the organisation:
  - (a) by an individual mentioned in subregulation (2); and
  - (b) before the organisation issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

- (2) For paragraph (1)(a), the individual must be a certifying employee of the organisation:
  - (a) whose certification authorisation permits him or her to perform maintenance certification for the maintenance; and
  - (b) who carried out the maintenance, or supervised the carrying out of the maintenance by another individual.
- (3) An offence against subregulation (1) is an offence of strict liability.

#### **42.695 Individuals performing maintenance certification on behalf of approved maintenance organisations**

##### *Obligation*

- (1) An individual must not perform maintenance certification for the maintenance on behalf of an approved maintenance organisation unless:
  - (a) he or she is a certifying employee of the organisation whose certification authorisation permits him or her to perform maintenance certification for the maintenance; and
  - (b) he or she carried out the maintenance, or supervised the carrying out of the maintenance by another individual.

##### *Offence for breach of obligation*

- (2) An individual commits an offence if:

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- (a) he or she performs maintenance certification for the maintenance on behalf of an approved maintenance organisation; and
- (b) either:
  - (i) at the time of performing the maintenance certification, he or she is not a certifying employee of the organisation whose certification authorisation permits him or her to perform the maintenance certification; or
  - (ii) he or she did not carry out the maintenance, or supervise the carrying out of the maintenance by another individual.

Penalty: 50 penalty units.

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

### **42.700 Independent maintainers**

- (1) If the maintenance is carried out by an independent maintainer, the independent maintainer must perform maintenance certification for the maintenance before the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

- (2) If the maintenance is carried out by an individual mentioned in item 2 of table 42.300, the independent maintainer who supervised the carrying out of the maintenance must perform maintenance certification for the maintenance before the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

**Note:** A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

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

### **Subdivision 42.H.2.3—Requirements for performing maintenance certification**

#### **42.705 Requirements to be met by individuals before performing maintenance certification**

##### *Obligation*

- (1) An individual must not perform maintenance certification for the maintenance unless he or she has ensured that:
  - (a) the maintenance has been carried out in accordance with:
    - (i) this Part; and
    - (ii) Part 145, if applicable; and

- (b) the information required by regulation 42.395 for the maintenance has been recorded.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she performs maintenance certification; and
  - (b) he or she did not comply with subregulation (1) before performing the maintenance certification.

Penalty: 50 penalty units.

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

**42.710 Requirements to be met by organisations before performing maintenance certification**

*Obligation*

- (1) An approved maintenance organisation must ensure that an individual who performs maintenance certification on its behalf complies with subregulation 42.705(1).

*Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual performs maintenance certification on its behalf; and
  - (b) the individual did not comply with subregulation 42.705(1) before performing the maintenance certification.

Penalty: 50 penalty units.

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

**Subdivision 42.H.2.4—Performance of maintenance certification**

**42.715 How maintenance certification is performed**

To perform maintenance certification for the maintenance, an individual must:

- (a) sign the record that contains the information required by regulation 42.395 for the maintenance; and
- (b) record, in that record:
  - (i) the date of the maintenance certification; and
  - (ii) if he or she carried out the maintenance on behalf of an approved maintenance organisation—his or her certification authorisation number; and
  - (iii) if he or she did not carry out the maintenance on behalf of an approved maintenance organisation—his or her aircraft engineer

**Part 42** Continuing airworthiness requirements for aircraft and aeronautical products

**Subpart 42.H** Maintenance certification and certificate of release to service

**Division 42.H.2** Maintenance certification for maintenance carried out on aircraft

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licence number, pilot licence number or flight engineer licence number.

Note: The information required under regulation 42.395 about maintenance, and the maintenance certification for the maintenance, together constitute the maintenance record for the maintenance—see the definition of ***maintenance record*** in regulation 42.015.

## **Division 42.H.3—Certificate of release to service—aircraft**

### **Subdivision 42.H.3.1—Preliminary**

#### **42.720 Application of Division**

This Division applies if an individual carries out maintenance on an aircraft.

#### **42.725 Requirement not to release aircraft without certificate of release to service**

##### *Obligation—approved maintenance organisation*

- (1) If an individual carries out maintenance on an aircraft on behalf of an approved maintenance organisation, the organisation must not release the aircraft to another person unless the organisation has issued a certificate of release to service for the aircraft in relation to the maintenance.

##### *Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual carries out maintenance on an aircraft on behalf of the organisation; and
  - (b) the organisation has not issued a certificate of release to service for the aircraft in relation to the maintenance; and
  - (c) the organisation releases the aircraft to another person.

Penalty: 50 penalty units.

##### *Obligation—independent maintainer*

- (3) If an independent maintainer carries out maintenance on an aircraft, or supervises the carrying out of maintenance on an aircraft by another individual, the independent maintainer must not release the aircraft to another person unless the independent maintainer has issued a certificate of release to service for the aircraft in relation to the maintenance.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

##### *Offence for breach of obligation*

- (4) An independent maintainer commits an offence if:
  - (a) the independent maintainer carries out maintenance on an aircraft, or supervises the carrying out of maintenance on an aircraft by another individual; and
  - (b) the independent maintainer has not issued a certificate of release to service for the aircraft in relation to the maintenance; and

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- (c) the independent maintainer releases the aircraft to another person.

Penalty: 50 penalty units.

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

**Subdivision 42.H.3.2—Who may issue certificate of release to service**

**42.730 Approved maintenance organisations**

- (1) If maintenance was carried out on an aircraft on behalf of an approved maintenance organisation, the organisation may issue a certificate of release to service for the aircraft in relation to the maintenance.
- (2) If an approved maintenance organisation issues a certificate of release to service for the aircraft in relation to the maintenance, the organisation must ensure that the certificate is issued on behalf of the organisation by an individual:
  - (a) who is a certifying employee of the organisation; and
  - (b) whose certification authorisation permits him or her to issue the certificate for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

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

**42.735 Individuals issuing certificates of release to service on behalf of approved maintenance organisations**

*Obligation*

- (1) An individual must not issue a certificate of release to service on behalf of an approved maintenance organisation for an aircraft in relation to maintenance carried out on the aircraft unless:
  - (a) he or she is a certifying employee of the organisation; and
  - (b) his or her certification authorisation permits him or her to issue the certificate for the aircraft in relation to the maintenance.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she issues a certificate of release to service on behalf of an approved maintenance organisation for an aircraft in relation to maintenance carried out on the aircraft; and
  - (b) at the time of issuing the certificate:
    - (i) he or she is not a certifying employee of the organisation; or
    - (ii) he or she is a certifying employee of the organisation, but his or her certification authorisation does not permit him or her to issue the certificate for the aircraft in relation to the maintenance.

Penalty: 50 penalty units.

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

#### **42.740 Independent maintainers**

- (1) If an independent maintainer carries out maintenance on an aircraft, the independent maintainer may issue a certificate of release to service for the aircraft in relation to the maintenance.
- (2) If an individual mentioned in item 2 of table 42.300 carries out maintenance on an aircraft, the independent maintainer who supervised the carrying out of the maintenance may issue a certificate of release to service for the aircraft in relation to the maintenance.

Note: A person mentioned in item 1 of table 42.300 is the only independent maintainer who is permitted to supervise the carrying out of maintenance by another individual—see subregulation 42.300(2).

- (3) An independent maintainer commits an offence if:
- (a) the independent maintainer issues a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft; and
  - (b) the issuing of the certificate by the independent maintainer is not permitted by subregulation (1) or (2).

Penalty: 50 penalty units.

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

#### **Subdivision 42.H.3.3—Requirements for issuing certificate of release to service**

##### **42.745 Requirements to be met before certificate of release to service may be issued**

The following are the requirements for the issue of a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft:

- (a) the certificate complies with regulation 42.760;
- (b) the information entered into the certificate is correct;
- (c) maintenance certification has been performed for all of the maintenance;
- (d) if the maintenance included critical control system maintenance—the information mentioned in subregulation 42.345(3) has been recorded in the continuing airworthiness records system for the aircraft in relation to the critical control system maintenance;
- (e) in respect of the maintenance, the aircraft is airworthy;
- (f) if there is a defect in the aircraft, and the rectification of the defect has not been deferred in accordance with Subdivision 42.D.6.1:
  - (i) the certificate includes details of the defect; and
  - (ii) the person responsible for continuing airworthiness for the aircraft has been notified that:
    - (A) the certificate is to be issued; and

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- (B) there is a defect in the aircraft, and the rectification of the defect has not been deferred in accordance with Subdivision 42.D.6.1;
- (g) if maintenance requested for the aircraft (other than the rectification of a defect mentioned in paragraph (f)) has not been carried out:
  - (i) the certificate includes details of the maintenance that has not been carried out; and
  - (ii) the person responsible for continuing airworthiness for the aircraft has been notified that:
    - (A) the certificate is to be issued; and
    - (B) maintenance requested for the aircraft (other than the rectification of a defect mentioned in paragraph (f)) has not been carried out.

### **42.750 Requirements to be met by approved maintenance organisations before issuing certificate of release to service**

#### *Obligation*

- (1) An approved maintenance organisation must ensure that an individual does not issue a certificate of release to service on its behalf for an aircraft in relation to maintenance carried out on the aircraft unless the requirements mentioned in regulation 42.745 are met.

#### *Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual issues a certificate of release to service on its behalf for an aircraft in relation to maintenance carried out on the aircraft; and
  - (b) a requirement mentioned in regulation 42.745 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

### **42.755 Requirements to be met by individuals before issuing certificate of release to service**

#### *Obligation*

- (1) An individual must not issue a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft unless the requirements mentioned in regulation 42.745 are met.

#### *Offence for breach of obligation*

- (2) An individual commits an offence if:



- (a) he or she issues a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft; and
- (b) a requirement mentioned in regulation 42.745 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

### **Subdivision 42.H.3.4—Form, content and issue of certificate of release to service**

#### **42.760 Form and content of certificate of release to service**

- (1) A document is a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft only if it includes the following information:
  - (a) information identifying the certificate as a certificate of release to service;
  - (b) the aircraft's registration mark;
  - (c) if the maintenance was carried out by an approved maintenance organisation—the organisation's approval certificate reference number and the certification authorisation number of the employee issuing the certificate;
  - (d) if the maintenance was not carried out by an approved maintenance organisation—the name and aircraft engineer licence number, pilot licence number or flight engineer licence number of the individual issuing the certificate.
- (2) The certificate must be included in the flight technical log for the aircraft on which the maintenance was carried out.

#### **42.765 How certificate of release to service is issued**

To issue a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft, an individual must:

- (a) sign the certificate; and
- (b) record the date and time of issue on the certificate.

### **Subdivision 42.H.3.5—Record-keeping**

#### **42.770 Retaining copy of certificate of release to service**

- (1) If a certificate of release to service for an aircraft in relation to maintenance carried out on the aircraft is issued on behalf of an approved maintenance organisation, the organisation must ensure that a copy of the certificate is retained for 1 year beginning on the date the certificate is issued.

Penalty: 50 penalty units.

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

## **Division 42.H.4—Certificate of release to service—aeronautical products**

### **Subdivision 42.H.4.1—Preliminary**

#### **42.775 Application of Division**

This Division applies if an individual carries out maintenance on an aeronautical product on behalf of an approved maintenance organisation.

Note 1: Maintenance certification is not required for maintenance carried out on aeronautical products.

Note 2: Under regulation 42.305, only approved maintenance organisations and individuals carrying out maintenance on behalf of approved maintenance organisations are permitted to carry out maintenance on aeronautical products.

#### **42.780 Requirement not to release aeronautical product without certificate of release to service**

##### *Obligation*

- (1) If an individual carries out maintenance on an aeronautical product on behalf of an approved maintenance organisation, the organisation must not release the product for use in an aircraft or another aeronautical product unless the organisation has issued a certificate of release to service for the aeronautical product in relation to the maintenance.

##### *Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual carries out maintenance on an aeronautical product on behalf of the organisation; and
  - (b) the organisation has not issued a certificate of release to service for the aeronautical product in relation to the maintenance; and
  - (c) the organisation releases the product for use in an aircraft or another aeronautical product.

Penalty: 50 penalty units.

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

### **Subdivision 42.H.4.2—Who may issue certificate of release to service**

#### **42.785 Approved maintenance organisations**

- (1) If maintenance was carried out on an aeronautical product on behalf of an approved maintenance organisation, the organisation may issue a certificate of release to service for the aeronautical product in relation to the maintenance.

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- (2) If an approved maintenance organisation issues a certificate of release to service for the product in relation to the maintenance, the organisation must ensure that the certificate is issued on behalf of the organisation by an individual:
- (a) who is a certifying employee of the organisation; and
  - (b) whose certification authorisation permits him or her to issue the certificate for the product in relation to the maintenance.

Penalty: 50 penalty units.

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

**42.790 Individuals issuing certificates of release to service on behalf of approved maintenance organisations**

*Obligation*

- (1) An individual must not issue a certificate of release to service on behalf of an approved maintenance organisation for an aeronautical product in relation to maintenance carried out on the product unless:
- (a) he or she is a certifying employee of the organisation; and
  - (b) his or her certification authorisation permits him or her to issue the certificate for the product in relation to the maintenance.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
- (a) he or she issues a certificate of release to service on behalf of an approved maintenance organisation for an aeronautical product in relation to maintenance carried out on the product; and
  - (b) at the time of issuing the certificate:
    - (i) he or she is not a certifying employee of the organisation; or
    - (ii) he or she is a certifying employee of the organisation, but his or her certification authorisation does not permit him or her to issue the certificate for the product in relation to the maintenance.

Penalty: 50 penalty units.

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

**Subdivision 42.H.4.3—Requirements for issuing certificate of release to service**

**42.795 Requirements to be met before certificate of release to service may be issued**

The following are the requirements for the issue of a certificate of release to service for an aeronautical product in relation to maintenance carried out on the product:

- (a) the information entered into the certificate for the maintenance is correct;

- (b) the maintenance is complete;
- (c) the maintenance was carried out in accordance with:
  - (i) this Part; and
  - (ii) Part 145, if applicable;
- (d) in respect of the maintenance, the product is serviceable.

#### **42.800 Requirements to be met by approved maintenance organisations before issuing certificate of release to service**

##### *Obligation*

- (1) An approved maintenance organisation must ensure that an individual does not issue a certificate of release to service on its behalf for an aeronautical product in relation to maintenance carried out on the product unless the requirements mentioned in regulation 42.795 are met.

##### *Offence for breach of obligation*

- (2) An approved maintenance organisation commits an offence if:
  - (a) an individual issues a certificate of release to service on its behalf for an aeronautical product in relation to maintenance carried out on the product; and
  - (b) a requirement mentioned in regulation 42.795 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

#### **42.805 Requirements to be met by individuals before issuing certificate of release to service**

##### *Obligation*

- (1) An individual must not issue a certificate of release to service on behalf of an approved maintenance organisation for an aeronautical product in relation to maintenance carried out on the product unless the requirements mentioned in regulation 42.795 are met.

##### *Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she issues a certificate of release to service on behalf of an approved maintenance organisation for an aeronautical product in relation to maintenance carried out on the product; and
  - (b) a requirement mentioned in regulation 42.795 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

**Subdivision 42.H.4.4—Form and issue of certificate of release to service**

**42.810 Form of certificate of release to service**

*Maintenance that is not in-house maintenance*

- (1) A document is a certificate of release to service for an aeronautical product in relation to maintenance:
- (a) that is carried out on the product; and
  - (b) that is not in-house maintenance;
- only if the document is in the approved form.

Note: Under regulation 11.018, a certificate of release to service in the approved form is not complete unless it contains all of the information required by the form.

*In-house maintenance*

- (2) A document is a certificate of release to service for an aeronautical product in relation to in-house maintenance carried out on the aeronautical product only if the document is:
- (a) in the approved form; or
  - (b) in the form of an in-house release document.

Note 1: Under regulation 11.018, a certificate of release to service in the approved form is not complete unless it contains all of the information required by the form.

Note 2: For the definition of *in-house release document*, see Part 1 of the Dictionary.

**42.815 How certificate of release to service is issued**

To issue a certificate of release to service on behalf of an approved maintenance organisation for an aeronautical product in relation to maintenance carried out on the product, an individual must:

- (a) sign the certificate; and
- (b) record the date of issue on the certificate.

**Subdivision 42.H.4.5—Record-keeping and dealing with certificate of release to service**

**42.820 Additional record for certificate of release to service issued as in-house release document**

- (1) This regulation applies if a certificate of release to service for an aeronautical product in relation to in-house maintenance carried out on the product is issued in the form of an in-house release document.
- (2) The Part 145 organisation that carried out the in-house maintenance must:

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- (a) ensure that a record is made that contains the information that, if the certificate was issued in the approved form, would have been recorded on the approved form; and
- (b) retain the record until the end of 2 years after the date the organisation fits the aeronautical product to an aircraft or another aeronautical product.

Penalty: 50 penalty units.

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

Note: For the definition of *in-house release document*, see Part 1 of the Dictionary.

**42.825 Dealing with certificate of release to service**

- (1) If an approved maintenance organisation issues a certificate of release to service for an aeronautical product in relation to maintenance carried out on the product, the organisation must:
- (a) give the certificate to the person to whom the product is released for use in an aircraft or another aeronautical product; and
  - (b) retain a copy of the certificate for 2 years beginning on the date the certificate is issued.

Penalty: 50 penalty units.

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

## **Subpart 42.I—Airworthiness reviews and airworthiness review certificates**

### **Division 42.I.1—General**

#### **42.830 Application of Subpart**

This Subpart applies to an aircraft:

- (a) that is authorised to operate under an AOC; or
- (b) that is a large aircraft.

#### **42.835 Purpose of Subpart**

This Subpart sets out:

- (a) requirements in relation to airworthiness review certificates and airworthiness reviews for aircraft operating under an AOC and large aircraft; and
- (b) the relationship between an airworthiness review certificate and a certificate of airworthiness.



## **Division 42.I.2—Issue of airworthiness review certificates**

### **42.840 Who may issue airworthiness review certificate**

- (1) The continuing airworthiness management organisation for an aircraft may issue an airworthiness review certificate for the aircraft.
- (2) If a continuing airworthiness management organisation issues an airworthiness review certificate for the aircraft, the organisation must ensure that the certificate is issued on behalf of the organisation by an individual:
  - (a) who is an airworthiness review employee of the organisation; and
  - (b) whose authorisation as an airworthiness review employee permits the employee to issue an airworthiness review certificate for the aircraft.

Penalty: 50 penalty units.

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

### **42.845 Requirements to be met for issue of airworthiness review certificate**

The following are the requirements for the issue of an airworthiness review certificate for an aircraft:

- (a) the information entered into the certificate is correct;
- (b) an airworthiness review employee of the continuing airworthiness management organisation for the aircraft has carried out an airworthiness review for the aircraft in accordance with regulation 42.900;
- (c) a record of the findings of the review has been made in accordance with regulation 42.905;
- (d) any corrective action that was necessary to ensure that the requirements of subregulations 42.900(2) and (3) are met for the aircraft has been taken;
- (e) a record of action mentioned in paragraph (d) has been made in accordance with regulation 42.910;
- (f) the aircraft is airworthy.

### **42.850 Requirements to be met by continuing airworthiness management organisations before issuing airworthiness review certificate**

#### *Obligation*

- (1) A continuing airworthiness management organisation must ensure that an individual does not issue an airworthiness review certificate on its behalf for an aircraft unless the requirements mentioned in regulation 42.845 are met.

#### *Offence for breach of obligation*

- (2) A continuing airworthiness management organisation commits an offence if:
  - (a) an individual issues an airworthiness review certificate on its behalf for an aircraft; and

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- (b) a requirement mentioned in regulation 42.845 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

### **42.855 Requirements to be met by individuals before issuing airworthiness review certificate**

#### *Obligation*

- (1) An individual must not issue an airworthiness review certificate for an aircraft unless the requirements mentioned in regulation 42.845 are met.

#### *Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she issues an airworthiness review certificate for an aircraft; and
  - (b) a requirement mentioned in regulation 42.845 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

### **42.860 Form of airworthiness review certificate**

A document is an airworthiness review certificate only if it is in the approved form.

Note: Under regulation 11.018, an airworthiness review certificate in the approved form is not complete unless it contains all of the information required by the form.

### **42.865 How airworthiness review certificate is issued**

To issue an airworthiness review certificate for an aircraft, an individual must:

- (a) sign the certificate; and
- (b) record the date of issue and date of expiry on the certificate.

### **42.870 How long airworthiness review certificate remains in force**

An airworthiness review certificate remains in force:

- (a) for 1 year beginning on the day it is issued; and
- (b) if the time for which it is in force is extended under Division 42.I.3—until the end of the time for which it is in force is extended.

## **Division 42.I.3—Extension of airworthiness review certificates**

### **42.875 Who may extend airworthiness review certificate**

- (1) The continuing airworthiness management organisation for an aircraft may extend the time for which an airworthiness review certificate for the aircraft is in force if the organisation:
  - (a) issued the certificate; and
  - (b) has been the continuing airworthiness management organisation for the aircraft since the date of issue of the certificate.
- (2) A continuing airworthiness management organisation commits an offence if:
  - (a) it extends the time for which an airworthiness review certificate is in force; and
  - (b) the extension is not permitted by subregulation (1).

Penalty: 50 penalty units.

- (3) If a continuing airworthiness management organisation extends the time for which an airworthiness review certificate is in force, the organisation must ensure that the time for which the certificate is in force is extended on behalf of the organisation by an individual:
  - (a) who is an airworthiness review employee of the organisation; and
  - (b) whose authorisation as an airworthiness review employee permits the employee to issue an airworthiness review certificate for the aircraft.

Penalty: 50 penalty units.

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

### **42.880 Requirements to be met for extension of airworthiness review certificate**

- (1) This regulation sets out the requirements for extending the time for which an airworthiness review certificate for an aircraft is in force.
- (2) The time for which the certificate is in force may be extended only within the period of 90 days before the certificate is due to expire.
- (3) The time for which the certificate is in force is to be extended must be no more than 1 year starting immediately after the certificate is due to expire.
- (4) The time for which the certificate is in force may be extended no more than twice.
- (5) The aircraft must be airworthy.

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**42.885 Requirements to be met by continuing airworthiness management organisations before extension of airworthiness review certificate**

*Obligation*

- (1) A continuing airworthiness management organisation must ensure that an individual does not extend an airworthiness review certificate on its behalf for an aircraft unless the requirements mentioned in regulation 42.880 are met.

*Offence for breach of obligation*

- (2) A continuing airworthiness management organisation commits an offence if:
  - (a) an individual extends an airworthiness review certificate on its behalf for an aircraft; and
  - (b) a requirement mentioned in regulation 42.880 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

**42.890 Requirements to be met by individuals before extending airworthiness review certificate**

*Obligation*

- (1) An individual must not extend an airworthiness review certificate for an aircraft unless the requirements mentioned in regulation 42.880 are met.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she extends an airworthiness review certificate for an aircraft; and
  - (b) a requirement mentioned in regulation 42.880 is not met in relation to the issuing of the certificate.

Penalty: 50 penalty units.

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

**42.895 How airworthiness review certificate is extended**

To extend the time for which an airworthiness review certificate is in force, an individual must:

- (a) sign the certificate; and
- (b) record on the certificate the date of the extension and the new date of expiry of the certificate.

## **Division 42.I.4—Airworthiness review procedure**

### **42.900 Airworthiness review procedure**

- (1) This regulation sets out the procedure for carrying out an airworthiness review for an aircraft.
- (2) An airworthiness review employee of the continuing airworthiness management organisation for the aircraft must examine the continuing airworthiness records for the aircraft to determine whether the following requirements are met:
  - (a) the details of the utilisation of the airframe, engine and propeller of the aircraft have been recorded in accordance with regulation 42.190;
  - (b) maintenance required by the maintenance program for the aircraft has been carried out in accordance with the maintenance program;
  - (c) critical control system maintenance recorded in the records has been dealt with in accordance with Division 42.D.5;
  - (d) defects in the aircraft have been rectified in accordance with regulation 42.115;
  - (e) if the rectification of defects in the aircraft have been deferred—the deferral was in accordance with Subdivision 42.D.6.1;
  - (f) the requirements mentioned in paragraph 39.002(1)(b), (c) or (d) have been complied with for each airworthiness directive:
    - (i) that applies to the aircraft or an aeronautical product fitted to the aircraft; and
    - (ii) from the operation of which the aircraft or aeronautical product is not excluded under subregulation 39.002(2) or paragraph 39.004(2)(b) or (3)(b);
  - (g) if a modification has been made to the aircraft—there is a Part 21 approval for the design of the modification;
  - (h) for each aeronautical product that is fitted to the aircraft and has a life limit, the records:
    - (i) correctly identify the aeronautical product; and
    - (ii) show that the aeronautical product has not exceeded its life limit at the time the airworthiness review is carried out;
  - (j) the following information for the aircraft is recorded in the records and is up to date:
    - (i) the empty weight of the aircraft;
    - (ii) the position of the centre of gravity on the aircraft when the aircraft is in its empty weight configuration;
  - (k) the aircraft complies with its approved design.

**Note:** For paragraph (j), the empty weight of the aircraft, and the position of the centre of gravity on the aircraft when the aircraft is in its empty weight configuration, must be determined in accordance with the method set out in Civil Aviation Order 100.7—see regulation 42.185.

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- (3) The airworthiness review employee must carry out a survey of the aircraft to determine whether the following requirements are met:
- (a) markings that are required, by or under these Regulations or by the aircraft's type certification basis, to be on the aircraft:
    - (i) are correct; and
    - (ii) are in the correct position on the aircraft;
  - (b) placards that are required, by or under these Regulations or by the aircraft's type certification basis, to be fitted to the aircraft are correctly fitted;
  - (c) the configuration of the aircraft complies with the aircraft's approved design;
  - (d) any defect in the aircraft that is apparent to the employee is recorded in the continuing airworthiness records system for the aircraft;
  - (e) the aircraft's flight manual is up to date and reflects the aircraft's configuration;
  - (f) the condition of the aircraft is consistent with the continuing airworthiness records for the aircraft.

Note 1: For paragraph (a), see Parts 45 and 90 and the Part 90 Manual of Standards.

Note 2: For paragraph (b), see Part 90 and the Part 90 Manual of Standards.

Note 3: For paragraph (e), for the definition of *flight manual*, see Part 1 of the Dictionary.

## **Division 42.I.5—Administration**

### **42.905 Record of findings of airworthiness review**

- (1) If an airworthiness review employee of a continuing airworthiness management organisation has carried out an airworthiness review for an aircraft, the organisation must comply with subregulation (2) before the organisation issues an airworthiness review certificate for the aircraft.

Penalty: 50 penalty units.

- (2) The organisation must ensure that the findings of the review, including whether the requirements of subregulations 42.900(2) and (3) are met for the aircraft, are recorded in writing.
- (3) An offence against subregulation (1) is an offence of strict liability.

### **42.910 Record of corrective action taken**

- (1) If a continuing airworthiness management organisation takes corrective action to ensure that the requirements of subregulations 42.900(2) and (3) are met for an aircraft, the organisation must ensure that the action taken is recorded in writing before the organisation issues an airworthiness review certificate for the aircraft.

Penalty: 50 penalty units.

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

### **42.915 Retaining records relating to airworthiness review certificates**

- (1) If a continuing airworthiness management organisation issues an airworthiness review certificate for an aircraft, the organisation must retain:
  - (a) the record mentioned in subregulation 42.905(2) for the aircraft; and
  - (b) the record mentioned in subregulation 42.910(1) for the aircraft (if any);and
  - (c) a copy of the certificate;for 3 years beginning on the date of issue of the certificate.

Penalty: 50 penalty units.

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

### **42.920 Documents to be sent to CASA and registered operator**

- (1) If a continuing airworthiness management organisation for an aircraft issues an airworthiness review certificate for the aircraft, the organisation must give a copy of the certificate to the following persons within 10 days after issuing the certificate:
  - (a) CASA;

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- (b) if the organisation is not the registered operator of the aircraft—the registered operator.

Penalty: 50 penalty units.

- (2) If the organisation extends the time for which the certificate is in force, the organisation must give a copy of the certificate, with the extension recorded on it, to the following persons within 10 days after extending the time for which the certificate is in force:

- (a) CASA;
- (b) if the organisation is not the registered operator of the aircraft—the registered operator.

Penalty: 50 penalty units.

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

**42.925 Notice of decision not to issue airworthiness review certificate**

- (1) If:

- (a) an airworthiness review employee of the continuing airworthiness management organisation for an aircraft carries out an airworthiness review for an aircraft; and
- (b) the organisation decides not to issue an airworthiness review certificate for the aircraft because a requirement mentioned in paragraph 42.845(d) or (f) is not met;

the organisation must, within 2 days after making the decision, notify the persons mentioned in subregulation (2) of the decision and the reasons for the decision.

Penalty: 50 penalty units.

- (2) The organisation must notify:

- (a) CASA; and
- (b) if the organisation is not the registered operator of the aircraft—the registered operator.

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



## **Division 42.I.6—Relationship of airworthiness review certificate to certificate of airworthiness**

### **42.930 Relationship with certificate of airworthiness**

- (1) If the certificate of airworthiness for an aircraft expires or is cancelled, the airworthiness review certificate for the aircraft ceases to be in force at the same time as the certificate of airworthiness expires or is cancelled.
- (1A) If the certificate of airworthiness for an aircraft is taken to not be in force under subregulation 21.181(4) for a period, the airworthiness review certificate for the aircraft is taken to not be in force for the same period.
- (1B) For the purposes of subregulation (1A), the period during which the airworthiness review certificate is taken to not be in force counts as part of the period for which the certificate was issued.
- (2) If the certificate of airworthiness for an aircraft is suspended under regulation 21.181, the airworthiness review certificate for the aircraft is suspended for the same period as the certificate of airworthiness is suspended.

## **Subpart 42.J—Approval of maintenance programs and variations of approved maintenance programs**

### **Division 42.J.1—Preliminary**

#### **42.935 Purpose of Subpart**

This Subpart sets out the process and requirements for:

- (a) approval of maintenance programs; and
- (b) approval of variations of approved maintenance programs.

## **Division 42.J.2—Approval of maintenance programs by continuing airworthiness management organisations**

### **42.940 Circumstances in which continuing airworthiness management organisations may approve proposed maintenance program**

- (1) The continuing airworthiness management organisation for an aircraft may approve a proposed maintenance program for an aircraft if:
  - (a) the aircraft is not authorised to operate under an Australian air transport AOC; and
  - (b) the organisation's approval under Subpart 42.G permits it to approve proposed maintenance programs under this Division for that type and model of aircraft.
- (2) If a continuing airworthiness management organisation approves a proposed maintenance program for an aircraft, the organisation must ensure that the program is approved on behalf of the organisation by an individual:
  - (a) who is a maintenance program approval employee of the organisation; and
  - (b) whose authorisation as a maintenance program approval employee permits the employee to approve a maintenance program for the aircraft.

Penalty: 50 penalty units.

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

Note 1: The continuing airworthiness management organisation for an aircraft may apply to CASA for approval of a proposed maintenance program for the aircraft—see subregulation 42.970(1).

Note 2: In some circumstances, the continuing airworthiness management organisation for an aircraft must apply to CASA for approval of a proposed maintenance program for the aircraft—see subregulation 42.970(2).

### **42.945 Requirements for approval of maintenance programs**

The following are the requirements for the approval of a proposed maintenance program for an aircraft by the continuing airworthiness management organisation for the aircraft:

- (a) the program complies with the requirements in the instructions for continuing airworthiness for the aircraft, and for aeronautical products fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis;
- (b) the program complies with the requirements specified in the Part 42 Manual of Standards.

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**42.950 Requirements to be met by continuing airworthiness management organisations before approving proposed maintenance programs**

*Obligation*

- (1) A continuing airworthiness management organisation must ensure that an individual does not approve a proposed maintenance program for an aircraft on its behalf unless the requirements mentioned in regulation 42.945 are met.

*Offence for breach of obligation*

- (2) A continuing airworthiness management organisation commits an offence if:
  - (a) an individual approves a proposed maintenance program for an aircraft on its behalf; and
  - (b) a requirement mentioned in regulation 42.945 is not met in relation to the approval.

Penalty: 50 penalty units.

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

**42.955 Requirements to be met by individuals before approving proposed maintenance programs**

*Obligation*

- (1) An individual must not approve a proposed maintenance program for an aircraft unless the requirements mentioned in regulation 42.945 are met.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she approves a proposed maintenance program for an aircraft; and
  - (b) a requirement mentioned in regulation 42.945 is not met in relation to the approval.

Penalty: 50 penalty units.

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

**42.960 How approval is given**

To approve a proposed maintenance program for an aircraft, an individual must:

- (a) make a record that:
  - (i) identifies the maintenance program to which it relates; and
  - (ii) includes a statement to the effect that the maintenance program is approved; and
  - (iii) includes the name and approval certificate reference number of the continuing airworthiness management organisation for the aircraft; and

(b) sign and date the record.

#### **42.965 Record-keeping requirements**

- (1) If a continuing airworthiness management organisation approves a proposed maintenance program, the organisation must retain, for the period during which the approved maintenance program is in effect, a copy of the following documents:
- (a) the approved maintenance program;
  - (b) the record of the approval;
  - (c) any other documents that support the approval.

Penalty: 50 penalty units.

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

## **Division 42.J.3—Approval of maintenance programs by CASA**

### **42.970 Application to CASA for approval of maintenance programs**

- (1) The person responsible for continuing airworthiness for an aircraft may apply to CASA for approval of a proposed maintenance program for the aircraft.
- (2) The person responsible for continuing airworthiness for an aircraft must apply to CASA for approval of a proposed maintenance program for the aircraft if:
  - (a) the proposed maintenance program does not comply with the requirements in the instructions for continuing airworthiness for the aircraft, or for an aeronautical product fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis; or
  - (b) the person responsible for continuing airworthiness for the aircraft is a continuing airworthiness management organisation, but its approval under Subpart 42.G does not permit it to approve proposed maintenance programs under Division 42.J.2 for that type and model of aircraft; or
  - (c) the aircraft is authorised to operate under an Australian air transport AOC.

### **42.975 Form of application**

An application to CASA for approval of a proposed maintenance program must:

- (a) be in writing; and
- (b) include a copy of the program; and
- (c) if the program does not comply with the requirements in the instructions for continuing airworthiness for the aircraft, or for an aeronautical product fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis—include the technical justification for the non-compliance.

### **42.980 Approval of maintenance programs by CASA**

Subject to regulation 11.055, CASA must approve a proposed maintenance program for an aircraft if CASA is satisfied that the program:

- (a) complies with the requirements specified in the Part 42 Manual of Standards; and
- (b) adequately provides for the continuing airworthiness of the aircraft.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

## **Division 42.J.4—Approval of variations of approved maintenance programs by continuing airworthiness management organisations**

### **42.985 Circumstances in which continuing airworthiness management organisations may approve proposed variations**

- (1) The continuing airworthiness management organisation for an aircraft may approve a proposed variation of the approved maintenance program for the aircraft if the organisation's approval under Subpart 42.G permits it to approve proposed variations of maintenance programs under this Division for that type and model of aircraft.
- (2) If a continuing airworthiness management organisation approves a proposed variation of an approved maintenance program for an aircraft, the organisation must ensure that the program is approved on behalf of the organisation by an individual:
  - (a) who is a maintenance program approval employee of the organisation; and
  - (b) whose authorisation as a maintenance program approval employee permits the employee to approve a maintenance program for the aircraft.

Penalty: 50 penalty units.

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

Note 1: The continuing airworthiness management organisation for an aircraft may apply to CASA for approval of a proposed variation of the approved maintenance program for the aircraft—see subregulation 42.1015(1).

Note 2: In some circumstances, a continuing airworthiness management organisation for an aircraft must apply to CASA for approval of a proposed variation of the approved maintenance program for the aircraft—see subregulation 42.1015(2).

### **42.990 Requirements to be met for approval of variations of maintenance programs**

The following are the requirements for the approval of a variation of a proposed maintenance program for an aircraft by the continuing airworthiness management organisation for the aircraft:

- (a) the program, as varied by the proposed variation, would comply with the requirements in the instructions for continuing airworthiness for the aircraft, and for aeronautical products fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis;
- (b) the approved maintenance program for the aircraft, as varied by the proposed variation, would comply with the requirements specified in the Part 42 Manual of Standards.

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**42.995 Requirements to be met by continuing airworthiness management organisations before approving proposed variations**

*Obligation*

- (1) A continuing airworthiness management organisation must ensure that an individual does not approve a proposed variation to an approved maintenance program for an aircraft on its behalf unless the requirements mentioned in regulation 42.990 are met.

*Offence for breach of obligation*

- (2) A continuing airworthiness management organisation commits an offence if:
  - (a) an individual approves a proposed variation to an approved maintenance program for an aircraft on its behalf; and
  - (b) a requirement mentioned in regulation 42.990 is not met in relation to the approval.

Penalty: 50 penalty units.

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

**42.1000 Requirements to be met by individuals before approving proposed variations**

*Obligation*

- (1) An individual must not approve a proposed variation to an approved maintenance program for an aircraft unless the requirements mentioned in regulation 42.990 are met.

*Offence for breach of obligation*

- (2) An individual commits an offence if:
  - (a) he or she approves a proposed variation of an approved maintenance program for an aircraft; and
  - (b) a requirement mentioned in regulation 42.990 is not met in relation to the approval.

Penalty: 50 penalty units.

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

**42.1005 How approval is given**

To approve a proposed variation of an approved maintenance program for an aircraft, an individual must:

- (a) make a record that:
  - (i) identifies the maintenance program to which it relates; and
  - (ii) includes details of the variation to which it relates; and



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- (iii) includes a statement to the effect that the variation is approved; and
  - (iv) includes the name and approval certificate reference number of the continuing airworthiness management organisation for the aircraft; and
- (b) sign and date the record.

**42.1010 Record-keeping requirements**

- (1) If a continuing airworthiness management organisation approves a proposed variation to an approved maintenance program, the organisation must retain, for the period during which the approved maintenance program is in effect, a copy of the following documents:
- (a) the approved variation;
  - (b) the record of the approval;
  - (c) any other documents that support the approval.

Penalty: 50 penalty units.

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

## **Division 42.J.5—Approval of variations of approved maintenance programs by CASA**

### **42.1015 Application to CASA for approval of variations of approved maintenance programs**

- (1) The person responsible for continuing airworthiness for an aircraft may apply to CASA for approval of a proposed variation of the approved maintenance program for the aircraft.
- (2) The person responsible for continuing airworthiness for an aircraft must apply to CASA for approval of a proposed variation of the approved maintenance program for the aircraft if:
  - (a) the program, as varied by the proposed variation, would not comply with the requirements in the instructions for continuing airworthiness for the aircraft, or for an aeronautical product fitted to the aircraft, that relate to maintenance that is required by the instructions to be carried out on a regular basis; or
  - (b) the person responsible for continuing airworthiness for the aircraft is a continuing airworthiness management organisation, but its approval under Subpart 42.G does not permit it to approve variations of maintenance programs under Division 42.J.4.

### **42.1020 Form of application**

An application to CASA for approval of a proposed variation of an approved maintenance program for an aircraft must:

- (a) be in writing; and
- (b) include the following:
  - (i) a copy of the variation;
  - (ii) the technical justification for the variation.

### **42.1025 Approval of variations by CASA**

Subject to regulation 11.055, CASA must approve a proposed variation of an approved maintenance program for an aircraft if CASA is satisfied that the program, as varied by the proposed variation:

- (a) would comply with the requirements specified in the Part 42 Manual of Standards; and
- (b) would adequately provide for the continuing airworthiness of the aircraft.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

## **Subpart 42.K—Directions to vary approved maintenance programs**

### **42.1030 Purpose of Subpart**

This Subpart:

- (a) empowers CASA to give directions to vary approved maintenance programs and approved reliability programs; and
- (b) requires the person responsible for continuing airworthiness for an aircraft to comply with a direction.

### **42.1035 CASA may direct variations of approved maintenance programs**

- (1) CASA may direct the person responsible for continuing airworthiness for an aircraft to vary the approved maintenance program for the aircraft:
  - (a) to include a particular requirement for maintenance in the program; or
  - (b) to vary a requirement for maintenance in the program.
- (2) CASA may give the direction only if CASA is satisfied that it is necessary to do so to ensure that the program will adequately provide for the continuing airworthiness of the aircraft.
- (3) A direction under this regulation must:
  - (a) be in writing; and
  - (b) specify the time within which the direction must be complied with.
- (4) The person must comply with the direction within the time specified in the direction.

Penalty: 50 penalty units.

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

## **Subpart 42.L—Approval of reliability programs and variations of approved reliability programs**

### **Division 42.L.1—Preliminary**

#### **42.1040 Purpose of Subpart**

This Subpart sets out the requirements for:

- (a) approval of reliability programs for aircraft to which regulation 42.155 applies; and
- (b) approval of variations of approved reliability programs.

## **Division 42.L.2—Approval of reliability programs**

### **42.1045 Application for approval of reliability programs**

- (1) The person responsible for continuing airworthiness for an aircraft to which regulation 42.155 applies may apply, in writing, to CASA for approval of a proposed reliability program for the aircraft.
- (2) The application must include a copy of the program.

### **42.1050 Approval of reliability programs**

Subject to regulation 11.055, CASA must approve the program if CASA is satisfied that the program complies with the requirements specified in the Part 42 Manual of Standards.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

## **Division 42.L.3—Approval of variations of approved reliability programs**

### **42.1055 Application for approval of variations of approved reliability programs**

- (1) The person responsible for continuing airworthiness for an aircraft for which there is an approved reliability program may apply, in writing, to CASA for approval of a proposed variation of the program.
- (2) The application must include a copy of the variation.

### **42.1060 Approval of variations of approved reliability programs**

Subject to regulation 11.055, CASA must approve the variation if CASA is satisfied that the program, as varied by the proposed variation, would comply with the requirements specified in the Part 42 Manual of Standards.

Note 1: See Part 11 for other matters relating to applications and decisions.

Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

## Subpart 42.M—Requirements for pilots

### 42.1065 Purpose of Subpart

This Subpart sets out requirements for pilots.

### 42.1070 Pre-flight inspection—all aircraft

- (1) If an aircraft's flight manual requires a pre-flight inspection of the aircraft to be carried out before the aircraft is operated for a flight, the pilot in command of the aircraft must ensure that a pre-flight inspection of the aircraft is carried out before the aircraft is operated for the flight.

Penalty: 50 penalty units.

Note: For the definition of *flight manual*, see Part 1 of the Dictionary.

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

### 42.1075 Recording information in flight technical log—all aircraft

#### *Defects and exceeding operating limits*

- (1) The pilot in command of an aircraft for a flight (the *first flight*) must ensure that, before the aircraft is next operated for flight, the following information is recorded in the flight technical log for the aircraft:
  - (a) details of any defect of which the pilot becomes aware during the operation of the aircraft, including:
    - (i) any abnormal instrument indication; and
    - (ii) any abnormal behaviour by the aircraft;
  - (b) any instance of the exceeding of an operating limit specified in the aircraft's flight manual during the first flight.

Penalty: 50 penalty units.

Note: For paragraph (b), for the definition of *flight manual*, see Part 1 of the Dictionary.

#### *Utilisation information mentioned in regulation 42.190*

- (2) If the flight technical log for an aircraft is capable of containing the information mentioned in regulation 42.190 for each flight for the aircraft, the pilot in command of the aircraft for a flight must record that information for the flight in the log before the aircraft is next operated for flight.

Penalty: 50 penalty units.

- (3) Strict liability applies to paragraph (1)(b).
- (4) An offence against subregulation (2) is an offence of strict liability.

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## **Subpart 42.N—Record-keeping requirements**

### **42.1080 Purpose of Subpart**

This Subpart sets out requirements for records made under this Part.

### **42.1085 Requirements for making records made under Part**

- (1) If a person is required to record information under this Part, or to ensure that information is recorded, the person must ensure that the record:
  - (a) is written in a legible form in English; and
  - (b) will remain legible for the time for which the record is required, by this Part, to be kept.

Penalty: 50 penalty units.

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

### **42.1090 Requirements for keeping records made under Part**

- (1) If a person is required to record information under this Part, or to ensure that information is recorded, the person must ensure that the record is kept:
  - (a) in a system that allows the record to be retrieved; and
  - (b) in a manner that protects the record from being lost, damaged or accidentally altered.

Penalty: 50 penalty units.

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

### **42.1095 Change to records made under Part**

- (1) If a person makes a change to a record made under this Part, the person must make the change in a manner:
  - (a) that retains the original record; and
  - (b) that identifies himself or herself; and
  - (c) that includes the date the change is made.

Penalty: 50 penalty units.

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



## **Subpart 42.O—Copying or disclosing cockpit voice recording information**

### **42.1100 Purpose of Subpart**

This Subpart sets out the authorisation of persons for paragraph 32AP(3A)(a) of the Act.

### **42.1105 Authorisation of persons for paragraph 32AP(3A)(a) of Act**

For paragraph 32AP(3A)(a) of the Act, the following persons are authorised:

- (a) a person who:
  - (i) is a staff member within the meaning of the *Transport Safety Investigation Act 2003*; and
  - (ii) has had training with respect to the replay and analysis of cockpit voice recordings; and
  - (iii) has been briefed on the requirements of Part IIIB of the Act;
- (b) a person who:
  - (i) is to check on behalf of an approved maintenance organisation whether equipment used to make a cockpit voice recording is functioning and reliable; and
  - (ii) has had training from the organisation with respect to the replay and analysis of cockpit voice recordings; and
  - (iii) has been briefed by the organisation on the requirements of Part IIIB of the Act.