



# **Civil Aviation Legislation Amendment (Part 21) Regulation 2014**

## **Select Legislative Instrument No. 40, 2014**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Civil Aviation Act 1988*.

Dated 14 April 2014

Peter Cosgrove  
Governor-General

By His Excellency's Command

Warren Truss  
Minister for Infrastructure and Regional Development

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*OPC60351 - E*



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## 1 Name of regulation

This regulation is the *Civil Aviation Legislation Amendment (Part 21) Regulation 2014*.

## 2 Commencement

Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Provision(s)</b>	<b>Commencement</b>
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	1 May 2014.
2. Schedule 1	1 May 2014.
3. Schedule 2	1 September 2014.

## 3 Authority

This regulation is made under the *Civil Aviation Act 1988*.

## 4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments commencing 1 May 2014

### *Civil Aviation Regulations 1988*

#### **1 Subregulation 2(1) (definition of *permissible unserviceability*)**

Repeal the definition, substitute:

*permissible unserviceability*, for an aircraft, means:

- (a) a defect in the aircraft approved by CASA as a permissible unserviceability under regulation 37; or
- (b) a defect in the aircraft approved by CASA, an authorised person or an approved design organisation as a permissible unserviceability under regulation 21.007 of CASR.

#### **2 At the end of subregulation 42W(3)**

Add “that is approved under regulation 37”.

#### **3 Subregulation 42W(3) (note)**

Repeal the note.

#### **4 Paragraph 43(10)(b)**

After “regulation 37”, insert “, or approval under regulation 21.007 of CASR,”.

#### **5 Paragraph 43(13)(a)**

Repeal the paragraph, substitute:

- (a) the person considers that:
  - (i) the aircraft is defective; and
  - (ii) the defect is major damage or a major defect; and
  - (iii) the defect is not a permissible unserviceability; or

#### **6 At the end of paragraph 43(13)(b)**

Add “or”.

**7 Subparagraph 47(1)(a)(ii)**

Omit “has suffered major damage or has developed a major defect, other than damage or a defect that is”, substitute “has developed a defect that is major damage or a major defect and that is not”.

**8 Subparagraph 47(1)(b)(ii)**

Omit “damage or”.

**9 Paragraph 49(2)(a)**

Omit “, or has suffered damage,”.

**10 Subregulation 49(2)**

Omit “or damage”.

**11 Paragraph 49(3)(b)**

After “regulation 37”, insert “, or approval under regulation 21.007 of CASR,”.

***Civil Aviation Safety Regulations 1998***

**12 Part 21 (table of contents)**

Omit the entry for regulation 21.007, substitute:  
21.007 Permissible unserviceabilities

**13 Part 21 (table of contents)**

After the entry for regulation 21.010, insert:  
21.010A References to the NAA of a recognised country

**14 Part 21 (table of contents)**

After the entry for regulation 21.120A, insert:  
21.120B Variations of supplemental type certificates

**15 Regulation 21.007 (heading)**

Repeal the heading, substitute:

**21.007 Permissible unserviceabilities**

**16 Subregulation 21.007(1)**

Omit “damage to”, substitute “a defect in”.

### **17 Subregulation 21.007(2)**

Omit “approve the damage as a permissible unserviceability for the aircraft.”, substitute “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).”.

### **18 At the end of regulation 21.007**

Add:

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



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- (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.

**19 After paragraph 21.009(1)(c)**

Insert:

- (ca) a variation of a supplemental type certificate; or

**20 At the end of Subpart 21.A**

Add:

**21.010A References to the NAA of a recognised country**

- (1) In this Part, a reference to the NAA 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 At the end of Subpart 21.E**

Add:

### **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:

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- (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.
- (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.

**22 Regulation 21.233 (paragraph (b) of the definition of approval activity)**

Omit “damage to”, substitute “a defect in”.

**23 Regulation 21.233 (after paragraph (e) of the definition of approval activity)**

Insert:

- (ea) varying a supplemental type certificate under regulation 21.120B;

**24 Regulation 21.233 (after paragraph (d) of the definition of certification activity)**

Insert:

- (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);

**25 After paragraph 21.251(1)(c)**

Insert:

- (ca) a variation of a supplemental type certificate;

**26 Sub-subparagraphs 21.500(2)(a)(i)(B) and 21.502(1)(a)(i)(B)**

After “issued by”, insert “the NAA of”.

**27 Paragraph 42.360(3)(c)**

Omit “consists of, or is caused by, damage to the aircraft that”.

**28 Part 202 (table of contents)**

Before the entry for regulation 202.053, insert:

**Subdivision 202.AJ.2.A—Amendments made by the Civil Aviation and Civil Aviation Safety Amendment Regulations 2011 (No. 1)**

**29 Part 202 (table of contents)**

Omit the entry for regulation 202.057.

**30 Part 202 (table of contents)**

After the entry for regulation 202.058, insert:

**Subdivision 202.AJ.2.B—Amendments made by the Civil Aviation Legislation Amendment (Part 21) Regulation 2014**

202.058A Transitional—approval of damage as permissible unserviceability

**31 Part 202 (table of contents)**

Before the entry for regulation 202.059, insert:

**Subdivision 202.AJ.3.A—Amendments made by the Civil Aviation and Civil Aviation Safety Amendment Regulations 2011 (No. 1)**

**32 Before regulation 202.053**

Insert:

**Subdivision 202.AJ.2.A—Amendments made by the Civil Aviation and Civil Aviation Safety Amendment Regulations 2011 (No. 1)**

**33 Regulation 202.057**

Repeal the regulation.

**34 At the end of Division 202.AJ.2**

Add:

**Subdivision 202.AJ.2.B—Amendments made by the Civil Aviation Legislation Amendment (Part 21) Regulation 2014**

**202.058A Approval of damage as permissible unserviceability under regulation 21.007**

Despite the amendment of regulation 21.007 by the *Civil Aviation Legislation Amendment (Part 21) Regulation 2014*, an approval of damage as a permissible unserviceability that was in force immediately before 1 May 2014 continues in force in accordance with its terms.

**35 Before regulation 202.059**

Insert:

**Subdivision 202.AJ.3.A—Amendments made by the Civil Aviation and Civil Aviation Safety Amendment Regulations 2011 (No. 1)**

## **Schedule 2—Amendments commencing 1 September 2014**

### ***Civil Aviation Safety Regulations 1998***

#### **1 Part 21 (table of contents)**

Omit the entry for regulation 21.010A, substitute:

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

#### **2 Regulation 21.010A (heading)**

Repeal the heading, substitute:

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

#### **3 Subregulation 21.010(1)**

Omit “NAA”, substitute “national aviation authority”.

#### **4 Sub-subparagraphs 21.500(2)(a)(i)(B) and 21.502(1)(a)(i)(B)**

Omit “NAA”, substitute “national aviation authority”.