

EXPLANATORY STATEMENT

Select Legislative Instrument No. 135, 2014

Issued by the authority of the Minister for Infrastructure and Regional Development

Civil Aviation Act 1988

Civil Aviation Legislation Amendment (Part 175) Regulation 2014

Subsection 98(1) of the *Civil Aviation Act 1988* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, 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. That subsection also provides that the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the *Convention on International Civil Aviation* (Chicago Convention) relating to safety.

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

The Amendment Regulation introduces a new Part 175 to the *Civil Aviation Safety Regulations 1998* (CASR), which establishes a regulatory framework for the management of aeronautical information based on the internationally endorsed standards and recommended practices in Annex 15 'Aeronautical Information Services' to the Chicago Convention. Amongst others, Part 175 enables the Aeronautical Information Service (AIS) to collect electronic terrain and obstacle data for air navigation purposes.

Part 175 formalises arrangements for the collection, storage and processing of aeronautical data and information necessary for the safety, regularity and efficiency of air navigation, in particular in relation to flight operations (flight crews, flight planning and flight simulators) and air traffic services (flight information services and provision of pre-flight information).

The Amendment Regulation creates an auditable regulatory relationship between the AIS providers, data service providers, and aeronautical data originators (a new class of persons established by the Amendment Regulation). Airservices (AA) currently provides an AIS under the *Air Services Regulations 1995*. Data service providers are regulated under the *Civil Aviation Regulations 1988* (CAR).

AIS providers are persons responsible for the publication of data in the Integrated Aeronautical Information Package (IAIP) and on aeronautical charts. Under regulation 175.040, there can be more than one AIS provider. However, only the Commonwealth, AA, or an organisation working with AA can apply to provide an AIS. CASA is responsible for certifying AIS providers and auditing their compliance with Part 175.

Data service providers (persons authorised to publish or supply data that pilots could use as an alternative to the IAIP and aeronautical charts published by AIS providers) are regulated under Subpart 175.C. Data service providers are also authorised to supply data suitable for use in aeronautical navigation databases for Flight Management Computers, Flight Management Systems and Global Navigation Satellite Systems. Under regulation 175.190 an AIS provider is required to enter into a licence agreement with each data service provider.

The commercial organisations that will be data service providers under Part 175 are already regulated by CASA under CAR but these provisions do not expressly specify data integrity or quality requirements. The Amendment Regulation will replace the approval process under CAR and provide a 12-month transition period to enable existing CAR approval holders to re-apply under the new arrangements. CASA is responsible for certifying data service providers and auditing their compliance with Part 175.

Subpart 175.D introduces obligations on aeronautical data originators (persons responsible for providing data to AIS providers for publication in IAIP and on aeronautical charts). Under regulation 175.160 an AIS provider is required to give an aeronautical data originator a written data product specification. The data product specification ensures the quality of data provided to the AIS provider by placing parameters around the data to be supplied by the data originator.

The Amendment Regulation also provides discretionary authority for AA to request data about objects and structures which may affect aviation safety from the owner, operator or controller of the object or structure (for instance, a telecommunications company or a wind farm operator), an aerodrome operator or a government authority. Under regulation 175.490 it is an offence to refuse a request for information from AA for information; however, the offence will not apply if the person has taken all reasonable steps available to obtain the data and has been unable to do so.

Where applicable the Amendment Regulation establishes penalty units (not exceeding 50 penalty units) for offences, such as not providing updated data to the AIS provider or providing an AIS without certification from CASA.

Consultation

A Notice of Proposed Rule Making (NPRM) was published on the CASA website on 7 October 2009 and consultation was undertaken with CASA's Standards Consultative Committee (SCC) and the SCC Airspace and Infrastructure Users Group Sub-committee. CASA received comments from three respondents. The comments were generally supportive, with some respondents seeking further clarification of draft provisions.

In January 2014 further consultations were undertaken based on the Exposure Draft of Part 175, which took into account amendments made to Annex 15 since the 2009 NPRM. CASA received comments from seven respondents. The comments were generally supportive, with some respondents seeking further clarification.

Regulation Impact Statement

The Office of Best Practice Regulation assessed that the Amendment Regulation will have a minor regulatory impact and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 17160).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at Attachment A.

The Amendment Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. Details of the Regulation are set out in Attachment B.

The Amendment Regulation commences on 5 March 2015. A 12-month transition period commences on 5 March 2015 to allow CASA to approve the AIS provider(s) and to enable existing approval holders under CAR to re-apply as data service provider under Part 175.

Authority: Subsection 98(1) of the
Civil Aviation Act 1988

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Civil Aviation Legislation Amendment (Part 175) Regulation 2014

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Civil Aviation Legislation Amendment (Part 175) Regulation 2014* (the Regulation) makes various amendments to the *Civil Aviation Regulations 1988* (CAR) and the *Civil Aviation Safety Regulations 1998* (CASR) that have been made under the *Civil Aviation Act 1988* (the Act).

The primary purpose of the Regulation is to promulgate appropriate, clear and concise aviation safety standards for the management of aeronautical information, including collection, storage and processing of electronic data from various sources. The provisions are consistent with the mandatory standards and recommended practices (the SARPs) in Annex 15 to the Convention on International Civil Aviation (the Chicago Convention). Australia is a signatory to the Chicago Convention and implements the SARPs as far as practicable.

The Regulation would create an auditable regulatory relationship between Aeronautical Information Service (AIS) providers, data service providers, and aeronautical data originators (a new class of persons established by the proposed Amendment Regulation). Airservices Australia (AA) currently provides an AIS under the *Air Services Regulations 1995*. Data service providers are regulated under the CAR.

AIS providers are persons responsible for the publication of data in the Integrated Aeronautical Information Package (IAIP) and on aeronautical charts. Data service providers are persons authorised to publish or supply data that pilots may use as an alternative to the IAIP and aeronautical charts published by AIS providers. Aeronautical data originators are persons who are responsible for providing data to AIS providers for publication in IAIP and on aeronautical charts.

The Regulation also introduces discretionary authority for AA to collect data from persons or organisations about objects and other structures that may affect aviation safety.

The Regulation commences on 5 March 2015. A 12-month transition period commences on 5 March 2015 to allow CASA to approve the AIS provider(s) and to enable existing approval holders under CAR to re-apply as data service providers under Part 175.

Human rights implications

The Regulation engages the following rights:

1. The right to life (Article 6, International Covenant on Civil and Political Rights (ICCPR));
2. The right to health (Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR));

3. The right to the presumption of innocence (Article 14(2) of the ICCPR);
4. The right to work (Article 6(1) of the ICESCR); and
5. The right to protection against arbitrary and unlawful interferences with privacy (Article 17 of the ICCPR).

Right to life and right to health

The right to life in Article 6 of the ICCPR provides that every human being has the inherent right to life and this right shall be protected by law. It includes a duty on governments to take appropriate steps to protect the right to life of those within its jurisdiction. The right to health contained in Article 12 of the ICESCR includes that everyone has the right to the highest attainable standard of physical and mental health.

Aviation safety promotes the right to life and the right to health. In the context of aeronautical information management, the Regulation addresses risks to the life and health of passengers, pilots, cabin crew and people on the ground that could arise from aviation accidents and incidents by establishing an auditable regulatory framework for organisations and individuals involved in publishing or supplying data to be used in air navigation operations.

Presumption of Innocence

The presumption of innocence is contained in article 14(2) of the ICCPR. The presumption of innocence imposes on the prosecution the burden of proving charges, and guarantees that no guilt can be presumed until charges have been proved beyond reasonable doubt. In general, consistency with the presumption of innocence requires the prosecution to prove each element of a criminal offence beyond reasonable doubt.

The strict liability offences and reverse onus provisions in the Regulation engage the right to the presumption of innocence in the ICCPR.

The offence provisions in the Regulation which are strict liability offences engage the right to the presumption of innocence by applying strict liability to all or some elements of offences. If strict liability applies to physical elements of an offence, those elements can be proved without the need to prove a corresponding fault element. However, the defence of honest and reasonable mistake of fact, as set out in section 9.2 of the Criminal Code, will be available to the defendant.

Reverse burden and strict liability offences will not violate the presumption of innocence if they are reasonable in the circumstances and maintain the rights of the accused. Such a provision may be justified if the nature of the offence makes it very difficult for the prosecution to prove each element, or if it is clearly more practical for the accused to prove a fact than for the prosecution to disprove it.

The Regulation includes 18 strict liability offences. For example, regulation 175.035 makes it an offence for a person to provide an aeronautical information service if the person does not hold a certificate under regulation 175.035 that authorises the person to provide the service. The prosecution would not be required to prove any fault element for this offence.

There are also four offences for which there is an evidential burden on the defendant in relation to exceptions to the offences. For example, regulation 175.490 makes it an offence for a person who has been requested by AA to provide specified data about an object or structure that the person owns, controls or operates not to comply with the request within a specified period. Under subregulation 175.490(5), the offence does not apply if the person does not possess the data requested, has taken all reasonable steps available to obtain the data and has been unable to do so. The person bears the evidential burden in relation to the matters

in subregulation 175.490(5). It would be very difficult for a prosecutor to prove that the person possessed the data or had not taken all reasonable steps to obtain the data. It is clearly more practical for the defendant to provide evidence about these matters.

The offences relate to administrative and safety requirements that must be adhered to by regulated individuals or organisations to protect the integrity of aeronautical data.

The strict liability offences in the Regulation are an acceptable limitation on the presumption of innocence, and therefore not inconsistent with the presumption of innocence, in that they are regulatory in nature, meaning there is an expectation that individuals who participate in the aviation sector have accepted certain conditions and have certain knowledge, particularly where the activities carry public safety risks. The deterrence effect of the strict liability offences also contributes significantly to maintain the integrity of the aviation safety system and preserving the right to life and health of passengers, pilots, cabin crew and people on the ground that could be affected by aviation accidents and incidents.

The strict liability offences are also proportionate in that they fall at the lower end of the scale, not exceeding 50 penalty units.

The strict liability offences also contain appropriate limitations and safeguards. For example, regulation 175.065 makes it an offence for an AIS provider to contravene a condition on its certificate, which includes any direction given to the provider, or obligation imposed on the provider, by CASA under a provision of the Regulation. CASA's powers to give directions and impose obligations are limited by Part 11 of CASR to specified matters, including safe navigation and operation of aircraft, and to specified purposes, including for the safety of air navigation and the purposes of CASA's functions. In addition, any decision by CASA to impose a condition on the AIS provider's certificate is subject to review by the Administrative Appeals Tribunal.

The reverse onus provisions in the Regulation engage with the right to the presumption of innocence by imposing an evidential burden on the defendant in relation to some exceptions. The Regulation does not impose any legal burdens on a defendant in relation to a fact, only evidential burdens. This only requires a defendant to adduce evidence with respect to the matter, rather than prove the matter, after which the burden of proof shifts back to the prosecution.

Accordingly, any potential limitation of Article 14(2) of the ICCPR is necessary, reasonable and proportionate.

Right to work

The right to work in Article 6(1) of ICESCR includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept. The right to work is engaged in this legislative instrument where limitations are placed on a person's suitability for work unless specified competency, qualification and training standards are met. For example, regulation 175.445 makes it an offence for an aeronautical data originator to appoint a person as the AIP responsible person for the originator if the person does not have the knowledge and competence to carry out the responsibilities of that position.

The right to work is also engaged by the demerit points scheme, described in Division 3D of Part III of the Act and Division 13.K.2 of CASR. A person incurs three demerit points for committing a strict liability offence and a person who incurs 12 demerit points in a three-year period can have a relevant civil aviation authorisation, such as an AIS provider or data service provider approval, suspended for 90 days. Incurring further demerit points may lead

to longer periods of suspension or cancellation of the authorisation. However, CASA has a discretion, under section 30EF of the Act, to reinstate an authorisation, with or without conditions, if it is satisfied that suspension or cancellation of the authorisation would cause the holder severe financial hardship because, without the authorisation, the holder would not be able to earn the holder's principal or only income. The demerit points scheme is reasonable, necessary and proportionate as it helps to ensure compliance with the Regulation and the integrity of the aviation safety system, while recognising the right of everyone to the opportunity to gain their living by work.

The requirements of the Regulation are necessary in order to ensure competent use of aircraft and systems within Australia's aviation environment, thus promoting the right to life and the right to health. Any potential limitation on the right to work is necessary, reasonable and proportionate in promoting the objective of improving aviation safety.

Right to privacy

Article 17 of the ICCPR provides the right to protection against arbitrary and unlawful interferences with privacy.

The right to privacy is engaged by those provisions, such as regulations 175.045 and 175.285, that require regulated persons or organisations to provide personal and other information to CASA. For example, regulation 175.045 requires an applicant for an AIS provider certificate to provide the applicant's name, contact details and ABN (if any), the address of its operational headquarters, the name of each of the officers of a corporate applicant, and information about the services that the applicant proposes to provide. Regulation 175.285 requires an applicant for a data service provider certificate to provide similar information.

It is necessary for CASA to receive this information to enable it to properly administer the Regulation and to ensure that only appropriate individuals are involved in the aviation safety system. Under regulation 11.055 of CASR, CASA may only grant an authorisation if doing so would not be likely to have an adverse effect on the safety of air navigation, and may take into account compliance by the applicant and its officers with regulatory requirements relating to transport safety. For example, if an officer of an applicant corporation has previous offences under aviation safety regulations, this would be relevant to deciding whether granting the certificate would be likely to have an adverse effect on the safety of air navigation.

The protections provided by the *Privacy Act 1988* will apply to personal information collected. CASA's privacy policy is available on its website and requires that CASA only collect personal information necessary to perform its functions. The protections of personal information include a requirement to take reasonable steps to protect it from misuse, loss or unauthorised access, limitations on its use for other purposes or its disclosure to other entities, and the right of an individual to access and correct personal information relating to the individual.

The right to privacy is engaged in a way that promotes the objective of improving aviation safety while not impermissibly limiting human rights. The requirements of the Regulation are necessary in order to ensure proper administration and enforcement of Australia's aviation safety system.

Conclusion

The legislative instrument is compatible with human rights. To the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate in order to ensure the safety of aviation operations and to promote the integrity of the aviation safety system, and thereby promote the rights to life and health.

Minister for Infrastructure and Regional Development, the Hon Warren Truss MP

ATTACHMENT B**Details of the Civil Aviation Legislation Amendment (Part 175) Regulation 2014****Section 1 - Name of regulation**

Item 1 provides that the title of the regulation is the *Civil Aviation Legislation Amendment (Part 175) Regulation 2014*.

Section 2 - Commencement

Item 2 provides that the regulation commences on 5 March 2015.

Section 3 - Authority

Item 3 provides that the regulation is made under the *Civil Aviation Act 1988*.

Section 4 - Schedule(s)

Item 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 - Amendments*Civil Aviation Regulations 1988***Item [1] Paragraph 233(1)(h)**

Item [1] repeals the paragraph and substitute that aeronautical data and aeronautical information mentioned in subregulation 233(1A) is required to be carried in the aircraft and must be accessible to flight crew.

Item [2] Subregulation 233(1A)

Item [2] repeals the subregulation and substitute that the aeronautical data and aeronautical information to be carried must be applicable to the route to be flown and to any alternative route for the flight and must be published in the AIP, or by a data service provider, or by a person holding an approval under regulations 202.961 or 202.962 of the *Civil Aviation Safety Regulations* (CASR 1998).

*Civil Aviation Safety Regulations 1998***Item [3] After Part 173**

Item [3] inserts a complete new Part 175 of CASR 1998 entitled Part 175-Aeronautical information management, inclusive of a table of contents.

Subpart 175.A—Aeronautical information management—general

This Subpart inserts a complete new Subpart 175.A of CASR 1998 inclusive of regulations 175.005 to 175.025. This Subpart provides for what Part 175 is about, applicability of Part 175, definitions, references to Annexes to the Chicago Convention, and for a Manual of Standards to be issued.

Regulation 175.005—What Part 175 is about

Subregulation 175.005(1) provides that Part 175 of CASR 1998 sets out the standards and requirements for the quality and integrity of data and information used in air navigation.

Subregulation 175.005(2) provides that Subpart 175.B of CASR 1998 sets out the standards and requirements for Aeronautical Information Service (AIS) providers.

Subregulation 175.005(3) provides that Subpart 175.C of CASR 1998 sets out the standards and requirements for data service providers.

Subregulation 175.005(4) provides that Subpart 175.D of CASR 1998 sets out the requirements for aeronautical data originators.

Subregulation 175.005(5) provides that Subpart 175.E of CASR 1998 sets out the powers that can be used to gather data about objects and structures that affect aviation safety.

Regulation 175.010 provides that Part 175 of CASR 1998 does not apply to someone who is providing an AIS for the Defence Force or an AIS provided by the Defence Force.

Regulation 175.015 provides a list of definitions relevant to the new Part 175 of CASR 1998. As this is a new Part, it is necessary to define the meanings of certain terms used to ensure correct adoption of the Part.

Regulation 175.020 provides that a reference to Annex 3, 4 or 15 to the Chicago Convention in Part 175 of CASR 1998 is subject to differences filed by Australia.

Regulation 175.025—Issue of Manual of Standards for Part 175

Subregulation 175.025(1) provides that Part 175 of CASR 1998 sets out that the Civil Aviation Safety Authority (CASA) may issue a Manual of Standards. Regulation 175.025 is enabled by subsection 98(5A) of the *Civil Aviation Act 1988* which empowers CASA to issue instruments in relation to matters that are covered by that subsection.

Subregulation 175.025(2) provides for CASA to give notice of a Manual of Standards, as mentioned under regulation 11.275(3) or regulation 11.280 of CASR 1998, for Part 175 of CASR 1998 to each AIS provider and data service provider.

Subpart 175.B—Aeronautical information management—AIS providers

This Subpart inserts a complete new Subpart 175.B of CASR 1998 inclusive of regulations 175.030 to 175.260. This Subpart provides the standards and requirements for AIS providers.

Division 175.B.1—AIS providers—general

This Division inserts complete new regulations 175.030 to 175.035 that provides for definitions and the requirement for a certificate.

Regulation 175.030 provides the definitions relevant to the new Subpart 175.B of CASR 1998. As this is a new Subpart, it is necessary to define the meanings of certain terms used to ensure correct adoption of the Subpart.

Regulation 175.035—Provision of AIS—requirement for certificate

Subregulation 175.035(1) provides that a person commits an offence if they provide an AIS and the person does not hold a certificate. The penalty for the offence is 50 penalty units.

Subregulation 175.035(2) provides that an offence relating to contravention of regulation 175.035 is an offence of strict liability.

Division 175.B.2—AIS provider certificates

This Division inserts complete new regulations 175.040 to 175.067 that provide the requirements for a certificate.

Regulation 175.040—AIS provider certificates—who may apply

Subregulation 175.040(1) provides that only the persons mentioned in regulation 175.040(2) could apply for an AIS provider certificate.

Subregulation 175.040(2) provides the list of persons that can apply for an AIS provider certificate.

Subregulation 175.040(3) provides that an application cannot be made by two (2) or more persons jointly, or on behalf of a partnership.

Regulation 175.045—AIS provider certificates—requirements for application

Subregulation 175.045(1) provides what an AIS provider application must include.

Subregulation 175.045(2) provides that the application must be accompanied by a copy of an applicant's exposition.

Regulation 175.050 provides that, under regulation 11.045 of CASR 1998, CASA may ask for a demonstration of a service, facility or equipment.

Regulation 175.055—AIS provider certificates—issue of certificate

Subregulation 175.055(1) provides that CASA must issue an AIS provider certificate if the requirements of the approval are met.

Subregulation 175.055(2) provides that CASA must determine the services that the applicant is authorised to provide as well as the location from where each service is to be provided, area of coverage of the service and the hours that the service will be available.

Subregulation 175.055(3) provides that the certificate must include the applicant's name and headquarters, the details listed in regulation 175.055(2) and a certificate reference number.

Subregulation 175.055(4) provides that CASA must issue a new certificate if CASA approves a change under regulation 175.070 or CASA directs a change under regulation 175.080.

Regulation 175.060 provides that if CASA issues a certificate to an applicant, CASA is taken to have approved the applicant's exposition.

Regulation 175.065—AIS provider certificates—conditions

Subregulation 175.065(1) provides that if a certificate was issued by CASA to an AIS provider, the provider must comply with Subpart 175.B of CASR 1998 and any directions issued to the provider, or obligations imposed, by CASA under Part 175 of CASR 1998.

Subregulation 175.065(2) provides that an AIS provider commits an offence if they contravene regulation 175.065. The penalty for the offence is 50 penalty units.

Subregulation 175.065(3) provides that an offence relating to contravention of regulation 175.065 is an offence of strict liability.

Regulation 175.067—AIS provider certificates—cancellation of certificate if cooperation or arrangement ceases

Subregulation 175.067(1) provides that CASA must cancel an AIS provider certificate if the cooperation with Airservices Australia (AA), in accordance with paragraph 11(3)(b) of the *Air Services Act 1995*, ceases.

Subregulation 175.067(2) provides that CASA must cancel an AIS provider certificate if the arrangement with AA, in accordance with paragraph 11(3)(c) of the *Air Services Act 1995*, ceases.

Division 175.B.3—AIS providers—changes

This Division inserts complete new regulations 175.070 to 175.085 that provide for changes to an AIS provider's services and other changes which result in an amendment to their exposition.

Regulation 175.070—AIS providers—changes to services—matters included in certificate

Subregulation 175.070(1) provides that an AIS provider must not make a change to the services that it provides as part of its AIS unless the change has been approved by CASA.

Subregulation 175.070(2) provides that an AIS provider must not make a change to certain aspects about a service that it provides as part of its AIS unless the change has been approved by CASA.

Subregulation 175.070(3) provides that an application for approval of a change to services is subject to certain conditions.

Subregulation 175.070(4) provides that CASA, under regulation 11.055 of CASR 1998, must approve a change to services for an AIS provider if the requirements in regulation 175.055 will continue to be met.

Subregulation 175.070(5) provides that if CASA approves a change to services, CASA also approves the changes to the provider's exposition.

Regulation 175.075—AIS providers—other changes

Subregulation 175.075(1) provides that an AIS provider must not make a change to the services they provide, excluding a change made under regulation 175.070, unless they amend their exposition and provide CASA with a written copy.

Regulation 175.080—AIS providers—CASA directions relating to exposition

Subregulation 175.080(1) provides that, if it is necessary in the interests of aviation safety, CASA may direct an AIS provider to change their exposition.

Subregulation 175.080(2) provides the time within which the direction to change their exposition must be complied with.

Regulation 175.085 provides that an AIS provider must notify CASA within seven (7) days of changes which significantly affect their ability to provide their AIS.

Division 175.B.4—AIS providers—requirements for provision of AIS

This Division inserts complete new regulations 175.090 to 175.145 that provide the standards and requirements for being an AIS provider.

Regulation 175.090—AIS providers—provision of AIS must comply with laws

Subregulation 175.090(1) provides that the requirements of this Subpart are in addition to requirements that apply to an AIS provider under other civil aviation legislation, the *Airspace Act 2007* and the *Airspace Regulations 2007*.

Subregulation 175.090(2) provides that if it is not possible for an AIS provider to comply with both a requirement under legislation mentioned in subregulation 175.090(1) and a requirement under this Subpart, the AIS provider is required to comply with the requirement under the legislation mentioned in subregulation 175.090(1).

Subregulation 175.090(3) provides that if a circumstance mentioned in subregulation 175.090(2) occurs, the AIS provider must give CASA written notice as soon as practicable.

Regulation 175.095 provides that AIS providers must comply with their exposition.

Regulation 175.100—AIS providers—provision of AIS must comply with standards

Subregulation 175.100(1) provides that an AIS provider must provide a service in accordance with the standards listed in this subregulation.

Subregulation 175.100(2) provides that if two (2) standards are applicable, and it is not possible for the AIS provider to comply with both, then the AIS provider is required to comply with the standard mentioned first in subregulation 175.100(1).

Subregulation 175.100(3) provides that if a circumstance mentioned in subregulation 175.100(2) occurs, the AIS provider must give CASA written notice as soon as practicable.

Regulation 175.105—AIS providers—standards for development and publication of Integrated Aeronautical Information Package and aeronautical charts

Subregulation 175.105(1) provides that an AIS provider must publish aeronautical data and aeronautical information as an Integrated Aeronautical Information Package (IAIP) or on aeronautical charts.

Subregulation 175.105(2) provides that the aeronautical data and aeronautical information must be developed from data that complies with the standards for data accuracy and integrity in Annexes 11 and 14 to the Chicago Convention.

Subregulation 175.105(3) provides that the format and quality of the aeronautical data and aeronautical information must be suitable for the intended end use of the data and information.

Subregulation 175.105(4) provides that the aeronautical data and aeronautical information must be published in accordance with the list of standards mentioned in this subregulation.

Subregulation 175.105(5) provides that if two (2) standards are applicable, and it is not possible for the AIS provider to comply with both, then the AIS provider is required to comply with the standard mentioned first in subregulation 175.105(4).

Subregulation 175.105(6) provides that if a circumstance mentioned in subregulation 175.105(5) occurs, the AIS provider must give CASA written notice as soon as practicable.

Subregulation 175.105(7) provides that an aeronautical chart published by an AIS provider must comply with the standards in Annex 4 to the Chicago Convention.

Subregulation 175.105(8) provides that if an AIS provider is providing its AIS in cooperation, or by arrangement, with AA, AA must ensure that subregulation 175.105(1) is complied with.

Regulation 175.110—AIS providers—standards for aeronautical data processing system

Subregulation 175.110(1) provides that an AIS provider must have an automated system for processing aeronautical data and aeronautical information that is compliant with this subregulation.

Subregulation 175.110(2) provides that if two (2) documents are applicable in paragraph 175.110(1)(d), and it is not possible for the AIS provider to comply with both, then the AIS provider is required to comply with the document mentioned first in paragraph 175.110(1)(d).

Subregulation 175.110(3) provides that if two (2) documents are applicable in paragraph 175.110(1)(e), and it is not possible for the AIS provider to comply with both, then the AIS provider is required to comply with the document mentioned first in paragraph 175.110(1)(e).

Subregulation 175.110(4) provides that if a circumstance mentioned in paragraph 175.110(1)(d) or (e) occurs, the AIS provider must give CASA written notice as soon as practicable.

Regulation 175.115—AIS providers—contravention of exposition or standards

Subregulation 175.115(1) provides that an AIS provider may contravene regulations 175.095, 175.100, 175.105 or 175.110 if the contravention is necessary in the interests of aviation safety.

Subregulation 175.115(2) provides that an AIS provider must give CASA written notice of the contravention, including an estimate of how long the contravention will last, as soon as practicable.

Regulation 175.120 provides that if an AIS provider provides a Notice To Airmen (NOTAM) service, it must comply with the standards listed in this regulation.

Regulation 175.125 provides that if an AIS provider provides a briefing service, it must comply with the standards listed in this regulation.

Regulation 175.130 provides that if an AIS provider provides a post-flight information service, it must comply with the standards listed in this regulation.

Regulation 175.135—AIS providers—CASA directions about NOTAMS for a location

Subregulation 175.135(1) provides that CASA may, by written notice, direct an AIS provider to publish NOTAMS for a particular location.

Subregulation 175.135(2) provides that a notice under regulation 175.135(1) must state the time within which the direction must be complied with.

Regulation 175.140—AIS providers—aerodromes not covered by Part 139—removal of references in AIP

Subregulation 175.140(1) provides that this regulation applies if an AIS provider becomes aware of an aeronautical data originator who is responsible for aeronautical data or aeronautical information about an aerodrome referred to in this subregulation, and the aeronautical data originator has not complied with Subpart 175.D of CASR 1998.

Subregulation 175.140(2) provides that an AIS provider must remove any references to the aerodrome from the AIP when the AIP is next amended.

175.145—AIS providers—publication of aeronautical charts relating to areas etc. outside authority

Subregulation 175.145(1) provides that this regulation applies if an AIS provider publishes an aeronautical chart that includes aeronautical data or aeronautical information that relates to an area, aerodrome, airspace or Air Traffic Service (ATS) route not covered by the AIS provider's approval.

Subregulation 175.145(2) provides that Subpart 175.B of CASR 1998 does not apply to the publication of the aeronautical data or aeronautical information if the data or information accurately reflects data or information that is published by another AIS provider under this Subpart, or by an AIS of a foreign country.

Division 175.B.5—AIS providers—requirements about aeronautical data and aeronautical information

This Division inserts complete new regulations 175.150 to 175.195 that provide the requirements for publishing or supplying aeronautical data or aeronautical information by an AIS provider.

Regulation 175.150—AIS providers—CASA directions relating to aeronautical data or aeronautical information

Subregulation 175.150(1) provides that this regulation applies in relation to aeronautical data or aeronautical information that an AIS provider publishes in the IAIP or on an aeronautical chart.

Subregulation 175.150(2) provides that, if it is necessary in the interests of aviation safety, CASA may direct an AIS provider to add to, amend or remove aeronautical data or aeronautical information that the AIS provider publishes. CASA may also request information or records relating to any changes to the data or information.

Subregulation 175.150(3) provides that a notice under regulation 175.150 must state the time within which the direction must be complied with.

Regulation 175.155—AIS providers—integrity of aeronautical data and aeronautical information

Subregulation 175.155(1) provides that this regulation applies in relation to aeronautical data or aeronautical information that an AIS provider publishes in the IAIP or on an aeronautical chart.

Subregulation 175.155(2) provides that an AIS provider must ensure that the integrity of the aeronautical data or aeronautical information is maintained during the processing of the data or information by the AIS provider.

Subregulation 175.155(3) provides that an AIS provider must ensure that the aeronautical data or aeronautical information is obtained from the correct source, is kept up-to-date and is traceable to its origin.

Subregulation 175.155(4) provides that an AIS provider must verify that the aeronautical data or aeronautical information is not altered from the source data, has been checked for accuracy against the source data and has been published only during the period when the data or information is valid.

Subregulation 175.155(5) provides that an AIS provider must verify that the aeronautical data or aeronautical information is complete and that all of the data or information needed to support the intended use of the data or information has been published.

Subregulation 175.155(6) provides that if the aeronautical data or aeronautical information was supplied to an AIS provider, the AIS provider must verify that the data or information is in a format that is suitable for use.

Subregulation 175.155(7) provides that if the aeronautical data or aeronautical information is for inclusion in a NOTAM, an AIS provider must verify that the data or information was supplied to the AIS provider by a person authorised to request the issue of a NOTAM.

Regulation 175.160—AIS providers—giving data product specifications to aeronautical data originators

Subregulation 175.160(1) provides that an AIS provider must give a written data product specification to each aeronautical data originator that is responsible for aeronautical data or aeronautical information published as part of the IAIP or on an aeronautical chart.

Subregulation 175.160(2) provides that subregulation 175.160(3) applies if the provider is also responsible for aeronautical data or aeronautical information that is published as part of the IAIP or on an aeronautical chart.

Subregulation 175.160(3) provides that an AIS provider must give a written data product specification to the area of the provider's organisation that is responsible for the aeronautical data or aeronautical information.

Subregulation 175.160(4) provides the content and details of what is in the data product specification.

Regulation 175.165 provides that an AIS provider must revoke a data product specification if a person is no longer responsible for the aeronautical data or aeronautical information specified in the data product specification.

Regulation 175.170 provides that an AIS provider must comply with the procedures mentioned in a data product specification.

Regulation 175.175—AIS providers—correction and notification of errors and omissions in aeronautical data and aeronautical information

Subregulation 175.175(1) provides that this regulation applies if an AIS provider becomes aware of an error or omission in aeronautical data or aeronautical information that the AIS provider publishes in the IAIP or on an aeronautical chart.

Subregulation 175.175(2) provides a list of things that an AIS provider must do, as soon as practicable, after the AIS provider becomes aware of an error or omission.

Subregulation 175.175(3) provides that an AIS provider must notify CASA in writing of any significant error or omission that may affect the safety of air navigation as soon as practicable.

Regulation 175.180 provides that an AIS provider must ensure that aeronautical data and aeronautical information is stored digitally and is kept secure to prevent unauthorised access or alteration.

Regulation 175.185—AIS providers—timing of effective dates and distribution of certain documents and information

Subregulation 175.185(1) provides what documents or information an AIS provider publishes that must become effective only on an Aeronautical Information Regulation And Control (AIRAC) date.

Subregulation 175.185(2) provides that an AIS provider must distribute the documents or information mentioned in subregulation 175.185(1) so that a recipient receives the document or information at least 28 days before the document or information becomes effective.

Subregulation 175.185(3) provides that if a document or information contains information mentioned in Part 3 of Appendix 4 (Information to be notified by AIRAC) of Annex 15 to the Chicago Convention, the AIS provider must distribute the document or information so that a recipient receives the document or information at least 56 days before the document or information becomes effective.

Subregulation 175.185(4) provides that an AIS provider must ensure that a document or information that becomes effective in accordance with AIRAC is identified by the acronym “AIRAC”.

Subregulation 175.185(5) provides that an AIS provider may contravene the AIRAC requirements if it is necessary in the interests of aviation safety.

Subregulation 175.185(6) provides that if an AIS provider contravenes the AIRAC requirements the AIS provider must give CASA written notice of the contravention as soon as practicable.

Regulation 175.190—AIS providers—licence agreements with data service providers for supply of data sets

Subregulation 175.190(1) provides that an AIS provider must enter into a licence agreement with each data service provider.

Subregulation 175.190(2) provides that a licence agreement must cover all of the aeronautical data and aeronautical information that the data service provider requires for its authorised data service activities.

Subregulation 175.190(3) provides the content and details of what is in a licence agreement.

Subregulation 175.190(4) provides that an AIS provider may charge for the supply of data sets to the data service provider.

Regulation 175.195 provides that an AIS provider must comply with each licence agreement it has entered into.

Division 175.B.6—AIS providers—organisational requirements

This Division inserts complete new regulations 175.200 to 175.260 that provide the organisational requirements of an AIS provider.

Regulation 175.200—AIS providers—exposition

Subregulation 175.200(1) provides a list of what the exposition of an AIS provider must contain.

Subregulation 175.200(2) provides that an AIS provider must ensure CASA and the AIS provider's operational personnel have ready access to the exposition and the exposition is kept up-to-date.

Regulation 175.205 provides that an AIS provider must have an appropriate organisational structure that enables the AIS provider to provide its AIS in accordance with its exposition and Subpart 175.B of CASR 1998.

Regulation 175.210 provides that an AIS provider must have enough suitably competent, qualified and trained personnel to provide its AIS in accordance with its exposition and Subpart 175.B of CASR 1998 and to supervise the provision of each service it provides as part of its AIS.

Regulation 175.215 provides that an AIS provider must have an accountable manager.

Regulation 175.220—AIS providers—personnel—training and checking system for operational personnel

Subregulation 175.220(1) provides that an AIS provider must have a training and checking system that ensures that the AIS provider's operational personnel maintain their competence and are provided with ongoing training.

Subregulation 175.220(2) provides the requirements for the training and checking system.

Regulation 175.225—AIS providers—safety management system

Subregulation 175.225(1) provides that an AIS provider must have a safety management system (SMS).

Subregulation 175.225(2) provides what the requirements for an SMS are.

Regulation 175.230 provides that an AIS provider must have a quality management system (QMS) that is based on International Organization for Standardization (ISO) 9001 relevant to AIS and also addresses the quality management procedures in the 'aeronautical data processing standards'. The 'aeronautical data processing standards' are defined in the CASR Dictionary as Radio Technical Commission for Aeronautics Document 200A (RTCA/DO-200A) or European Organisation for Civil Aviation Equipment (EUROCAE) ED-76 which are equivalent industry standards.

Regulation 175.235—AIS providers—facilities, equipment, data and information

Subregulation 175.235(1) provides that an AIS provider must have facilities and equipment that are necessary for providing its AIS.

Subregulation 175.235(2) provides that an AIS provider must provide its personnel with access to the aeronautical data and aeronautical information required for the publication of the IAIP or the aeronautical charts.

Regulation 175.240—AIS providers—contingency plan

Subregulation 175.240(1) provides that an AIS provider must have a contingency plan that sets out the procedures to be followed if a service provided as part of its AIS is interrupted.

Subregulation 175.240(2) provides what the contingency plan must include.

Regulation 175.245—AIS providers—reference materials

Subregulation 175.245(1) provides that an AIS provider must have up-to-date copies of the reference materials listed in this subregulation.

Subregulation 175.245(2) provides that an AIS provider must ensure that operational personnel have ready access to the reference materials.

Regulation 175.250 provides that an AIS provider's accountable manager must conduct an annual review against the requirements of their exposition and Subpart 175.B of CASR 1998. Any deficiencies that are identified during the review must be addressed and CASA provided with a copy of the annual review, including any significant deficiencies identified since the previous annual review and how the deficiencies are to be addressed.

Regulation 175.255—AIS providers—records

Subregulation 175.255(1) provides that an AIS provider must have procedures for making, collecting, indexing, storing, securing, maintaining, accessing and disposing of the records listed in this subregulation.

Subregulation 175.255(2) provides that an AIS provider must ensure that records are legible and permanent.

Regulation 175.260—AIS providers—retention period for aeronautical data, aeronautical information and records

Subregulation 175.260(1) provides that subregulation 175.260(2) applies if aeronautical data or aeronautical information is not a Commonwealth record within the meaning of the *Archives Act 1983*.

Subregulation 175.260(2) provides that an AIS provider must keep the aeronautical data or aeronautical information for at least seven (7) years after the data or information ceases to be effective.

Subregulation 175.260(3) provides that subregulation 175.260(4) applies if a record mentioned in subregulation 175.255(1) is not a Commonwealth record within the meaning of the *Archives Act 1983*.

Subregulation 175.260(4) provides that an AIS provider must keep a record for as long as the aeronautical data or aeronautical information it relates to is required to be kept, otherwise for at least seven (7) years after the record is made.

Subpart 175.C—Aeronautical information management—data service providers

This Subpart inserts a complete new Subpart 175.C of CASR 1998 inclusive of regulations 175.265 to 175.440. This Subpart provides the standards and requirements for data service providers.

Division 175.C.1—Data service providers—general

This Division inserts complete new regulations 175.265 to 175.275 that provide definitions and the requirement for a certificate.

Regulation 175.265 provides the definitions relevant to the new Subpart 175.C of CASR 1998. As this is a new Subpart, it is necessary to define the meanings of certain terms used to ensure correct adoption of the Subpart.

Regulation 175.270—Conduct of data service activity—requirement for certificate

Subregulation 175.270(1) provides that a person commits an offence if they conduct a data service activity and the person does not hold a certificate. The penalty for the offence is 50 penalty units.

Subregulation 175.270(2) provides that an AIS provider publishing aeronautical data, aeronautical information or an aeronautical chart in the course of providing an AIS is not a data service provider.

Subregulation 175.270(3) provides that an aerodrome operator publishing an Aerodrome Obstacle Chart Type A or B, an Aerodrome Terrain and Obstacle Chart or a Precision Approach Terrain Chart is not a data service provider.

Subregulation 175.270(4) provides that a person who supplies navigation equipment or a navigation system containing aeronautical data in a database is not a data service provider, if the database has been supplied by a third party. A defendant bears an evidential burden in relation to the matters in this subregulation. See subsection 13.3(3) of the Criminal Code.

Subregulation 175.270(5) provides that an offence relating to contravention of regulation 175.270 is an offence of strict liability.

Regulation 175.275—CASA to publish list of data service providers

Subregulation 175.275(1) provides that CASA must publish a list of data service providers, the data service activities that have been authorised by CASA and the area of coverage of the aeronautical data, aeronautical information or aeronautical charts for each data service provider.

Subregulation 175.275(2) provides that CASA must keep the list of data service providers up-to-date.

Division 175.C.2—Data service provider certificates

This Division inserts complete new regulations 175.280 to 175.305 that provide the requirements for a certificate.

Regulation 175.280—Data service provider certificates—who may apply

Subregulation 175.280(1) provides that persons can apply in writing for a data service provider certificate authorising a data service activity.

Subregulation 175.280(2) provides that an application cannot be made by two (2) or more persons jointly, or on behalf of a partnership.

Regulation 175.285—Data service provider certificates—requirements for application

Subregulation 175.285(1) provides what a data service provider application must include.

Subregulation 175.285(2) provides that the application must be accompanied by a copy of the applicant's exposition.

Regulation 175.290 provides that, under regulation 11.045 of CASR 1998, CASA may ask for a demonstration of a service, facility or equipment.

Regulation 175.295—Data service provider certificates—issue of certificate

Subregulation 175.295(1) provides that CASA must issue a data service provider certificate if the requirements of the authorisation are met.

Subregulation 175.295(2) provides that CASA must determine the data service activities that are authorised to be conducted and the area of coverage of the activities.

Subregulation 175.295(3) provides that the certificate must include the applicant's name and headquarters, the details listed in regulation 175.295(2) and a certificate reference number.

Subregulation 175.295(4) provides that CASA must issue a new certificate if CASA approves a change under subregulation 175.310(4) or CASA directs a change under regulation 175.320.

Regulation 175.300 provides that if CASA issues a certificate to an applicant, CASA is taken to have approved the applicant's exposition.

Regulation 175.305—Data service provider certificates—conditions

Subregulation 175.305(1) provides that if a certificate is issued by CASA to a data service provider, the provider must comply with Subpart 175.C of CASR 1998 and any directions issued to the provider, or obligations imposed, by CASA under Part 175 of CASR 1998.

Subregulation 175.305(2) provides that a data service provider commits an offence if they contravene regulation 175.305. The penalty for the offence is 50 penalty units.

Subregulation 175.305(3) provides that an offence relating to contravention of regulation 175.305 is an offence of strict liability.

Division 175.C.3—Data service providers—changes

This Division inserts complete new regulations 175.310 to 175.330 that provide for changes to a data service provider's activities and other changes which would result in an amendment to their exposition.

Regulation 175.310—Data service providers—changes to authorised data service activities—matters included in certificate

Subregulation 175.310(1) provides that a data service provider commits an offence if the provider makes a change to the provider's authorised data service activities and the change has not been approved by CASA. The penalty for the offence is 50 penalty units.

Subregulation 175.310(2) provides that a data service provider commits an offence if the provider makes a change to the area of coverage of the aeronautical data, aeronautical information or an aeronautical chart covered by their authorised data service activity and the change has not been approved by CASA. The penalty for the offence is 50 penalty units.

Subregulation 175.310(3) provides that an application for approval of a change to an activity is subject to certain conditions.

Subregulation 175.310(4) provides that CASA, under regulation 11.055 of CASR 1998, must approve a change to an activity for a data service provider if the requirements in regulation 175.295 will continue to be met.

Subregulation 175.310(5) provides that if CASA approves a change to an activity, CASA also approves the changes to the provider's exposition.

Subregulation 175.310(6) provides that an offence relating to contravention of regulation 175.310 is an offence of strict liability.

Regulation 175.315—Data service providers—other changes

Subregulation 175.315(1) provides that a data service provider commits an offence if the provider makes a change to their activities, excluding a change made under regulation 175.310, and the provider did not comply with subregulation 175.315(2). The penalty for the offence is 50 penalty units.

Subregulation 175.315(2) provides that for subregulation 175.315(1) the data service provider must amend its exposition to reflect the change and give CASA written notice of the change and a copy of the amended part of the exposition clearly identifying the change.

Subregulation 175.315(3) provides that an offence relating to contravention of regulation 175.315 is an offence of strict liability.

Regulation 175.320—Data service providers—CASA directions relating to exposition

Subregulation 175.320(1) provides that if it is necessary in the interests of aviation safety, CASA may direct a data service provider to change their exposition.

Subregulation 175.320(2) provides the time within which the direction to change their exposition must be complied with.

Subregulation 175.320(3) provides that a data service provider commits an offence if the provider does not comply with the direction within the time stated in subregulation 175.320(2). The penalty for the offence is 50 penalty units.

Subregulation 175.320(4) provides that an offence relating to contravention of regulation 175.320 is an offence of strict liability.

Regulation 175.325—Data service providers—notifying CASA of changes in circumstances

Subregulation 175.325(1) provides that a data service provider commits an offence if a change of circumstance occurs, which significantly affects the provider's ability to conduct its authorised data service activities, and the provider does not notify CASA within seven (7) days. The penalty for the offence is 50 penalty units.

Subregulation 175.325(2) provides that an offence relating to contravention of regulation 175.325 is an offence of strict liability.

Regulation 175.330—Data service providers—notifying CASA of intention to cease activities

Subregulation 175.330(1) provides that a data service provider commits an offence if the provider ceases to conduct an authorised data service activity and the provider did not give CASA at least two (2) months' written notice of the provider's intention to cease conducting the activity, and the date on which the provider intended to cease conducting the activity. The penalty for the offence is 50 penalty units.

Subregulation 175.330(2) provides that an offence relating to contravention of regulation 175.330 is an offence of strict liability.

Division 175.C.4—Data service providers—requirements for provision of data service

This Division inserts complete new regulations 175.335 to 175.345 that provide the standards and requirements for being a data service provider.

Regulation 175.335—Data service providers—standards for data service provision

Subregulation 175.335(1) provides that a data service provider commits an offence if the provider publishes or supplies aeronautical data or aeronautical information and the data or information does not meet a requirement mentioned in subregulation 175.335(2). The penalty for the offence is 50 penalty units.

Subregulation 175.335(2) provides that the data or information must be the same as the data or information published in a list of AIS publications or on a chart published by an aerodrome operator.

Subregulation 175.335(3) provides that a data service provider commits an offence if the provider contravenes a provision of the Part 175 Manual of Standards. The penalty for the offence is 50 penalty units.

Subregulation 175.335(4) provides that a data service provider commits an offence if the provider processes aeronautical data or aeronautical information and the provider does so other than in accordance with the 'aeronautical data processing standards'. The 'aeronautical data processing standards' are defined in the CASR Dictionary as RTCA/DO-200A or EUROCAE ED-76 which are equivalent industry standards. The penalty for the offence is 50 penalty units.

Subregulation 175.335(5) provides that subregulation 175.335(4) does not apply if two (2) standards are mentioned in the Part 175 Manual of Standards and the 'aeronautical data processing standards' and it is not possible for the provider to comply with both standards. A defendant bears an evidential burden in relation to the matters in this subregulation. See subsection 13.3(3) of the Criminal Code.

Subregulation 175.335(6) provides that a data service provider commits an offence if a circumstance mentioned in subregulation 175.335(5) arises and the provider does not give CASA written notice of the circumstance as soon as practicable. The penalty for the offence is 50 penalty units.

Regulation 175.340—Data service providers—compliance with exposition

Subregulation 175.340(1) provides that a data service provider commits an offence if the provider contravenes a provision of its exposition. The penalty for the offence is 50 penalty units.

Subregulation 175.340(2) provides that an offence relating to contravention of regulation 175.340 is an offence of strict liability.

Regulation 175.345—Data service providers—standards for aeronautical data processing system

Subregulation 175.345(1) provides that a data service provider commits an offence if the provider does not meet a requirement mentioned in subregulation 175.345(2). The penalty for the offence is 50 penalty units.

Subregulation 175.345(2) provides that a data service provider must have an automated system for the processing of aeronautical data and aeronautical information and the provider must update the data in the system as necessary.

Subregulation 175.345(3) provides that a data service provider commits an offence if the provider has an aeronautical data processing system but the system does not allow the digital exchange and supply of aeronautical data and aeronautical information or provide the data and information in a format suitable for its intended use. The penalty for the offence is 50 penalty units.

Division 175.C.5—Data service providers—requirements about aeronautical data and aeronautical information

This Division inserts complete new regulations 175.350 to 175.375 that provide the requirements for publishing or supplying aeronautical data or aeronautical information by a data service provider.

Regulation 175.350—Data service providers—CASA directions to amend aeronautical data or aeronautical information

Subregulation 175.350(1) provides that, if it is necessary in the interests of aviation safety, CASA may direct a data service provider to add to, amend or remove aeronautical data or aeronautical information that the provider publishes or supplies.

Subregulation 175.350(2) provides that a notice under regulation 175.350 must state the time within which the direction must be complied with.

Subregulation 175.350(3) provides that a data service provider commits an offence if the provider does not comply with the direction within the time stated in the notice. The penalty for the offence is 50 penalty units.

Subregulation 175.350(4) provides that an offence relating to contravention of regulation 175.350 is an offence of strict liability.

Regulation 175.355—Data service providers—integrity of aeronautical data and aeronautical information

Subregulation 175.355(1) provides that a data service provider commits an offence if the provider publishes or supplies aeronautical data or aeronautical information and the provider has not verified the matters in accordance with subregulation 175.355(2). The penalty for the offence is 50 penalty units.

Subregulation 175.355(2) provides the requirements that satisfy the verification requirements for the aeronautical data.

Regulation 175.360—Data service providers—correction and notification of errors and omissions in aeronautical data and aeronautical information

Subregulation 175.360(1) provides that a data service provider commits an offence if the provider becomes aware of an error or omission in aeronautical data or aeronautical information that it publishes or supplies and the provider does not comply with subregulation 175.360(2) as soon as practicable after becoming aware of the error or omission. The penalty for the offence is 50 penalty units.

Subregulation 175.360(2) provides a list of things that a data service provider must do in relation to the errors and omissions.

Subregulation 175.360(3) provides that a data service provider commits an offence if the provider becomes aware of a significant error or omission in aeronautical data or aeronautical information that it publishes or supplies and this omission could affect aviation and the provider does not notify CASA as soon as practicable. The penalty for the offence is 50 penalty units.

Subregulation 175.360(4) provides that a data service provider commits an offence if the provider identifies an error or omission in aeronautical data or aeronautical information supplied by an AIS provider and the provider does not tell the AIS provider of the error or omission as soon as practicable. The penalty for the offence is 50 penalty units.

Regulation 175.365—Data service providers—storage and security of aeronautical data and aeronautical information

Subregulation 175.365(1) provides that a data service provider commits an offence if the provider's aeronautical data or aeronautical information is not stored digitally or is not kept secure to prevent unauthorised access or alteration. The penalty for the offence is 50 penalty units.

Subregulation 175.365(2) provides that an offence relating to contravention of regulation 175.365 is an offence of strict liability.

Regulation 175.370—Data service providers—effective dates and validity of aeronautical data, information and aeronautical charts

Subregulation 175.370(1) provides that a data service provider commits an offence if the provider publishes or supplies aeronautical data, aeronautical information or an aeronautical chart and the data, information or chart does not become effective on the same date, or remain valid for the same period, as the corresponding data, information or chart in a list of AIS publications or on a chart published by an aerodrome operator. The penalty for the offence is 50 penalty units.

Subregulation 175.370(2) provides that subregulation 175.370(1) does not apply if an AIS provider publishes information that contravenes the AIRAC requirements under subregulation 175.185(1), (2) or (3), and the data service provider publishes the information by the next AIRAC date. A defendant bears an evidential burden in relation to the matters in this subregulation. See subsection 13.3(3) of the Criminal Code.

Subregulation 175.370(3) provides that an offence relating to contravention of regulation 175.370 is an offence of strict liability.

Regulation 175.375 provides that a data service provider commits an offence if the provider contravenes a provision of a licence agreement mentioned in regulation 175.190. The penalty for the offence is 50 penalty units.

Division 175.C.6—Data service providers—organisational requirements

This Division inserts complete new regulations 175.380 to 175.440 that provide the organisational requirements of a data service provider.

Regulation 175.380—Data service providers—exposition

Subregulation 175.380(1) provides a list of what the exposition of a data service provider must contain.

Subregulation 175.380(2) provides that a data service provider commits an offence if CASA and the data service provider's operational personnel do not have ready access to the exposition and the exposition is not kept up-to-date. The penalty for the offence is 50 penalty units.

Regulation 175.385 provides that a data service provider must have an appropriate organisational structure that enables the data service provider to conduct its activities in accordance with its exposition and Subpart 175.C of CASR 1998.

Regulation 175.390 provides that a data service provider must have enough suitably competent, qualified and trained personnel to conduct its activities in accordance with its exposition and Subpart 175.C of CASR 1998 and to supervise the conduct of each activity.

Regulation 175.395 provides that a data service provider must have an accountable manager.

Regulation 175.400—Data service providers—personnel—training and checking system for operational personnel

Subregulation 175.400(1) provides that a data service provider must have a training and checking system that ensures that the provider's operational personnel maintain their competence and are provided with ongoing training.

Subregulation 175.400(2) provides the requirements for the training and checking system.

Regulation 175.405—Data service providers—safety management system

Subregulation 175.405(1) provides that a data service provider must have a safety management system (SMS).

Subregulation 175.405(2) provides what the requirements for an SMS are.

Regulation 175.410 provides that a data service provider must have a quality management system (QMS) that is based on ISO 9001 relevant to the processing, publication and supply of aeronautical data and aeronautical information and also addresses the quality management procedures in the 'aeronautical data processing standards'. The 'aeronautical data processing standards' are defined in the CASR Dictionary as RTCA/DO-200A or EUROCAE ED-76 which are equivalent industry standards.

Regulation 175.415—Data service providers—facilities, equipment, data and information

Subregulation 175.415(1) provides that a data service provider must have facilities and equipment that are necessary for conducting its data service activities.

Subregulation 175.415(2) provides that a data service provider must provide its personnel with access to the aeronautical data and aeronautical information required for conducting its data service activities.

Regulation 175.420—Data service providers—contingency plan

Subregulation 175.420(1) provides that a data service provider must have a contingency plan that sets out the procedures to be followed if an activity conducted by the provider is interrupted.

Subregulation 175.420(2) provides what the contingency plan must include.

Regulation 175.425—Data service providers—reference materials

Subregulation 175.425(1) provides that a data service provider must have up-to-date copies of the reference materials listed in this subregulation.

Subregulation 175.425(2) provides that a data service provider must ensure that operational personnel have ready access to the reference materials.

Regulation 175.430—Data service providers—annual review by accountable manager

Subregulation 175.430(1) provides that a data service provider commits an offence if the provider's accountable manager contravenes subregulation 175.430(2). The penalty for the offence is 50 penalty units.

Subregulation 175.430(2) provides that the accountable manager must conduct an annual review of the requirements of their exposition and Subpart 175.C of CASR 1998. Any deficiencies that are identified during the review must be addressed and CASA provided with a copy of the annual review, including any significant deficiencies identified since the previous annual review and how the deficiencies are to be addressed.

Regulation 175.435—Data service providers—records

Subregulation 175.435(1) provides that a data service provider must have procedures for making, collecting, indexing, storing, securing, maintaining, accessing and disposing of the records listed in this subregulation.

Subregulation 175.435(2) provides that a data service provider must ensure that records are legible and permanent.

Regulation 175.440—Data service providers—retention period for aeronautical data, aeronautical information and records

Subregulation 175.440(1) provides that a data service provider commits an offence if the provider publishes or supplies aeronautical data or aeronautical information and the provider does not keep a copy of the data or information for at least seven (7) years after the data or information ceases to be effective. The penalty for the offence is 50 penalty units.

Subregulation 175.440(2) provides that a data service provider commits an offence if the provider does not keep a record for as long as the aeronautical data or aeronautical information it relates to is required to be kept, otherwise for at least seven (7) years after the record is made. The penalty for the offence is 50 penalty units.

Subregulation 175.440(3) provides that an offence relating to contravention of regulation 175.440 is an offence of strict liability.

Subpart 175.D—Aeronautical information management—aeronautical data originators

This Subpart inserts a complete new Subpart 175.D of CASR 1998 inclusive of regulations 175.445 to 175.475. This Subpart provides the requirements for aeronautical data originators.

Division 175.D.1—Aeronautical data originators—general

This Division inserts complete new regulations 175.445 to 175.470 that provide the general requirements relating to aeronautical data originators.

Regulation 175.445—Aeronautical data originators—AIP responsible person and NOTAM authorised persons

Subregulation 175.445(1) provides that an aeronautical data originator commits an offence if the originator provides aeronautical data or aeronautical information to an AIS provider and the originator has not appointed a single senior manager within the originator's organisation as the AIP responsible person for the originator. The penalty for the offence is 50 penalty units.

Subregulation 175.445(2) provides that an AIP responsible person is responsible for the provision of aeronautical data or aeronautical information, other than NOTAMS, from the originator to an AIS provider.

Subregulation 175.445(3) provides that an aeronautical data originator commits an offence if the originator appoints a person as the AIP responsible person for the originator and the person does not have the knowledge and competence to carry out the responsibilities of an AIP responsible person. The penalty for the offence is 50 penalty units.

Subregulation 175.445(4) provides that an aeronautical data originator commits an offence if the originator asks an AIS provider to issue, review or cancel a NOTAM and the originator has not appointed a person in the originator's organisation as a NOTAM authorised person for the originator. The penalty for the offence is 50 penalty units.

Subregulation 175.445(5) provides that a NOTAM authorised person is responsible for requesting the issue, review and cancellation of NOTAMS for the originator.

Subregulation 175.445(6) provides that an aeronautical data originator commits an offence if the originator appoints a person as a NOTAM authorised person for the originator and the person does not have the knowledge and competence to request the issue, review and cancellation of NOTAMS. The penalty for the offence is 50 penalty units.

Regulation 175.450—Aeronautical data originators—telling AIS provider of AIP responsible person and NOTAM authorised persons

Subregulation 175.450(1) provides that an aeronautical data originator commits an offence if the originator provides aeronautical data or aeronautical information to an AIS provider and the originator has not told the AIS provider the name of the AIP responsible person for the originator and the names of the NOTAM authorised persons (if any) for the originator. Also, any changes to the names of the AIP responsible person or the NOTAM authorised persons need to be notified to the AIS provider. The penalty for the offence is 50 penalty units.

Subregulation 175.450(2) provides that an offence relating to contravention of regulation 175.450 is an offence of strict liability.

Regulation 175.455—Aeronautical data originators—requirement to provide updated aeronautical data or aeronautical information published other than in NOTAMS

Subregulation 175.455(1) provides that this regulation applies if an aeronautical data originator becomes aware of a change that is needed to aeronautical data or aeronautical information for which the originator is responsible, and that has been published by an AIS provider in the IAIP (other than in NOTAMS) or on an aeronautical chart.

Subregulation 175.455(2) provides that an aeronautical data originator commits an offence if the originator does not, as soon as practicable after becoming aware of the need for the change, provide the AIS provider with updated aeronautical data or aeronautical information and the date the updated data or information becomes effective. The penalty for the offence is 50 penalty units.

Regulation 175.460—Aeronautical data originators—requirements in relation to providing aeronautical data or aeronautical information published other than in NOTAMS

Subregulation 175.460(1) provides that this regulation applies if an aeronautical data originator provides aeronautical data or aeronautical information to an AIS provider for publication in the IAIP (other than in NOTAMS) or on an aeronautical chart.

Subregulation 175.460(2) provides a list of requirements that an aeronautical data originator must comply with when providing aeronautical data or aeronautical information to the AIS provider.

Subregulation 175.460(3) provides that if the aeronautical data originator is the Bureau of Meteorology, the originator must provide the aeronautical data or aeronautical information in accordance with the standards and format mentioned in Annex 3 to the Chicago Convention.

Subregulation 175.460(4) provides that if the aeronautical data or aeronautical information will cause an aviation organisation to plan changes to the organisation's operations or procedures, the originator must consult with the organisation before the data or information is provided to the AIS provider.

Regulation 175.465—Aeronautical data originators—annual review of aeronautical data and aeronautical information

Subregulation 175.465(1) provides that an aeronautical data originator commits an offence if the originator contravenes subregulation 175.465(2). The penalty for the offence is 50 penalty units.

Subregulation 175.465(2) provides that the originator must review, at least annually, their aeronautical data and aeronautical information that is published in the IAIP (other than in NOTAMS) and on aeronautical charts and keep a record of a review for at least three (3) years and provide CASA with a copy of the review on request.

Subregulation 175.465(3) provides that an offence relating to contravention of regulation 175.465 is an offence of strict liability.

Regulation 175.470—Aeronautical data originators—requirements in relation to requests for issue of NOTAMS

Subregulation 175.470(1) provides that this regulation applies if an aeronautical data originator becomes aware of a circumstance as specified in a data product specification that requires the originator to ask the AIS provider to issue a NOTAM.

Subregulation 175.470(2) provides that the originator must, as soon as practicable after becoming aware of the circumstance, ask the AIS provider to issue a NOTAM in accordance with the data product specification.

Subregulation 175.470(3) provides that if the request for a NOTAM will change any existing published aeronautical data or aeronautical information, the originator must ensure that the change can be readily identified.

Subregulation 175.470(4) provides that the originator must ensure that the aeronautical data or aeronautical information included in the request for a NOTAM is suitable for publication in NOTAM format.

Subregulation 175.470(5) provides that if a NOTAM will cause an aviation organisation to plan changes to the organisation's operations or procedures, the originator must consult with the organisation before asking the AIS provider to issue the NOTAM.

Division 175.D.2—Aeronautical data originators— Geoscience Australia

This Division inserts a complete new regulation 175.475 that provides the requirements for Geoscience Australia relating to aeronautical data originators.

Regulation 175.475 provides that Geoscience Australia is responsible for providing an AIS provider with magnetic variation updates, and terrain, topographic and cultural data in accordance with Annexes 4 and 15 to the Chicago Convention, for publication in the IAIP or on aeronautical charts.

Subpart 175.E—Aeronautical information management—objects and structures that affect aviation safety

This Subpart inserts a complete new Subpart 175.E of CASR 1998 inclusive of regulations 175.480 to 175.500. This Subpart provides the requirements for collection of data on objects and structures that affect aviation safety.

Regulation 175.480 provides the definition of objects and structures that affect aviation safety and the application of Subpart 175.E of CASR 1998. As this is a new Subpart, it is necessary to define the meanings of certain terms used to ensure correct adoption of the Subpart.

Regulation 175.485—Objects and structures that affect aviation safety—requests for data by AA

Subregulation 175.485(1) provides the details that AA may request about an object or structure.

Subregulation 175.485(2) provides that a request for data must include the format of the data and that the request must be complied with within 28 days.

Subregulation 175.485(3) provides that a request for data may include other requirements (for example, the degree of accuracy or resolution of the data).

Subregulation 175.485(4) provides that a recipient of a request for data may seek an extension from AA before the end of 28 days after receiving the request.

Subregulation 175.485(5) provides that AA could grant an extension.

Regulation 175.490—Objects and structures that affect aviation safety—requests for data from owners etc.

Subregulation 175.490(1) provides that AA may request a person who owns, controls or operates an object or structure to give AA the data mentioned in subregulation 175.485(1).

Subregulation 175.490(2) provides that a person commits an offence if AA gives the person a request and the person does not comply with subregulation 175.490(3) or (4). The penalty for the offence is 50 penalty units.

Subregulation 175.490(3) provides that a person must provide the data to AA 28 days after receiving the request or the time stated in the extension.

Subregulation 175.490(4) provides that a person who owns, controls or operates an object or structure must specify the accuracy to which the data has been supplied.

Subregulation 175.490(5) provides that subregulation 175.490(2) does not apply if a person does not possess the data requested and has taken all reasonable steps available to obtain the data. A defendant bears an evidential burden in relation to the matters in subregulation (5). See subsection 13.3(3) of the Criminal Code.

Subregulation 175.490(6) provides that an offence relating to contravention of regulation 175.490 is an offence of strict liability.

Regulation 175.495—Objects and structures that affect aviation safety—requests for data from aerodrome operators

Subregulation 175.495(1) provides that AA may request an aerodrome operator to give AA data mentioned in subregulation 175.485(1) if the aerodrome operator possesses the data.

Subregulation 175.495(2) provides that an aerodrome operator commits an offence if AA gives the operator a request and the operator does not comply with the request 28 days after receiving the request or the time stated in the extension. The penalty for the offence is 50 penalty units.

Subregulation 175.495(3) provides that an offence relating to contravention of regulation 175.495 is an offence of strict liability.

Regulation 175.500—Objects and structures that affect aviation safety—requests for data from government authorities

Subregulation 175.500(1) provides that AA may request a Commonwealth, State, Territory or local government authority to give AA data mentioned in subregulation 175.485(1) if the authority possesses the data.

Subregulation 175.500(2) provides that the authority must comply with the request.

Item [4] Part 202 (table of contents)

Item [4] inserts Subpart 202.HE —Transitional provisions for Part 175 (Aeronautical information management) and Division 202.HE.1—Amendments made by the Civil Aviation Legislation Amendment (Part 175) Regulation 2014.

Item [5] Before the heading to Subpart 202.HE

Subpart 202.HE—Transitional provisions for Part 175 (Aeronautical information management)

Item [5] inserts a complete new Subpart 202.HE of CASR 1998 inclusive of regulations 202.960 to 202.964. This Subpart provides the transitional provisions for the amendments made by the *Civil Aviation Legislation Amendment (Part 175) Regulation 2014*.

Division 202.HE.1—Amendments made by the Civil Aviation Legislation Amendment (Part 175) Regulation 2014

This Division inserts complete new regulations 202.960 to 202.964 that provide the transitional provisions for the introduction of Part 175 of CASR 1998.

Regulation 202.960—Application of Subpart 175.B—AA

Regulation 202.960 has the effect that AA does not need an approval from CASA to be an AIS provider during the transitional period.

Subregulation 202.960(1) provides that regulation 175.035 (Provision of AIS—requirement for certificate) does not apply to AA.

Subregulation 202.960(2) provides that regulation 175.190 (AIS providers—licence agreements with data service providers for supply of data sets) and regulation 175.195 (AIS providers—compliance with licence agreement) apply to AA in relation to a data service provider as if AA were an AIS provider. This has the effect that licence agreements between AA and data service providers apply during the transition period.

Subregulation 202.960(3) provides that regulation 202.960 ceases to have effect if CASA issues an AIS provider certificate to AA under regulation 175.055 or the end of 4 March 2016, whichever is earlier.

Regulation 202.961—Application of Subpart 175.C—approvals under paragraph 233(1)(h) of CAR

Regulation 202.961 has the effect that CAR 233(1)(h) approvals continue to be in force during the transition period.

Subregulation 202.961(1) provides that an approval under paragraph 233(1)(h) of CAR 1988 that was in force immediately before 5 March 2015 continues to be in force according to its terms and that CASA may vary, suspend or cancel the approval as if paragraph 233(1)(h) of CAR 1988 had not been amended.

Subregulation 202.961(2) provides that regulation 175.270 (Conduct of data service activity—requirement for certificate) does not apply to a CAR 233(1)(h) approval holder.

Subregulation 202.961(3) provides that regulation 202.961 ceases to have effect in relation to a CAR 233(1)(h) approval holder if CASA issues a data service provider certificate to the approval holder under regulation 175.295 or the end of 4 March 2016, whichever is earlier.

Regulation 202.962—Applications for approvals under paragraph 233(1)(h) of CAR made but not finally determined before 5 March 2015

Regulation 202.962 takes into account an application submitted for an approval under CAR 233(1)(h) before Part 175 of CASR 1998 commences but the outcome has not been determined by the time Part 175 of CASR 1998 commences.

Subregulation 202.962(1) provides that regulation 202.962 applies if a person applied for an approval under paragraph 233(1)(h) of CAR before 5 March 2015 and the application was not finally determined by CASA.

Subregulation 202.962(2) provides that CASA must decide whether CASA would have issued the approval to the person.

Subregulation 202.962(3) provides that if CASA decides that CASA would have issued the approval, CASA must grant the approval as if paragraph 233(1)(h) of CAR had not been amended by the *Civil Aviation Legislation Amendment (Part 175) Regulation 2014*.

Subregulation 202.962(4) provides that CASA could vary, suspend or cancel an approval as if paragraph 233(1)(h) of CAR had not been amended by the *Civil Aviation Legislation Amendment (Part 175) Regulation 2014*.

Subregulation 202.962(5) provides that regulation 175.270 (Conduct of data service activity—requirement for certificate) does not apply to a CAR 233(1)(h) approval holder.

Subregulation 202.962(6) provides that regulation 202.962 ceases to have effect in relation to a CAR 233(1)(h) approval holder if CASA issues a data service provider certificate to the approval holder under regulation 175.295 or the end of 4 March 2016, whichever is earlier.

Regulation 202.963—Application of Subpart 175.C—data service providers

Regulation 202.963 has the effect of allowing a person to apply for an authorisation to be a data service provider after the commencement of Part 175 of CASR 1998 even though AA is subject to the transitional provisions and does not hold an AIS provider approval.

Subregulation 202.963(1) provides that regulation 202.963 applies if AA does not hold a certificate under regulation 175.055, and a person applies for, or is issued, a certificate under regulation 175.295.

Subregulation 202.963(2) provides that a reference in Subpart 175.C to an AIS provider is taken to be a reference to AA.

Subregulation 202.963(3) provides that regulation 202.963 ceases to have effect if CASA issues a certificate to AA to be an AIS provider under regulation 175.055 or at the end of 4 March 2016, whichever is earlier.

Regulation 202.964—Expiry of Division 202.HE.1 at end of 4 March 2016

Regulation 202.964 has the effect that the transition period ends on 4 March 2016.

Subregulation 202.964(1) provides that Division 202.HE.1 expires at the end of 4 March 2016.

Subregulation 202.964(2) provides that the entries for this Division, including the entry for this regulation in the table of contents for Part 202 of CASR 1998, expire at the end of 4 March 2016.

Item [6] Part 1 of the Dictionary

Item [6] inserts new definitions in the Dictionary applicable to Part 175.