

# **Civil Aviation Safety Amendment Regulations 2003 (No. 6)**

## **2003 No. 232**

### **EXPLANATORY STATEMENT**

#### **Statutory Rules 2003 No. 232**

Issued by authority of the Minister for Transport and Regional Services

*Civil Aviation Act 1988*

*Civil Aviation Safety Amendment Regulations 2003 (No. 6)*

Section 98 of the *Civil Aviation Act 1988* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act, and regulations in relation to safety of air navigation, being regulations with respect to matters with respect to which the Parliament has power to make laws.

Subsection 9(1) of the Act specifies that the Civil Aviation Safety Authority (CASA) has the function of conducting the safety regulation of civil air operations by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

The regulations amend the Civil Aviation Safety Regulations 1998 by inserting a new Part 67, entitled Medical, into those regulations. The new Part has been developed as part of CASA's Regulatory Reform Programme.

The regulations provide for all aspects of medical certification, including standards and administrative arrangements relating to holders of, or applicants for, various aviation licences.

The regulations provide for:

- appointment of appropriately qualified persons as Designated Aviation Medical Examiners (DAMEs) or Designated Aviation Ophthalmologists (DAOs) and for cancellation of such appointments;
- procedures for declaring that particular persons, or persons who hold or perform the duties of certain positions or offices, are to be taken to be DAMEs or DAOs;
- medical standards for the issue of medical certificates; and
- the issue and administrative control of medical certificates.

Existing legislation governing medical standards and certification resides in various areas of the Civil Aviation Regulations 1988 (CAR 1988), such as regulations 5.04 (1), 5.04 (2), 6.01 - 6.21 (inclusive), 104, 107, 269 and 301.

The existing legislation was seen to be deficient in a number of areas, as follows, in which the legislation:

- provided for voluntary release of personal information concerning applicants for appointment or for medical certification, but contained no specific powers allowing CASA to require release of such safety-relevant information to assist in assessment of applications.
- provided for "waivers" of required medical standards through grant of 'special' medical certificates, where the safety of air navigation will not thereby be affected, but provided no specific advice on matters to be considered prior to decisions to grant such "waivers".
- contained medical standards which were appropriate in 1988, but changes in medical technology, in operational systems and in relevant International Civil Aviation Organisation (ICAO) requirements indicated the need for review or clarification of some of those standards.
- contained advice on notification of relevant changes in medical condition affecting applicants for medical certification, but did not provide for fully effective reporting.
- permitted CASA to require a medical certificate holder to provide details of relevant medical history or to undergo a targeted medical assessment, for cause, but was unclear on whether CASA may require both, and also whether assessment by non-medical specialists (e.g. psychologists) may be directed. Although the existing legislation empowered CASA to suspend a medical certificate until its holder undergoes a medical examination, certain of the relevant provisions have proven difficult to apply in practice. For example, at least one person required to undergo testing has asserted that regulation 6.17 of CAR 1988 precluded CASA from also requiring him to provide a medical history because of the phrasing 'or' which separates that regulation's subregulation (c) from its subregulation (d)
- empowered CASA to cancel a medical certificate, for cause, and subject to usual redress mechanisms, but some sections of the aviation industry considered that it unfairly disadvantaged some medical certificate holders. For example, one respondent to the Notice of Proposed Rulemaking concerning Part 67 asserted that CASA should never be permitted to precipitately cancel a professional holder's medical certificate and that there should always be a minimum period of 14 days before any proposed cancellation took effect.
- utilised Schedules to set out medical standards and which had the unintended effect of rendering difficult to interpret the differential application of requirements for the 3 classes of medical certificates. Furthermore, certain of the requirements affecting issue, suspension and cancellation of medical certificates were unclear in their effect.

These deficiencies in the existing legislation have resulted in a number of administrative anomalies, for example, uncertainty and inconsistency in appointments of DAMES and DAOs, and in cancellation of such appointments, uncertainty and inconsistency in approaches to permitting other persons to perform the functions of DAMES or DAOs, and an inability to obtain relevant information concerning the professional performance of DAMES or DAOs (or applicants for these appointments) necessary to determine whether such appointments should be made or continued.

The regulations set out, in detail, a number of well-established current practices which have not until now been provided for in legislation. They prescribe all requirements for appointments for DAMES and DAOs, also provide for other persons to act as though they were DAMES or DAOs in appropriate circumstances. They also provide explicitly for suspension or cancellation of DAMES' and DAOs' appointments.

The regulations clearly list all requirements for the 3 classes of medical certification and also describe fully all aspects of granting, restricting, suspending or cancelling medical certificates, and describe affected persons' rights of review.

The regulations also clarify the legal consequences of a medical certificate holder failing to inform CASA of a change in medical status, require DAMEs and DAOs who become aware of such changes in examinees to notify CASA promptly, and create an offence for doing an act permitted by a medical certificate while efficiency impaired.

The regulations also include transitional provisions to allow permissions and appointments made under existing legislation to carry forward under the regulations, as well as providing for those permissions to be varied, suspended or cancelled under the regulations.

The Office of Regulation Review (ORR) have given a Regulation Impact Statement (RIS) exception as the regulations are considered minor or machinery in nature, do not have a significant impact and are matters of clarification and a transposition of current practices.

Details of the regulations are set out in the Attachment.

The regulations commenced on gazettal.

## **ATTACHMENT**

*Civil Aviation Amendment Regulations 2003 (No. 6)*

### **DETAILS OF THE AMENDING REGULATIONS**

#### **REGULATION 1 - Name of Regulations**

Regulation 1 names the amending regulations as the *Civil Aviation Amendment Regulations 2003 (No. 6)*.

#### **REGULATION 2 - Commencement**

Regulation 2 provides that the regulations commence on gazettal.

#### **REGULATION 3 - Amendment of *Civil Aviation Safety Regulations 1998***

Regulation 3 provides that Schedule 1 amends the *Civil Aviation Safety Regulations 1998*.

#### **REGULATION 4 - Amendment of *Civil Aviation Regulations 1988***

Regulation 4 provides that Schedule 2 amends the *Civil Aviation Regulations 1988*.

#### **Schedule 1 - Amendments of the *Civil Aviation Safety Regulations 1998***

##### **ITEM 1 - Part 67**

Item 1 inserts the new Part 67, entitled Medical, in the Civil Aviation Safety Regulations 1998.

##### **Subpart 67.A - General**

##### ***New Note - This Part is made up as follows:***

This note sets out the table of provisions for Part 67.

##### **New regulation 67.005 - Applicability**

This regulation states that Part 67 provides for the appointment of DAMEs and DAOs; sets out procedures under which CASA may make determinations that particular persons, or persons who hold or perform the duties of certain positions or offices, are to be taken to be DAMEs or DAOs; sets out medical standards for issue of medical certificates; and provides for issue and administrative control of medical certificates.

##### **New regulation 67.010 - Definitions for this Part**

This regulation provides definitions for a number of terms used throughout Part 67.

##### **New regulation 67.015 - Meaning of *safety-relevant***

This regulation provides a concise statement of the interpretation to be used whenever 'safety-relevant' appears in Part 67. The term does not appear in the existing legislation.

### **New regulation 67.020 - Extended meaning of *convicted of an offence***

This regulation extends the meaning of *convicted of an offence* so as to include persons not usually covered by the ordinary meaning of the term. The term does not appear in the existing legislation. The intention is to exclude as unsuitable affected persons seeking appointments as DAMEs or DAOs.

### **Subpart 67.B - Designated aviation medical examiners and designated aviation ophthalmologists**

New regulation 67.025 - Application for appointment as DAME or DAO

This regulation describes the required procedures for application for appointment as a DAME or DAO. It codifies and details existing practices, consistently applied for many years, which are not contained in the existing legislation.

### **New regulation 67.030 - More information for application**

This regulation allows CASA to require applicants for appointment as DAMEs or DAOs to provide additional documentation concerning their suitability. It codifies and details existing practices, consistently applied for many years, which are not contained in the existing legislation.

### **New regulation 67.035 - Continuation of appointment until application decided**

This regulation codifies and details existing practices, consistently applied for many years, which are not contained in the existing legislation. The regulation clarifies the applicants' rights in seeking renewals of appointments for DAMEs or DAOs.

### **New regulation 67.040 - When decision must be made**

This regulation ensures that CASA has adequate but not excessive time of 3 months to consider applications for appointments as DAMEs and DAOs. The existing legislation imposes no time limits for these considerations.

### **New regulation 67.045 - Appointment of DAMEs**

This regulation codifies and details CASA's longstanding practices and provides for appointment of DAMEs. In particular, and consistent with ICAO Standards and Recommended Procedures, it requires that DAMEs have appropriate training in aviation medicine. Advice on acceptable training is contained in the DAME Handbook. Additionally, this regulation allows CASA to limit DAME numbers so as to appoint only the numbers it considers necessary for efficient completion of required tasks.

### **New regulation 67.050 - DAMEs - duration of appointment**

This regulation codifies and details CASA's longstanding practices for defining the duration of a DAMEs appointment, which will remain in force unless it is cancelled, surrendered or it has been issued for a period specified in the certificate.

### **New regulation 67.055 - DAMEs - declaration about holders of position**

This regulation provides for CASA's long-standing practice of empowering holders or occupiers of particular offices or positions to function as DAMEs. For example, it will allow appropriately

qualified senior medical staff at Australian Defence Force establishments or Royal Flying Doctor Bases (the incumbents of all of which positions change frequently) to act as DAMEs. It further provides for individual medical practitioners to function as DAMEs on a single occasion, to meet a particular need.

#### **New regulation 67.060 - DAMEs - conditions**

This regulation codifies and details CASA's longstanding practices, and empowers CASA to make these appointments 'subject to conditions specified in the instrument of appointment'. In particular, and consistent with ICAO Standards and Recommended Procedures, it requires that DAMEs undertake appropriate continuation training in aviation medicine. Because of the very large number of potentially suitable training courses available, it is not practicable to list all of them. However, CASA will provide advice on its website concerning the most usual courses approved for this purpose, as well as instructions on how to obtain individual approvals.

#### **New regulation 67.065 - Appointment of DAOs**

This regulation codifies and details CASA's longstanding practices. While it requires DAOs to be medically qualified and appropriately recognised as specialist ophthalmologists, it does not preclude CASA from appointing other qualified practitioners as ophthalmic examiners where it deems this to be necessary or desirable.

#### **New regulation 67.070 - DAOs - duration of appointment**

This regulation codifies and details CASA's longstanding practices and provides for defining the duration of a DAO appointment to remain in force unless it is cancelled, surrendered or it has been issued for a period specified in the certificate.

#### **New regulation 67.075 - DAOs - declaration about holders of position**

This regulation provides for CASA's longstanding practice of empowering holders or occupiers of particular offices or positions to function as DAOs. For example, it will allow appropriately qualified locum tenens ophthalmologists in remote areas and appropriately qualified staff ophthalmologists in public hospitals/health services, including those overseas, to act as DAOs. It further provides for individual medical practitioners to function as DAOs on a single occasion, to meet a particular need.

#### **New regulation 67.080 - DAOs - conditions**

This regulation codifies and details CASA's longstanding practices. In particular, it requires appointees to maintain professional currency in accordance with the dictates of their appropriate specialist college or other accrediting body. While it requires DAOs to be medically qualified and appropriately recognised as specialist ophthalmologists, it does not preclude CASA from appointing other qualified practitioners as ophthalmic examiners where it deems this to be necessary or desirable. For DAOs who are Fellows of the Royal Australian College of Ophthalmologists, completion of that College's continuing professional development requirements will suffice. Requirements for other DAOs will be determined and notified individually, so as to meet their individual circumstances as well as CASA's requirement.

#### **New regulation 67.085 - Certificate of appointment**

This regulation provides for CASA to issue certificates of appointment to DAMEs and DAOs. The certificate must set out what the appointment is, the practitioners name and business address,

an expiry date, any conditions, restrictions or limitations and any other information CASA thinks should be included.

### **New regulation 67.090 - Release of information about performance of DAMEs or DAOs**

This regulation empowers CASA to provide information to another national aeronautical authority responsible for appointing medical examiners, if this information concerns the professional competence of any of CASA's examiners, past or present, who seek appointment as an examiner by that authority. The regulation provides for CASA not to provide information to another authority unless it has taken all reasonable steps to ensure that the authority has given appropriate undertakings concerning the intended use of the information and the confidentiality of its handling. The application form for appointment as a DAME or DAO makes applicants aware of this provision.

### **New regulation 67.095 - DAMEs and DAOs - cancellation or surrender of appointment**

This regulation codifies and details CASA's existing practices, contained in the existing legislation. It provides for cancellation of appointments on the grounds of contravening a condition on the appointment; or contravening a regulation affecting their appointments (67.085, 67.125 or 67.170); or failing to meet or to continue to meet a prerequisite condition for appointment; or on request of the appointee. Cancellation (other than on request) must be preceded by a show cause process, under which CASA must set out the reasons that it thinks cancellation of the appointment is justified and give the DAME or DAO the opportunity to respond. A cancellation decision by CASA must be accompanied by a statement of reasons for the decision, and is reviewable on the merits by the Administrative Appeals Tribunal. A DAME or a DAO may surrender his or her appointment by written notice to CASA.

### **New regulation 67.100 - DAMEs and DAOs - automatic suspension and cancellation after criminal conviction**

This regulation provides for automatic suspension of appointment where a DAME or DAO is convicted of a serious crime (one punishable by a term of imprisonment of 12 months or longer). Thereafter, cancellation of appointment may occur if any appeal against a conviction is dismissed or if there is no appeal against a conviction. CASA regards such convictions as prima facie evidence that an appointment holder is not an appropriate person to exercise the functions of a DAME or DAO. There is nothing in this or any other regulation to prevent a cancelled appointment holder from reapplying for appointment later, although the conviction would be a matter that the person would have to disclose in the application (regulation 67.025 (3)) and would be relevant to CASA's decision to re-appoint the person (regulation 67.045 (4) and (5)).

### **New regulation 67.105 - DAMEs - automatic cancellation on ceasing to be medical practitioner**

This regulation further clarifies CASA's intent, set out in 67.025 (1), that only medical practitioners engaged in current professional practice may hold DAME appointments. Cessation of such practice will therefore result in automatic cancellation of a DAME appointment.

### **New regulation 67.110 - DAOs - automatic cancellation on ceasing to be medical practitioner or ophthalmologist**

This regulation further clarifies CASA's intent; set out in 67.025 (1) and 67.065 (1), that only medical practitioners who are recognised as specialist ophthalmologists and who are engaged in

current ophthalmological practice may hold DAO appointments. Cessation of such practice will therefore result in automatic cancellation of a DAO appointment.

#### **New regulation 67.115 - Suspension of declaration under subregulation 67.055 (1) or 67.075 (1)**

This regulation empowers CASA to suspend, for cause, a declaration that the holder of an office or position specified in a declaration under one of the nominated subregulations.

#### **New regulation 67.120 - Revocation of declaration on request**

This regulation empowers CASA to revoke a declaration made under subregulation 67.055 (1) or 67.075 (1) if the organisation or body to which the office or position belongs requests this action.

#### **New regulation 67.125 - Obligation to report**

This regulation prescribes reporting requirements where a DAME or DAO becomes aware that the holder of a medical certificate has a safety-relevant condition (as defined in subregulation 67.015).

#### **New regulation 167.130 - Surrender of certificate of appointment**

This regulation empowers CASA to require a DAME or DAO to surrender a certificate of appointment, for cause, and provides for a penalty of 5 penalty units if the notice is not obeyed.

The regulation also applies a penalty of 10 penalty units if the certificate is destroyed, mutilated or defaced with intent to evade the obligation to comply with the surrender of the certificate. This regulation reflects overall CASA policy concerning authorised representatives' surrender of certificates of appointment.

#### **New regulation 67.135 - Return of certificate if appointment is cancelled or surrendered**

This regulation requires former appointees who cease to hold appointments as DAMEs or DAOs to return their certificates of appointment to CASA within 14 days and provides for a penalty of 1 penalty unit if they do not comply. This regulation also permits CASA to return a defaced certificate to a former appointee who so requests, for sentimental or similar reasons. This regulation reflects overall CASA policy concerning return of certificates of appointment by authorised representatives who cease to hold appointments.

#### **New regulation 67.140 - Indemnification of medical reporting**

This regulation limits the civil and criminal liability of certain persons who provide safety-related medical information to CASA. The provision replaces the existing liability limitation provision, regulation 6.04 of CAR 1988, and also extends equivalent protection to specific non-medical informants, e.g. psychologists. CASA considers that such provision serves to ensure that CASA is made aware of all safety-related medical information, by protecting disclosure of that information where the person to which the information relates may not have voluntarily disclosed or agreed to disclose the information to CASA. CASA will accord to all information received in this way the same level of confidential handling as is employed for all other medical information concerning applicants for medical certification

## **New regulation 67.141 - Review of decisions**

This regulation informs DAMES and DAOs they have a right to apply to the AAT for a review of a decision to appoint them, or to impose a condition, restriction, or any limitations on the appointment.

## **Subpart 67.C - Medical certificates**

### **New regulation 67.145 - Kinds of medical certificate**

This regulation lists the 3 classes of medical certificates which CASA issues.

### **New regulation 67.150 - Who meets medical standard 1**

This regulation details the requirements for issue of a class 1 medical certificate, lists the specific criteria for the standard in Table 67.150 and lists the classes of persons to whom the standard applies.

### **New regulation 67.155 - Who meets medical standard 2**

This regulation details the requirements for issue of a class 2 medical certificate, lists the specific criteria for the standard in Table 67.155 and lists the classes of persons to whom the standard applies.

### **New regulation 67.160 - Who meets medical standard 3**

This regulation details the requirements for issue of a class 3 medical certificate, lists the specific criteria for the standard in Table 67.160 and lists the classes of persons to whom the standard applies.

The only significant variation from the equivalent standard contained in CARS 1988 concerns the higher standard of colour perception, introduced per request of Airservices Australia. This resulted from a study commissioned by Airservices Australia at the time it introduced new, colour perception dependent equipment in its operating environment. (See *Colour Vision Standards For Air Traffic Controllers* By Professor B.L. Cole, Victorian College of Optometry, 1998). As was previously the case under CARS 1988, the new legislation does not provide the alternative of any "practical" colour perception for applicants for class 3 medical certification. (This accords with recommendations made in the Technical Report *International Recommendations For Colour Vision Requirements For Transport* by the International Commission On Illumination in 2001). As a practical issue, Airservices Australia has for several years adopted an internal policy of employing as new ATC staff only those applicants whose colour perception meets this higher standard.

### **New regulation 67.165 - Directions about examinations for issue of medical certificates**

This regulation empowers CASA to direct an applicant for issue of a medical certificate to undergo a medical or other relevant examination or test which will assist CASA's assessment of the applicant's ability to meet the required medical standard, if CASA has reason to believe the applicant may not meet the required medical standard for the class of medical certificate and who may thus endanger the safety of air navigation. Commoner non-medical causes for requiring such examinations include an applicant's short stature or large body mass index. In such cases, it is necessary to confirm an applicant's ability to reach and operate all controls,

enter and exit the cockpit, use emergency equipment and egress, etc. Rarely, other non-medical conditions may require similar assessments.

#### **New regulation 67.170 - Evidence of identity**

This regulation requires a DAME or DAO to ask an applicant for examination for medical certification to produce photographic evidence of identity unless the applicant is otherwise known to the DAME or DAO. This regulation also permits a DAME or DAO to refuse to carry out or finish an examination until evidence is produced.

#### **New regulation 67.175 - Medical certificates - application**

This regulation permits a person to apply to CASA for the issue of a medical certificate.

#### **New regulation 67.180 - Medical certificates - issue and refusal**

This regulation sets out the requirements an applicant for issue of a medical certificate must meet. It also precludes issue of a medical certificate when CASA is satisfied that an applicant has knowingly made a false or reckless statement in relation to the application, or where the applicant does not meet the requirements of this regulation.

#### **New regulation 67.185 - Notice of decision to refuse medical certificate**

This regulation requires CASA to inform an applicant to whom it refuses to issue a medical certificate of the reason for the refusal, particularly including its detailed assessment of the applicant's failure to meet the required medical standard, where applicable.

#### **New regulation 67.190 - Reconsideration of decision to refuse medical certificate**

This regulation permits applicants refused medical certification to apply for reconsideration of the decision and guarantees that the original decision will be independently reviewed. This does not mean that a person has to apply for such reconsideration before going to the AAT. A person may go directly to the AAT if he/she wishes.

#### **New regulation 67.195 - Medical certificate - conditions**

This regulation permits CASA to issue a medical certificate subject to any condition that is necessary to maintain the safety of air navigation where an applicant fails fully to meet the required medical standard. This regulation also provides a penalty of 50 penalty units where a person contravenes a condition on the certificate.

#### **New regulation 67.200 - Conditions applicable to certain medical certificates - correcting lenses**

This regulation specifies behaviours for an applicant for medical certification who requires correcting lenses in order to meet the appropriate visual standard and provides for a penalty of 50 penalty units where the conditions are not observed and is an offence of strict liability.

#### **New regulation 67.205 - Medical certificates - period in force**

This regulation describes in detail the means for determining the currency of medical certificates. It continues CASA's longstanding practices detailed in regulation 6.14 of CAR 1988.

### **New regulation 67.210 - Medical certificates - application for extension of period in force**

This regulation provides for the holder of a current medical certificate to apply either to CASA or to a DAME (as appropriate) for an extension of the validity period of the medical certificate.

### **New regulation 67.215 - Medical certificates - extension of period in force by CASA**

This regulation describes how CASA may extend the period in force for an applicant's current medical certificate. It continues CASA's longstanding practices detailed in regulation 6.15 of CAR 1988.

### **New regulation 67.220 - Medical certificates - extension of period in force by DAMEs**

This regulation provides for DAMEs to extend the period in force for an applicant's current medical certificate for limited periods. It continues CASA's longstanding practices detailed in regulation 6.15 of CAR 1988 and in Instruments issued by the Director of Aviation Safety.

### **New regulation 67.225 - Medical certificates - new medical certificates issued by DAMEs**

This regulation provides for DAMEs to issue new medical certificates to applicants whose medical certificates have expired, for limited periods. It continues CASA's longstanding practices detailed in regulation 6.06 of CAR 1988 and in Instruments issued by the Director of Aviation Safety.

### **New regulation 67.230 - CASA may require medical examination of certificate holders**

This regulation empowers CASA to direct the holder of a medical certificate, whom it has reason to believe may not continue to meet the required medical standard for the class of medical certificate and who may thus endanger the safety of air navigation, to undergo a medical or other relevant examination which will assist CASA's assessment of the applicant's continued ability to meet the required medical standard. It continues CASA's longstanding practices and complements the provisions of regulation 67.165.

### **New regulation 67.235 - Suspension of medical certificates - pregnancy**

This regulation details the "automatic" suspensions applied to class 1 and 2 medical certificates held by women after 30 weeks of pregnancy and to class 3 medical certificates held by women after 38 weeks of pregnancy. In the case of class 3 medical certificate holders, there are also additional requirements for medical supervision from 34 to 38 weeks of pregnancy if the holder wishes to continue to exercise the privileges of her licence after 34 weeks of pregnancy.

CASA holds that these restrictions accord with best practice and embody appropriate principles of risk management. They continue CASA's longstanding practices, although existing legislation gives discretion to the Director of Aviation Medicine to determine how long pregnant medical certificate holders may continue to exercise the privileges of any class of licence. CASA's policy is more liberal than that of ICAO, whose relevant medical standards require that class 1 and 2 medical certificate holders do not exercise the privileges of their licences after 26 weeks of pregnancy.

Australian Institute of Health and Welfare (AIHW) data confirm that the risk of precipitate labour exceeds 1% by 34 weeks gestation. (Peter Day, Elizabeth A. Sullivan and Paul

Lancaster; *Australia's mothers and babies* 1996, AIHW Perinatal Statistics Series Number 7, Sydney 1999, p.84). Possible uncertainty over gestational dates dictates a safety margin of 4 weeks in any assessment of the duration of pregnancy, so a woman who believes she is 30 weeks pregnant may actually have been pregnant for up to 34 weeks. As elsewhere in the management of risk in aviation, CASA applies the so-called '1% rule' as a widely-accepted benchmark for acceptable risk of acute incapacitation due to precipitate labour in pregnant pilots whose gestation has progressed to 30 weeks.

The additional period during which CASA permits pregnant class 3 medical certificate holders to exercise the privileges of their licences arises from the difference between operational conditions in-flight and in a control tower. An ambulance or other emergency assistance can reach a control tower faster and more certainly than it can an aircraft in flight. Furthermore, specific risk minimisation procedures are required in the case of pregnant air traffic controllers in the late stages of pregnancy, including the immediate availability of another controller to take over duties in the event of a precipitate labour while performing this duty. For pilots, even operating as-or-with co-pilot, the ability to hand over control and to receive appropriate in-flight care is less certain.

#### **New regulation 67.240 - Medical certificates - suspension pending examination**

This regulation empowers CASA, when medically appropriate, to suspend a current medical certificate until its holder undergoes an examination or examinations directed under regulation 67.230 and has assessed the results of the examination or examinations and thus determined whether reinstatement of the medical certificate would adversely affect the safety of air navigation. This regulation also provides a number of procedural safeguards intended to ensure rapid determination of fitness or unfitness following any suspension and demonstrably fair treatment for any affected medical certificate holder.

#### **New regulation 67.245 - Suspension of medical certificates - special arrangements for service in urgent cases**

This regulation provides a procedural method for CASA to suspend the medical certificate of a holder it has been unable to contact by usual means, particularly where such medical certificate holder attempts to avoid service of the notice. The purpose is to focus on safety.

#### **New regulation 67.250 - Medical certificates - effect of suspension**

This regulation provides that a medical certificate holder is taken not to be the holder of a medical certificate (and is therefore legally unable to exercise the privileges of an aviation licence) during the period of the suspension. This continues CASA's longstanding practices.

#### **New regulation 67.255 - Medical certificates - cancellation if medical standard not met**

This regulation provides for CASA to cancel a medical certificate where the holder does not meet the required medical standard, or to issue a medical certificate which is subject to prescribed conditions if it considers this will not adversely affect the safety of air navigation, and requires CASA to provide a written explanation of its decisions. This continues CASA's longstanding practices.

#### **New regulation 67.260 - Medical certificates - cancellation and suspension in other cases**

This regulation empowers CASA to cancel or suspend a medical certificate where a holder has contravened a condition to which it is subject, or has contravened subregulation 67.265 (2) or (3) by failing to inform CASA or a DAME of the existence of a medically significant condition, or has failed to undergo a medical examination directed by CASA in accordance with regulation 67.230. This regulation also provides time for a medical certificate holder to show cause, prior to the cancellation or suspension taking effect, why the medical certificate should not be cancelled or suspended. This continues CASA's longstanding practices.

## **Subpart 67.D - Responsibilities of medical certificate holders**

### **New regulation 67.265 - Obligation to tell CASA of changes in medical condition**

This regulation imposes an obligation on medical certificate holders to inform CASA or a DAME or DAO, as appropriate, within specified times, if they have medically significant conditions which result in impairment of ability to do an act authorised by the licence. This regulation also prohibits medical certificate holders who have medically significant conditions from exercising the privileges of an aviation licence until cleared to do so by a DAME. This regulation provides a penalty of 50 penalty units if not complied with, however it is a defence not to comply on reasonable grounds.

### **New regulation 67.270 - Offence - doing act while efficiency impaired**

This regulation imposes an obligation on medical certificate holders not to exercise the privileges of aviation licences while affected by a medically significant condition, which impairs the ability to do any act authorised, by the licence. If the holder's normal ability to do any act authorised by the licence is not fully restored within specified times, the holder is then obliged to seek clearance from a DAME before again exercising the privileges of the licence. This regulation provides a penalty of 50 penalty units if not complied with.

### **New regulation 67.275 - Surrender of medical certificates**

This regulation requires a medical certificate holder to surrender the medical certificate to CASA when so required and imposes a penalty of 5 penalty units for failure to comply. This regulation also prohibits a medical certificate holder from destroying, mutilating or defacing a medical certificate with intent to evade responsibility for surrendering it and imposes a penalty of 10 penalty units for failure to comply.

## **ITEM 2 - Subpart 202.CH**

Item 2 inserts a new Subpart 202.CH - Transitional provisions for Part 67 (Medical) that provides for the recording of the transitional provisions on the introduction of new Part 67.

### **New regulation 202.360 - Medical certificates issued under *Civil Aviation Regulations 1988***

This regulation provides for the continued validity of medical certificates issued under existing legislation, until their expiry, also for extension, suspension or cancellation of such medical certificates according to the requirements of Part 67.

### **New regulation 202.361 - Designated aviation medical examiners appointed under *Civil Aviation Regulations 1988***

This regulation provides for the continued validity of appointments of DAMES made under existing legislation, until their programmed expiry, also for suspension or cancellation of such appointments according to the requirements of Part 67.

### **New regulation 202.362 - Actions by Director of Aviation Medicine**

This regulation defines the office of CASA's Principal Medical Officer, which is the new title for the office previously titled 'Director of Aviation Medicine'. This regulation also provides for an approval previously given by the Director of Aviation Medicine to continue in force after the commencement of Part 67.

### **New regulation 202.363 - Applications for issue of medical certificates pending**

This regulation provides for an application for issue of a medical certificate, made under existing legislation but not completed at the commencement of Part 67, to be dealt with thereafter as though it had been made under the provisions of Part 67.

### **ITEM 3 - Dictionary, Part 1**

Item 3 inserts new definitions of 'DAME/designated aviation medical examiner', 'DAO/designated aviation ophthalmologist' and 'medical certificate' into the Dictionary.

### **Schedule 2 - Amendments of *Civil Aviation Regulations 1988***

Schedule 2 provides for consequential amendment of the Civil Aviation Regulations 1988.

### **ITEM 1 - Subregulation 2(1), definition of *medical certificate***

Item 1 removes the definition of 'medical certificate', which is now defined in the Dictionary contained in the CASR 1998.

### **ITEM 2 - Subregulation 5.04 (3), note 1**

Item 2 amends the reference to Part 6 in the Note 1 to subregulation 5.04(3) to read Part 67 of CASR because Part 6 has now been repealed and replaced by Part 67.

### **ITEM 3 - Subregulation 5.04 (3), note 2**

Item 3 amends the reference to Schedule 1 in the Note 2 to subregulation 5.04(3) to read Part 67 of CASR because Schedule 1 has now been repealed and incorporated in Part 67.

### **ITEM 4 - Subregulation 5.06 (1), note 1**

Item 4 amends the reference to 'Part 6' in the Note 1 to subregulation 5.06(1) to read Part 67 of CASR because Part 6 has now been repealed and replaced by Part 67.

### **ITEM 5 - Subregulation 5.06 (1), note 2**

Item 5 amends the reference to 'Schedule 1' in the Note 2 to subregulation 5.06(1) to read Part 67 of CASR because Schedule 1 has now been repealed and incorporated in Part 67.

### **ITEM 6 - Part 6**

Item 6 removes Part 6 - Medical from the CAR 1988 which is now replaced by new CASR Part 67.

**ITEM 7 - Paragraph 297A (1) (r)**

Item 7 removes the reviewable decision, under subregulation 6.03, relating to the cancellation of the appointment of a medical practitioner as a DAME, which is now dealt with in CASR Part 67.

**ITEM 8 - Schedule 1**

Item 8 removes Schedule 1 from CAR 1988, the content of which is now incorporated in CASR Part 67 - Medical.