



Civil Aviation Safety Amendment (Part 138) Regulations 2018

made under the

Civil Aviation Act 1988

Compilation No. 1

Compilation date:	7 October 2020
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Civil Aviation Safety Amendment (Part 138) Regulations 2018* that shows the text of the law as amended and in force on 7 October 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name

This instrument is the *Civil Aviation Safety Amendment (Part 138) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	2 December 2021.	2 December 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

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

4 Schedules

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

Civil Aviation Safety Regulations 1998

1 Part 138 (heading)

Repeal the heading, substitute:

Part 138—Aerial work operations

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Subpart 138.A—Preliminary

138.005 Application of Part 138

- (1) This Part applies in relation to the operation of an aircraft for an aerial work operation if:
 - (a) the aircraft is an aeroplane or rotorcraft; and
 - (b) Part 101 does not apply to the operation of the aircraft.
- (2) Despite subregulation (1), a provision of this Part does not apply in relation to the operation of an aircraft if:
 - (a) the aircraft is engaged in any of the following:
 - (i) a police, national security or customs operation;

- (ii) a search and rescue operation conducted by, or at the request of, a search and rescue body; and
- (b) in the circumstances, it is reasonable that the provision not apply to the operation.
- (3) Despite subregulation (1), a provision of this Part or the Part 138 Manual of Standards applies in relation to an operator of an aircraft for an aerial work operation only if the operator holds an aerial work certificate authorising that operation.
- (4) Despite subregulation (3), a provision of this Part or the Part 138 Manual of Standards applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising that operation if the provision is expressed to so apply.

Note: See Part 137 for matters relating to aerial application operations.

138.010 Definition of *aerial work operation* etc.

- (1) An ***aerial work operation*** means one or more of the following (and each of the following is a kind of aerial work operation):
 - (a) an external load operation;
 - (b) a dispensing operation;
 - (c) a task specialist operation.
- (2) An ***external load operation*** means carrying or towing a load outside an aircraft in flight and includes training for such an operation.
- (3) A ***dispensing operation*** means dropping or releasing any substance or object from an aircraft in flight and includes training for such an operation.
- (4) A ***task specialist operation*** means carrying out a specialised activity using an aircraft in flight and includes training for such an activity.
- (5) Despite subregulation (1), an ***aerial work operation*** does not include the following:
 - (a) a medical transport operation;
 - (b) an external load operation involving winching a person, if the operation is conducted as part of an air transport operation;
 - (c) glider towing;
 - (d) a person undertaking a parachute descent;
 - (e) an aerial application operation (including any external load operation undertaken as part of that operation) to apply fire retardants (including water), or oil or chemical dispersants, if the operation is conducted by a person holding a civil aviation authorisation under Part 137 to undertake the operation;
 - (f) any other aerial application operation;
 - (g) any other operation of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.

138.012 Definition of *significant change*

A ***significant change***, for an aerial work operator, means:

- (a) a change in relation to any of the following:
 - (i) the location and operation of the operator's main operating bases, including the opening or closing of main operating bases;
 - (ii) the operator's key personnel;
 - (iii) a person authorised to carry out the responsibilities of any of the key personnel if the position holder is absent from the position or cannot carry out the responsibilities of the position;
 - (iv) the formal reporting lines for a managerial or operational position with safety functions and responsibilities that reports directly to any of the key personnel;
 - (v) the operator's process for making changes that relate to the safe conduct and management of the operator's aerial work operations;
 - (vi) the kinds of aerial work operations the operator is authorised to conduct under the operator's aerial work certificate;
 - (vii) the kind of operations involving a Class D external load conducted by the operator, including beginning to operate that kind of operation (but not including ceasing to conduct that kind of operation);
 - (viii) for an aerial work operator that is not required to have either a training and checking system under regulation 138.125 or a safety management system under regulation 138.140—the flight rules under which the operator conducts the operator's aerial work operations (but not including starting operations under the visual flight rules if operations were already conducted under the instrument flight rules);
or
- (b) any of the following changes in relation to the aircraft used in the operator's aerial work operations:
 - (i) the operator first starts to use an aircraft for which a pilot of the aircraft would need a type rating for the aircraft and no other aircraft is already used by the operator that requires the same type rating;
 - (ii) the operator first starts to use an aircraft that is in a different category of aircraft (within the meaning of Part 61) compared to the category of aircraft already used by the operator;
 - (iii) the operator first starts to use an aircraft that is a multi-engine aeroplane or a multi-engine rotorcraft; or
- (c) a change in relation to any of the following that does not maintain or improve, or is not likely to maintain or improve, aviation safety:
 - (i) the plans, processes, procedures, programs and systems for the safe conduct and management of the operator's aerial work operations;
 - (ii) the qualifications, experience and responsibilities required by the operator for any of the operator's key personnel;
 - (iii) any other aeronautical or aviation safety related services provided to the operator by third parties;
 - (iv) any leasing or other arrangements for the supply of an aeroplane or rotorcraft used in the operator's aerial work operations; or

- (d) a change required to be approved by CASA under these Regulations, other than a change that results in the reissue or replacement of an instrument previously issued by CASA in which the conditions or other substantive content of the instrument are unchanged.

138.015 Definition of *task specialist*

- (1) A *task specialist*, for an aerial work operation, means a crew member for a flight:
 - (a) who carries out a function for the flight relating to the aerial work operation; and
 - (b) who is not a flight crew member or an air crew member for the flight.
- (2) Despite subregulation (1), a *task specialist*:
 - (a) includes a crew member of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph; and
 - (b) does not include a crew member of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.

138.020 Issue of Manual of Standards for Part 138

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

- (a) required or permitted by these Regulations to be prescribed by the Part 138 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

138.025 Approvals by CASA for Part 138

- (1) If a provision of this Part, or of the Part 138 Manual of Standards, refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for either of the following provisions:
 - (a) paragraph 138.090(2)(a);
 - (b) paragraph 138.100(3)(a).

Subpart 138.B—Certification

Division 138.B.1—Requirement for certification for certain operations

138.030 Requirement to hold aerial work certificate

- (1) A person contravenes this subregulation if:
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- (a) the person conducts an aerial work operation (other than an aerial work operation covered by subregulation (2)); and
 - (b) the person does not hold an aerial work certificate that authorises the person to conduct the operation.
- (2) An aerial work operation in an aircraft is covered by this subregulation if either or both of the following apply:
- (a) the operation is spotting or photography and no remuneration is received by any of the following for the operation:
 - (i) the pilot;
 - (ii) the person mentioned in subregulation (3);
 - (iii) a person or organisation on whose behalf the operation is conducted;
 - (b) the operation:
 - (i) is conducted over land owned or occupied by the person mentioned in subregulation (3); and
 - (ii) is not conducted over a populous area or public gathering; and
 - (iii) is not an external load operation involving the carriage of a person as an external load.
- (3) The person is:
- (a) if the aircraft is required to be registered—the registered operator of the aircraft; or
 - (b) otherwise—the owner of the aircraft.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.2—Aerial work certificates

138.035 Application for aerial work certificate

- (1) A person may apply to CASA, in writing, for an aerial work certificate.
- (2) The application must include the following:
 - (a) the applicant's name (including any operating or trading name), contact details and ABN (if any);
 - (b) if the address of the applicant's operational headquarters is different from its mailing address—the address of its operational headquarters;
 - (c) if the applicant is a corporation registered in Australia that has an ACN—its ACN and the address of its registered office;
 - (d) if the applicant is a corporation not registered in Australia—the place it was incorporated or formed;
 - (e) the aerial work operations that the applicant proposes to conduct;
 - (f) a written undertaking that, if CASA issues the certificate, the organisation established by the applicant to conduct the applicant's proposed aerial work operations (the *applicant's organisation*) will:

- (i) be capable of operating in accordance with the applicant's proposed operations manual and the civil aviation legislation; and
 - (ii) operate in accordance with the applicant's proposed operations manual and the civil aviation legislation.
- (3) The application must be accompanied by:
- (a) a copy of the applicant's proposed operations manual; and
 - (b) if the applicant proposes to conduct operations mentioned in regulation 138.125—a copy of the applicant's proposed training and checking manual; and
 - (c) if the applicant proposes to conduct operations mentioned in regulation 138.140—a copy of the applicant's proposed safety management system manual.
- (4) The application must be signed by the person appointed, or proposed to be appointed, as the chief executive officer of the applicant's organisation.

138.040 Issue of aerial work certificate

- (1) Subject to regulation 11.055, CASA must issue the certificate if satisfied of each of the following:
- (a) the applicant's proposed operations manual complies with regulation 138.155;
 - (b) the applicant can conduct the proposed aerial work operations safely and in accordance with its operations manual and the civil aviation legislation;
 - (c) the organisation established, or proposed to be established, by the applicant to conduct the applicant's proposed aerial work operations (the ***applicant's organisation***) is suitable to ensure that the operations can be conducted safely, having regard to the nature of the operations;
 - (d) the chain of command of the applicant's organisation is appropriate to ensure that the operations can be conducted safely;
 - (e) the applicant's organisation has a sufficient number of suitably qualified and competent personnel to conduct the operations safely;
 - (f) the facilities of the applicant's organisation are sufficient to enable the operations to be conducted safely;
 - (g) the applicant's organisation has suitable procedures and practices to control the organisation and ensure the operations can be conducted safely;
 - (h) each of the key personnel appointed, or proposed to be appointed, to a position in the applicant's organisation:
 - (i) is a fit and proper person to be appointed to the position; and
 - (ii) has the qualifications and experience required by Division 138.B.4 for the position; and
 - (iii) has the qualifications and experience for the position (if any) required by the applicant's operations manual; and
 - (iv) has the additional qualifications and experience (if any) required by CASA under regulation 138.120 for the position.
- (2) For paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:

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- (a) the applicant's proposed:
 - (i) operations manual; and
 - (ii) training and checking manual (if any); and
 - (iii) safety management system manual (if any);
 - (b) whether the applicant can comply with the proposed operations manual, training and checking manual and safety management system manual;
 - (c) the content of the undertaking mentioned in paragraph 138.035(2)(f);
 - (d) details of, and reasons for, any suspension or cancellation of:
 - (i) a civil aviation authorisation issued to the applicant; or
 - (ii) an equivalent authorisation issued to the applicant under the law of a foreign country; or
 - (iii) an equivalent authorisation issued to the applicant by a multinational aviation authority;
 - (e) the suitability of the applicant's corporate and organisational structures for the proposed operations;
 - (f) any other information:
 - (i) accompanying the application; or
 - (ii) in any other document given to CASA by the applicant for the application, including any document requested by CASA in relation to the application.
- (3) For subparagraph (1)(h)(i), the matters CASA may consider in deciding whether a person is a fit and proper person include the matters mentioned in subregulation 11.055(4).
- (4) If CASA decides to issue the certificate, CASA must determine the aerial work operations the applicant is authorised to conduct, including any limitations or conditions in relation to the aerial work operations.
- (5) The certificate must include:
- (a) the matters mentioned in subregulation (4); and
 - (b) a certificate reference number determined by CASA.

138.045 Approval of manuals

If CASA issues the certificate to the applicant, CASA is taken to have also approved the applicant's proposed:

- (a) operations manual; and
- (b) training and checking manual (if any); and
- (c) safety management system manual (if any).

138.050 Conditions of aerial work certificates

- (1) Each of the following is a condition of an aerial work certificate issued to an aerial work operator:
- (a) the operator must comply with:
 - (i) each provision of this Part that applies to the operator; and
 - (ii) each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations; and
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- (iii) each other provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
 - (b) each of the operator's key personnel must comply with:
 - (i) each provision of this Part that applies to the person; and
 - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
 - (iii) each other provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
 - (c) each vacancy in the operator's key personnel must be:
 - (i) notified to CASA within the period specified in the operator's operations manual; and
 - (ii) filled within the period specified in the operator's operations manual;
 - (d) each of the operator's personnel must comply with each provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
 - (e) if the operator is an individual—the individual must be the chief executive officer of the operator's organisation;
 - (f) if the operator is required by regulation 138.125 to have a training and checking system:
 - (i) the positions of chief executive officer and head of training and checking may be occupied by the same person only if the operator holds an approval under regulation 138.025 for this subparagraph; and
 - (ii) the positions of head of operations and head of training and checking may be occupied by the same person only if the operator holds an approval under regulation 138.025 for this subparagraph;
 - (g) if the operator is required by regulation 138.140 to have a safety management system:
 - (i) the positions of chief executive officer and safety manager may be occupied by the same person only in an unforeseen circumstance, and only for the period mentioned in subregulation (2); and
 - (ii) the positions of head of operations and safety manager may be occupied by the same person only in an unforeseen circumstance, and only for the period mentioned in subregulation (2).
- (2) For subparagraphs (1)(g)(i) and (ii), the period is:
- (a) no more than 7 consecutive days for each unforeseen circumstance; or
 - (b) if the operator holds an approval under regulation 138.025 for this paragraph in relation to an unforeseen circumstance—the period mentioned in the approval for the unforeseen circumstance.

138.055 Compliance with conditions of aerial work certificates

- (1) An aerial work operator contravenes this subregulation if the operator contravenes a condition of its aerial work certificate.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.3—Changes relating to aerial work operators**138.060 Changes of name etc.**

- (1) An aerial work operator contravenes this subregulation if the operator:
 - (a) makes a change mentioned in subregulation (2); and
 - (b) does not, before making the change:
 - (i) amend the operator's operations manual to reflect the change; and
 - (ii) give CASA written notice of the change and a copy of the amended part of the operations manual clearly identifying the change.
- (2) For the purposes of paragraph (1)(a), the changes are the following:
 - (a) a change to the operator's name (including any operating or trading name) or contact details;
 - (b) if the address of the operator's operational headquarters is different from the operator's mailing address—a change to the address of the operator's operational headquarters.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.062 Application for approval of significant changes

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator makes a significant change other than a significant change mentioned in subregulation (2) or (3); and
 - (b) CASA has not approved the significant change.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) the operator makes a significant change that is the permanent appointment, or the acting appointment (for a period of greater than 35 days), as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 138.155(1)(e)(iv); and
 - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.
- (3) An aerial work operator contravenes this subregulation if:
 - (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person not previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 138.155(1)(e)(iv); and
 - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 3 days after the change is made.
- (4) An application for approval of a significant change must:
 - (a) be in writing; and
 - (b) set out the change; and

(c) be accompanied by a copy of the part of the operator's operations manual affected by the change, clearly identifying the change.

- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

138.064 Approval of significant changes

- (1) CASA must approve a significant change for an aerial work operator if satisfied that the requirements mentioned in subregulation 138.040(1) will continue to be met.
- (2) If CASA approves the significant change, CASA is taken to have also approved the changes to the operator's operations manual covered by the application.

138.066 Changes must be made in accordance with process in operations manual

- (1) An aerial work operator contravenes this subregulation if:
- (a) the operator makes a change; and
 - (b) the change is not made in accordance with the process included in the operator's operations manual in accordance with paragraph 138.155(1)(m).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.068 CASA directions relating to operations manual or key personnel

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may direct an aerial work operator to change its operations manual:
- (a) to remove particular information, procedures or instructions from the operations manual; or
 - (b) to include particular information, procedures or instructions in the operations manual; or
 - (c) to revise or vary the information, procedures or instructions in the operations manual.
- (2) CASA may direct an aerial work operator to remove any of the operator's key personnel from the person's position if satisfied that the person is not:
- (a) carrying out the responsibilities of the position; or
 - (b) if the person is the chief executive officer—properly managing matters for which the person is accountable.
- (3) A direction under this regulation must:
- (a) be in writing; and
 - (b) state the time within which the direction must be complied with.
- (4) An aerial work operator contravenes this subregulation if:

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- (a) CASA gives the operator a direction under this regulation; and
 - (b) the operator does not comply with the direction within the time stated in the direction.

- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

Division 138.B.4—Organisation and personnel

138.070 Organisation and personnel

- (1) An aerial work operator must maintain an organisational structure that effectively manages the operator's aerial work operations, taking into account the size, nature and complexity of the operations.
- (2) An aerial work operator contravenes this subregulation if any of the operator's key personnel carries out a responsibility of the person's position in a way that contravenes the operator's operations manual or this Subpart.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.075 Key personnel cannot carry out responsibilities

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator becomes aware that any of its key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 30 days; and
 - (b) the operator does not tell CASA of the matter mentioned in paragraph (a) within the time mentioned in subregulation (2).
- (2) For paragraph (1)(b), the time is:
 - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—24 hours after the operator becomes aware of the matter; or
 - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—3 days after the operator becomes aware of the matter.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.080 Familiarisation training for key personnel

An aerial work operator must ensure that, before a person appointed as any of the operator's key personnel begins to carry out the responsibilities of the position,

the person has completed any training that is necessary to familiarise the person with the responsibilities.

138.085 Responsibilities and accountabilities of chief executive officer

- (1) The chief executive officer of an aerial work operator's organisation is responsible for the following:
 - (a) ensuring that, for the safe conduct of the operator's aerial work operations in accordance with the operator's aerial work certificate and operations manual, and the civil aviation legislation, the operator:
 - (i) has sufficient suitably experienced, qualified and competent personnel; and
 - (ii) has a suitable management structure; and
 - (iii) is adequately financed and resourced;
 - (b) ensuring that the operator:
 - (i) sets and maintains standards for the operations in accordance with the operator's operations manual; and
 - (ii) complies with the civil aviation legislation; and
 - (iii) for each foreign registered aircraft (if any) used in the operations—maintains the aircraft in accordance with the law of the country in which the aircraft is registered; and
 - (iv) has procedures that ensure that all of the operator's personnel understand the operator's safety policy; and
 - (v) has processes for identifying and addressing deficiencies in the operator's aerial work operations;
 - (c) if the operator is required to have a safety management system—ensuring that the operator:
 - (i) implements and manages the operator's safety management system; and
 - (ii) has an organisational structure that ensures that the safety manager is independent and not subject to undue influence;
 - (d) establishing and regularly reviewing the operator's safety performance indicators and targets;
 - (e) ensuring that the operator's operations manual is monitored and managed for continuous improvement;
 - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with:
 - (i) the operator's operations manual; and
 - (ii) the civil aviation legislation.
- (2) The chief executive officer of an aerial work operator's organisation is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

138.090 Qualifications and experience of head of operations

- (1) The head of operations of an aerial work operator must:
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- (a) be qualified to pilot an aircraft in each kind of aerial work operation that the operator conducts; and
 - (b) hold the pilot type rating or class rating (within the meaning of Part 61) for the type or class of aircraft that is used to conduct the greatest proportion of the operator's aerial work operations; and
 - (c) have the experience required under subregulation (2); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.
- (2) For paragraph (1)(c), the experience required is:
- (a) if the operator holds an approval under regulation 138.025 for this paragraph—the experience mentioned in paragraph (3)(a) or (b); or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
- (3) For subregulation (2), the experience is the following:
- (a) at least 300 hours flight time on an aircraft of the category used to conduct the greatest proportion of the operator's aerial work operations;
 - (b) at least 6 months experience in the conduct or management of air operations.
- (4) CASA may, by written notice given to a head of operations, or a proposed head of operations, of an aerial work operator, direct the person to undertake an assessment mentioned in subregulation (5).
- (5) For subregulation (4), the assessment:
- (a) is an assessment conducted by CASA or a person nominated by CASA to demonstrate a person's suitability as head of operations for the operator; and
 - (b) may include assessment in an aircraft or flight simulation training device.
- (6) In this regulation:
- category* has the meaning given by regulation 61.015.

138.095 Responsibilities of head of operations

- (1) The head of operations of an aerial work operator must safely manage the operator's aerial work operations.
- (2) Without limiting subregulation (1), the responsibilities of the head of operations include the following:
 - (a) monitoring and maintaining, and reporting to the chief executive officer on, the operator's compliance with the provisions of the civil aviation legislation and the operator's operations manual that apply to the operations;
 - (b) setting and maintaining the operator's standards for the operations in accordance with the operator's operations manual;

- (c) developing, managing and maintaining the operator's dangerous goods manual (if any);
- (d) ensuring the proper allocation and deployment of aircraft and personnel for use in the operations;
- (e) ensuring that the operator's personnel are provided with the information and documentation necessary to properly carry out their responsibilities;
- (f) managing the maintenance and continuous improvement of the operator's fatigue risk management system (if any);
- (g) ensuring the operator's personnel understand the operator's safety policy;
- (h) if the operator is required to have a training and checking system—ensuring that training and checking of the operator's operational safety critical personnel (other than flight crew) conducted by or for the operator is conducted in accordance with the operator's operations manual.

138.100 Qualifications and experience of head of training and checking

- (1) This regulation applies to an aerial work operator that is required by regulation 138.125 to have a training and checking system.
- (2) The head of training and checking must:
 - (a) be qualified to fly each kind of aerial work operation that the operator conducts; and
 - (b) hold the pilot type or class rating (within the meaning of Part 61) for the type or class of aircraft used to conduct the greatest proportion of the operator's aerial work operations; and
 - (c) have the experience required under subregulation (3); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.
- (3) For paragraph (2)(c), the experience required is:
 - (a) if the operator holds an approval under regulation 138.025 for this paragraph—the experience mentioned in paragraph (4)(a) or (b); or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) For subregulation (3), the experience is the following:
 - (a) at least 300 hours flight time conducting training in an aircraft of the category used to conduct the greatest proportion of the operator's aerial work operations;
 - (b) at least 6 months experience in the conduct or management of air operations.
- (5) CASA may, by written notice given to a head of training and checking, or proposed head of training and checking, of an aerial work operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) For subregulation (5), the assessment:

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- (a) is an assessment conducted by CASA or a person nominated by CASA to demonstrate suitability as head of training and checking for the operator; and
 - (b) may include assessment in an aircraft or flight simulation training device.

(7) In this regulation:

category has the meaning given by regulation 61.015.

138.105 Responsibilities of head of training and checking

- (1) This regulation applies to an aerial work operator that is required by regulation 138.125 to have a training and checking system.
- (2) The head of training and checking must safely manage the recurrent training and checking activities of the operator for the operator's flight crew.
- (3) Without limiting subregulation (2), the responsibilities of the head of training and checking include the following:
 - (a) ensuring that the operator complies with each provision of the civil aviation legislation that relates to the qualifications, recurrent training or checking of the operator's flight crew;
 - (b) reporting to the head of operations on the operator's compliance with the provisions mentioned in paragraph (a);
 - (c) ensuring that recurrent training and checking of flight crew conducted by the operator is conducted in accordance with the operator's training and checking manual;
 - (d) if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct recurrent training or checking for the operator's flight crew:
 - (i) ensuring that each person who conducts the recurrent training or checking for the Part 142 operator is authorised under Part 61 to conduct the recurrent training or checking; and
 - (ii) ensuring that the recurrent training or checking is conducted in accordance with the aerial work operator's training and checking manual; and
 - (iii) telling the Part 142 operator, in writing, of any change in the aerial work operator's training and checking manual.

138.110 Experience of safety manager

- (1) This regulation applies to an aerial work operator that is required by regulation 138.140 to have a safety management system.
- (2) The operator's safety manager must have:
 - (a) sufficient relevant experience in carrying out, or managing other persons in carrying out, air operations; and
 - (b) sufficient relevant safety management experience to capably lead, manage and set standards to enable the operator to safely implement its safety management system in accordance with its operations manual; and
 - (c) a satisfactory record in the conduct or management of air operations; and

- (d) sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.

138.115 Responsibilities of safety manager

- (1) This regulation applies to an aerial work operator that is required by regulation 138.140 to have a safety management system.
- (2) The operator's safety manager must manage the operator's safety management system.
- (3) Without limiting subregulation (2), the responsibilities of the safety manager include:
 - (a) managing the operation of the safety management system including managing corrective, remedial and preventative action in relation to the system; and
 - (b) regularly reporting to the chief executive officer on the effectiveness of the safety management system; and
 - (c) managing the maintenance and continuous improvement of the safety management system.

138.120 Additional qualification and experience requirements for key personnel

- (1) This regulation applies to:
 - (a) an applicant for an aerial work certificate; or
 - (b) an aerial work operator.
- (2) CASA may, by written notice given to the applicant or operator, direct that any of the key personnel of the applicant or operator must have stated additional qualifications or experience to those otherwise required under this Subpart.
- (3) If satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to a person who is, or is proposed to be, any of the key personnel of the applicant or operator, direct the person:
 - (a) to undertake a stated examination; or
 - (b) to be interviewed by CASA; or
 - (c) to complete a stated training course.
- (4) In deciding whether to give a direction under this regulation, CASA must have regard to, but is not limited to considering, the following:
 - (a) the need to ensure that the applicant or operator can conduct safe aerial work operations in accordance with its operations manual and the civil aviation legislation;
 - (b) the nature and complexity of the operations;
 - (c) the leadership, management and standards-setting skills required by the person for the operations;
 - (d) how recently the person has used the person's aviation skills;
 - (e) whether the person is able to exercise the privileges of each civil aviation authorisation held by the person.

Division 138.B.5—Training and checking**138.125 Operators who are required to have a training and checking system**

- (1) An aerial work operator who conducts one or more of the following must have a training and checking system:
 - (a) operations transporting marine pilots;
 - (b) operations in:
 - (i) multi-engine transport category rotorcraft with a maximum take-off weight of more than 3,175 kg; or
 - (ii) multi-engine aeroplanes with a maximum take-off weight of more than 5,700 kg; or
 - (iii) turbine-engine aeroplanes (other than turbine-engine propeller-driven aeroplanes);
 - (c) operations prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.
- (2) Despite subregulation (1), an aerial work operator is not required to have a training and checking system for an aerial work operation conducted in an aeroplane or a rotorcraft if circumstances prescribed by the Part 138 Manual of Standards apply to the aeroplane or rotorcraft and the operation.
- (3) The training and checking system must meet the requirements of regulations 138.130 and 138.135.

138.130 Requirements for flight crew

- (1) This regulation applies to an operator of an aeroplane or a rotorcraft if the operator is required, under regulation 138.125, to have a training and checking system.
- (2) Despite subregulation (1), this regulation does not apply in relation to the following:
 - (a) for an operator that is also a Part 141 operator—training that is authorised Part 141 flight training for the operator;
 - (b) for an operator that is also a Part 142 operator—training or checking that is an authorised Part 142 activity for the operator.
- (3) The operator's training and checking for flight crew, including recurrent training and line checking, must include the matters mentioned in subregulation (4).
- (4) The training and checking system must include the following:
 - (a) a description of how the training and checking is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of the training and checking;
 - (c) procedures that ensure that each of the operator's flight crew:
 - (i) completes training and checking in accordance with the training and checking system; and
 - (ii) is supervised effectively during training and checking;

- (d) a description of:
 - (i) the operator's requirement for conversion training for flight crew; and
 - (ii) how the operator manages conversion training for flight crew;
 - (e) a description of the operator's requirement for differences training for flight crew;
 - (f) any additional training required to familiarise a flight crew member with their duties;
 - (g) a description of how the operator assesses the competence of a flight crew member to perform the duties assigned to the member for a flight;
 - (h) the remedial training requirements for flight crew;
 - (i) if the operator has a contract with a person for the person to conduct training or checking of flight crew for the operator:
 - (i) details of the person; and
 - (ii) details of the training or checking covered by the contract; and
 - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system;
 - (j) for each kind of aeroplane or rotorcraft operated by the operator:
 - (i) the number of flight hours of supervised line flying as pilot in command a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as pilot in command for the aeroplane or rotorcraft; and
 - (ii) the number of flight hours of supervised line flying as co-pilot a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as a co-pilot for the aeroplane or rotorcraft.
- (5) Without limiting paragraph (4)(a), the description must include the following:
- (a) details of the training resources used in the training and checking;
 - (b) details of the persons conducting the training and checking;
 - (c) for each position in the operator's organisation the holder of which has managerial or operational responsibilities under the system:
 - (i) selection criteria for the position; and
 - (ii) the responsibilities of the position; and
 - (iii) details of the training, assessment and certification of competence that must be completed before the position-holder begins carrying out the position-holder's responsibilities;
 - (d) for each kind of training conducted by or for the operator—the minimum number of check pilots and the minimum crew qualifications required by the operator for the training (if any);
 - (e) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (f) the requirements that a person conducting conversion training, other than flying training and training conducted in a flight simulator, must meet;
 - (g) training checklists (if any) and the circumstances when use of a training checklist is permitted;
 - (h) a description of the normal line operation covered by a line check;
 - (i) command responsibility during flights for training and checking;

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- (j) any general restrictions, specifications or safety precautions for training and checking (including in relation to fuel load, ballast and minimum weather conditions);
 - (k) methods of conducting training and checking sequences including the following:
 - (i) the standards to be achieved;
 - (ii) training sequences for common faults;
 - (iii) the method of simulating emergencies or malfunctions;
 - (l) the procedure to be followed when a standard is not met;
 - (m) details of how the operator will address matters of high risk that are identified by the operator's safety management system.

138.135 Requirements for other operational safety-critical personnel

- (1) The training and checking system must include the following in relation to operational safety-critical personnel who are not flight crew:
 - (a) a description of how training and checking, including recurrent training, for the personnel is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of the training and checking;
 - (c) the circumstances in which training is required to familiarise a member of the personnel with their duties;
 - (d) the remedial training requirements for the personnel;
 - (e) if the operator has a contract with a person for the person to conduct the training or checking for the operator:
 - (i) details of the person; and
 - (ii) details of the training or checking covered by the contract; and
 - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system;
 - (f) if any of the training or checking is conducted by a member of the personnel—a description of the operator's system for training and assessing such personnel.
- (2) Without limiting paragraph (1)(a), the description must include the following:
 - (a) any general restrictions, specifications or safety precautions for the training and checking;
 - (b) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (c) the procedure to be followed when a standard is not met.

Division 138.B.6—Safety management system

138.140 Operators who are required to have a safety management system

- (1) An aerial work operator who conducts one or more of the following must have a safety management system:
 - (a) aerial work operations transporting marine pilots;
 - (b) operations in:

- (i) multi-engine transport category rotorcraft with a maximum take-off weight of more than 3,175 kg; or
 - (ii) multi-engine aeroplanes with a maximum take-off weight of more than 5,700 kg; or
 - (iii) turbine-engine aeroplanes (other than turbine-engine propeller-driven aeroplanes);
- (c) operations prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.
- (2) Despite subregulation (1), an aerial work operator is not required to have a safety management system for an aerial work operation conducted in an aeroplane or a rotorcraft if circumstances prescribed by the Part 138 Manual of Standards apply to the aeroplane or rotorcraft and the operation.
- (3) The safety management system must meet the requirements of regulation 138.145.

138.145 Safety management system requirements

The safety management system must include the following matters:

- (a) a statement of the operator's safety policy and objectives, including details of the following:
 - (i) the management commitment to, and responsibility for, safety;
 - (ii) the safety accountabilities of managers (including key personnel);
 - (iii) the appointment of safety management personnel;
 - (iv) coordination of an emergency response plan;
 - (v) safety management system documentation;
- (b) a safety risk management process, including:
 - (i) hazard identification processes; and
 - (ii) safety risk assessment and mitigation processes;
- (c) a safety assurance system, including details of processes for:
 - (i) safety performance monitoring and measurement; and
 - (ii) management of change; and
 - (iii) continuous improvement of the safety management system;
- (d) a safety training and promotion system, including details of the following:
 - (i) safety management system training and education;
 - (ii) safety management system safety communication.

Division 138.B.7—Personnel fatigue management

138.150 Operators who are required to have a crew fatigue management system

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) The aerial work operator must have a system for managing crew fatigue that meets the requirements prescribed by the Part 138 Manual of Standards for the purposes of this subregulation.

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- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Division 138.B.8—Operations manuals

138.155 Content of operations manual

- (1) An operations manual for an aerial work operator must include the following:
- (a) the operator's name (including any operating or trading name), contact details and ABN (if any);
 - (b) the address of:
 - (i) the operator's operational headquarters; and
 - (ii) each of the operator's main operating bases;
 - (c) a description and diagram of the operator's organisational structure showing formal reporting lines, including the formal reporting lines for each of the key personnel;
 - (d) if the operator is a corporation—a description of the operator's corporate structure;
 - (e) for each of the key personnel, the following information:
 - (i) the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Division 138.B.4 for the position;
 - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in Division 138.B.4 for the position;
 - (iii) the name of the person appointed to the position;
 - (iv) the name of each person (if any) authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities;
 - (v) a description of how the operator will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
 - (f) each matter (if any) for which the chief executive officer is responsible and accountable in addition to the matters mentioned in regulation 138.085;
 - (g) an outline of the aerial work operations conducted by the operator under the operator's aerial work certificate;
 - (h) details of each plan, process, procedure, program and system implemented by the operator to safely conduct and manage their aerial work operations in compliance with the civil aviation legislation;
 - (i) for each registered aircraft operated by the operator under their aerial work certificate—the kind of aircraft;
 - (j) for each foreign registered aircraft operated by the operator under their aerial work certificate—the kind of aircraft and its nationality;
 - (k) a description of the arrangements for managing the continuing airworthiness of the aircraft used by the operator under its aerial work certificate;

- (l) for operators that are not required to have a safety management system under regulation 138.140—a description of the operator’s safety policy;
- (m) a description of the operator’s process for making changes, including:
 - (i) identifying changes that are significant changes; and
 - (ii) identifying changes that are not significant changes; and
 - (iii) telling CASA and the operator’s personnel of the changes;
- (n) a description of anything else required to be approved by CASA under these Regulations in relation to the operations mentioned in paragraph (g);
- (o) any other matter required to be included in the operations manual under these Regulations.

Note: The plans, processes, procedures, programs and systems mentioned in paragraph (h) may be set out in one or more operator manuals.

- (2) An aerial work operator contravenes this subregulation if the operator’s operations manual does not comply with subregulation (1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.157 Compliance with operations manual by operator

- (1) An aerial work operator contravenes this subregulation if the operator does not meet a requirement of the operator’s operations manual.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.160 Compliance with operations manual by personnel

- (1) A member of an aerial work operator’s personnel contravenes this subregulation if:
 - (a) the member is subject to a requirement in relation to an aircraft under the operator’s operations manual; and
 - (b) the requirement relates to:
 - (i) the operation of the aircraft; or
 - (ii) the safety of the aircraft, or of a person on board the aircraft or in the vicinity of the aircraft; and
 - (c) the member does not meet the requirement.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) a member of the aerial work operator’s personnel is subject to a requirement in relation to an aircraft under the operator’s operations manual; and
 - (b) the requirement relates to:
 - (i) the operation of the aircraft; or

- (ii) the safety of the aircraft, or of a person on board the aircraft or in the vicinity of the aircraft; and
 - (c) the member does not meet the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.165 Providing personnel with operations manual

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator's operations manual relates to a duty or responsibility of a person who is a member of the operator's personnel; and
 - (b) the operator does not make the part of the operations manual that relates to the duty or responsibility available to the person before the person first begins carrying out the duty or responsibility.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.9—Records and documents

138.170 Personnel training and checking records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) a person who is a member of the operator's personnel undertakes a training activity, obtains a qualification or certificate relating to aerial work operations or gains flying experience; and
 - (b) the following records are not made within 21 days after the person undertakes the activity, obtains the qualification or certificate or gains the flying experience:
 - (i) the date the activity was undertaken, the qualification or certificate obtained or the flying experience gained;
 - (ii) if the activity was training or a check, flight test, flight review or assessment of competency—whether the training, check, flight test, flight review or assessment was successfully completed.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.175 Availability of records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator makes a record about a person under regulation 138.170; and
 - (b) the person requests that the record be made available to the person; and

- (c) the operator does not make the record available to the person within 7 days after receiving the request.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) a record is made under regulation 138.170; and
 - (b) the operator receives a request from another aerial work operator for a copy of the record; and
 - (c) the operator holds a written authority from the person to whom the record relates to provide a copy of the person's records to another aerial work operator if requested; and
 - (d) the operator does not give a copy of the record to the other aerial work operator within 7 days after receiving the request.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.180 Copies of flight crew licences and medical certificates

- (1) An aerial work operator contravenes this subregulation if:
 - (a) a person who is a flight crew member of the operator's personnel exercises a privilege of the person's flight crew licence for the operator; and
 - (b) the operator does not have the following:
 - (i) a copy of the person's flight crew licence;
 - (ii) a copy of the person's medical certificate.

Note: A reference to a flight crew licence or medical certificate includes a certificate of validation of an overseas flight crew licence or overseas medical certificate: see the definitions of *flight crew licence* and *medical certificate* in Part 1 of the Dictionary.

- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.185 Retention periods for personnel records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator is required under regulation 138.170 to make a record about a member of the operator's personnel, other than a member mentioned in subregulation (2) of this regulation; and
 - (b) the operator does not keep the record for the period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) the operator is required under regulation 138.170 to make a record about a member of the operator's personnel who carries out ground support duties; and

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- (b) the operator does not keep the record for the period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel.
 - (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Division 138.B.10—Miscellaneous

138.195 Reference library

- (1) An aerial work operator contravenes this subregulation if the operator does not maintain a reference library that complies with subregulation (2).
- (2) For subregulation (1), the reference library must:
 - (a) include the following documents:
 - (i) all operational documents and material;
 - (ii) the civil aviation legislation that is relevant to the operator's aerial work operations;
 - (iii) the parts of the AIP that are relevant to the operations;
 - (iv) documents that include information about each kind of aircraft operated, and each kind of aerial work operation conducted, by the operator;
 - (v) any other material required for the reference library by the operator's operations manual; and
 - (b) be readily available to all members of the operator's personnel; and
 - (c) be up-to-date and in a readily accessible form; and
 - (d) include a system for notifying the operator's personnel of any updates to the documents mentioned in paragraph (a).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.200 Maximum period for use of foreign registered aircraft in Australian territory

- (1) An aerial work operator contravenes this subregulation if, in a period mentioned in subregulation (2), the operator uses a particular foreign registered aircraft to conduct aerial work operations in Australian territory on a consecutive number of days during that period that is more than:
 - (a) 90; or
 - (b) if the operator holds an approval under regulation 138.025 in relation to the aircraft—the number mentioned in the approval for the aircraft.
- (2) The periods are:

- (a) the 12 month period from the day the foreign registered aircraft first becomes available to conduct the aerial work operations in Australian territory; and
 - (b) each subsequent 12 month period.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 138.C—General

Division 138.C.1—General flight limitations

138.205 Permitted categories of aircraft for aerial work operations

- (1) The operator of an aircraft contravenes this subregulation if:
- (a) the aircraft is operated for a flight involving an aerial work operation; and
 - (b) if the operation is covered by subregulation (2)—the aircraft is not type certificated in the normal, commuter or transport category; and
 - (c) if the operation is not covered by subregulation (2)—the aircraft is not type certificated in the normal, commuter, transport, restricted or utility category.
- (2) An operation is covered by this subregulation if the operation is one in which the aircraft carries an aerial work passenger.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.2—Operational documents

138.210 Compliance with flight manual

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if the aircraft is operated in a way during the flight that does not meet a requirement or limitation that:
- (a) is set out in the aircraft flight manual instructions for the aircraft; and
 - (b) relates to the operation of the aircraft.
- (3) Subregulation (2) does not apply to a limitation or requirement if circumstances prescribed by the Part 138 Manual of Standards apply to the aircraft for the flight.

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- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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

138.215 Availability of checklists

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that, before a crew member for the aircraft begins to carry out a duty of the crew member's position, the operator must make each checklist of normal, abnormal and emergency procedures for the aircraft that is relevant to the duty available to the crew member.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.3—Flight related documents

138.220 Electronic documents

To avoid doubt, if a document is required to be carried on a flight of an aircraft under this Division, that requirement is taken to be satisfied if an electronic copy of the document is carried on the flight.

Note: Electronic copies may not satisfy the requirements of the law of a foreign country for flights that begin or end at an aerodrome outside Australian territory.

138.225 Availability of parts of operations manual

- (1) The operator of an aircraft for a flight contravenes this subregulation if the following parts of the aircraft operator's operations manual are not available to a crew member for the flight before the flight begins:
- (a) a part that is relevant to the duties of the crew member for the flight;
 - (b) a part that is required for the conduct of the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.4—Reporting and recording defects and incidents etc.

138.230 Procedures for reporting and recording defects etc.

An aerial work operator's operations manual must include procedures for the reporting and recording by a flight crew member for a flight of the aircraft of any of the following that occur during the flight:

- (a) an abnormal instrument indication;
- (b) abnormal behaviour by the aircraft;
- (c) exceedence of an operating limit specified in the aircraft flight manual instructions for the aircraft;
- (d) a defect in the aircraft.

Note: For other provisions dealing with aircraft defects, see Part 42 and regulation 37 of CAR.

138.235 Reporting and recording incidents

An aerial work operator's operations manual must include procedures for the reporting and recording by crew members of incidents relating to a flight of an aircraft for an aerial work operation that endanger, or could endanger, the safe operation of the aircraft.

Division 138.C.5—Search and rescue services and emergency and survival equipment

Note: This Division is reserved for future use.

Division 138.C.6—Miscellaneous requirements

Note: This Division is reserved for future use.

Subpart 138.D—Operational procedures

Division 138.D.1—Operational control

Note: This Division is reserved for future use.

Division 138.D.2—Flight preparation

138.265 Flight preparation requirements

An aerial work operator's operations manual must include procedures for complying with the following for a flight of an aircraft involving an aerial work operation:

- (a) the flight preparation (weather assessments) requirements;
- (b) the flight preparation (alternate aerodromes) requirements.

Division 138.D.3—Flight planning

138.270 Availability of flight planning information

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are the following:
 - (a) the pilot in command of the aircraft must have access to the information mentioned in subregulation (3) before and during the flight;
 - (b) each person in the operator's organisation who is responsible for flight planning for the flight must have access to the information mentioned in subregulation (3) before the flight;
 - (c) each person in the operator's organisation who is responsible for flight replanning for the flight must have access to the information mentioned in subregulation (3) during the flight;
 - (d) each person in the operator's organisation who exercises operational control for the flight must have access to the information mentioned in subregulation (3) before and during the flight.
- (3) The information is the following:
 - (a) authorised weather forecasts and authorised weather reports:
 - (i) in relation to the flight; and
 - (ii) if a destination alternate aerodrome is required for the flight by the flight planning (alternate aerodromes) requirements—in relation to the destination alternate aerodrome;
 - (b) NOTAMs for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.D.4—Flight rules

138.275 Minimum height rules

Regulation 91.265, 91.267, 91.277 or 91.305 does not apply to a pilot in command of an aircraft for a flight involving an aerial work operation if:

- (a) circumstances prescribed by the Part 138 Manual of Standards for the purposes of this paragraph apply to the aircraft and the operation; or
- (b) requirements prescribed by the Part 138 Manual of Standards for the purposes of this paragraph are complied with in relation to the flight.

Division 138.D.5—Take-offs and landings

138.280 Procedures for safety at aerodromes

An aerial work operator's operations manual must include procedures to ensure the safety of persons in the vicinity of an aircraft when any of the following circumstances apply:

- (a) a person is embarking or disembarking the aircraft;
- (b) the aircraft is being loaded or unloaded;
- (c) the aircraft is on the ground with its engine or engines running;
- (d) the aircraft is landing or taking off at an aerodrome that is not a certified aerodrome.

Division 138.D.6—Fuel requirements

138.285 Fuel procedures

An aerial work operator's operations manual must include procedures to ensure that a flight of an aircraft operated by the operator is conducted in accordance with the requirements mentioned in subregulation 91.455(1).

138.290 Oil requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if, when the flight begins, the aircraft is not carrying sufficient oil to complete the flight safely.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.300 Hot fuelling

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is hot fuelled; and
 - (b) the following are not set out in the aircraft flight manual instructions for the aircraft or the operator's operations manual:
 - (i) procedures for the hot fuelling of the aircraft;
 - (ii) the circumstances in which the aircraft can be hot fuelled;
 - (iii) procedures to be followed if an emergency occurs during hot fuelling;
 - (iv) procedures to ensure a person involved in hot fuelling the aircraft is trained and competent to be involved in hot fuelling the aircraft.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) a requirement of a procedure mentioned in subparagraph (1)(b)(i), (iii) or (iv) is not met in relation to the hot fuelling of the aircraft for the flight; or
 - (b) the aircraft is hot fuelled in a circumstance that is not mentioned in subparagraph (1)(b)(ii).

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- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.302 Fuelling safety procedures

- (1) An aerial work operator's operations manual must include the following in relation to an aircraft operated by the operator:
- (a) procedures to ensure the aircraft is fuelled safely;
 - (b) procedures relating to the safety of:
 - (i) any aerial work passengers; and
 - (ii) crew members other than air crew members, cabin crew members or flight crew members;
who are embarking or disembarking, or on board, the aircraft during fuelling, including the procedures mentioned in subregulation (2);
 - (c) if the operator permits a person to operate low-risk electronic devices inside the cabin of the aircraft while the aircraft is being fuelled—procedures to ensure that, before an engine of the aircraft is started, any effects of radio frequency emissions from those devices have been corrected.
- (2) For the purposes of paragraph (1)(b), the procedures must include the normal, emergency and communication procedures to be followed by the following persons:
- (a) any air crew members;
 - (b) any cabin crew members;
 - (c) any flight crew members who are on duty in the cockpit of the aircraft;
 - (d) any of the operator's personnel who carry out a ground support duty for a flight of the aircraft.

Division 138.D.7—Carriage of passengers or cargo

138.305 Carriage of passengers—general

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) A person contravenes this subregulation if:
- (a) the person is the operator, or the pilot in command, of an aircraft for a flight involving an aerial work operation; and
 - (b) a passenger is carried on the aircraft for the flight; and
 - (c) any of the following circumstances exist in relation to the flight:
 - (i) the passenger is not an aerial work passenger;
 - (ii) when the passenger is carried on the aircraft, the operator of the flight does not hold an aerial work certificate authorising the operation;

- (iii) when the passenger is carried on the aircraft, the operator's operations manual does not include procedures to ensure the safety of the passenger;
 - (iv) any requirements about carrying the passenger that are prescribed by the Part 138 Manual of Standards for the purposes of this subparagraph are not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.320 Procedures for carriage of restricted persons

An aerial work operator's operations manual must state whether or not the operator will carry restricted persons as part of aerial work operations.

Division 138.D.8—Instruments, indicators, equipment and systems

138.340 Head-up displays, enhanced vision systems and synthetic vision systems

- (1) This regulation applies to an aircraft for a flight involving an aerial work operation if:
- (a) the aircraft is fitted with any of the following systems:
 - (i) a head-up display;
 - (ii) an enhanced vision system;
 - (iii) a synthetic vision system; and
 - (b) the flight is:
 - (i) an IFR flight; or
 - (ii) a VFR flight at night.
- (2) An aerial work operator's operations manual must include the following:
- (a) procedures for using each system mentioned in paragraph (1)(a) that is fitted to an aircraft for a flight mentioned in paragraph (1)(b);
 - (b) procedures for conducting such a flight without an element of the system, for use if the element is inoperative.

138.345 Survival equipment procedures

- (1) This regulation applies to a flight of an aircraft if:
- (a) the flight is in or through an area prescribed as a remote area by the Part 91 Manual of Standards; or
 - (b) the aircraft is required, under Subpart 138.K, to carry a life raft for the flight.
- (2) If an aircraft is, or will be, used to conduct a flight to which this regulation applies, an aerial work operator's operations manual must include the following:
- (a) procedures for determining the survival equipment required for the area in or through which the flight will be conducted;

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- (b) for a flight mentioned in paragraph (1)(b)—procedures for determining the pyrotechnic signalling devices required to ensure the distress signals, set out in Appendix 1 to Annex 2, *Rules of the Air*, to the Chicago Convention, can be made.

138.350 NVIS flights

- (1) This regulation applies to a flight of an aircraft if:
 - (a) the flight involves use of a night vision imaging system; and
 - (b) the flight is:
 - (i) an IFR flight; or
 - (ii) a VFR flight at night.
- (2) An aerial work operator's operations manual must include the following:
 - (a) procedures for using a night vision imaging system during a flight to which subregulation (1) applies;
 - (b) procedures for conducting such a flight without an element of a night vision imaging system, for use if the element is inoperative.
- (3) The Part 138 Manual of Standards may prescribe requirements for the use of a night vision imaging system for a flight of an aircraft.
- (4) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) a night vision imaging system is used during the flight; and
 - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

Division 138.D.9—Miscellaneous

138.370 Operator must conduct risk assessments

- (1A) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (1) The Part 138 Manual of Standards may prescribe requirements relating to:
 - (a) risk criteria that must be met to conduct an aerial work operation; and
 - (b) risk assessment and mitigation processes to be undertaken before conducting an aerial work operation.
- (2) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) a requirement mentioned in subregulation (1) applies for the flight; and
 - (b) the requirement is not met for the flight.

- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.375 Wearing of seatbelts and other restraint devices

- (1) The Part 138 Manual of Standards may prescribe requirements relating to the wearing of seatbelts or other restraint devices during aerial work operations.
- (2) A person contravenes this subregulation if:
- (a) the person is subject to a requirement mentioned in subregulation (1); and
 - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.380 Procedures in relation to frost etc.

An aerial work operator's operations manual must include the following:

- (a) procedures for the inspection of the aircraft by the pilot in command before a flight for which frost or freezing conditions exist or are forecast;
- (b) procedures for carrying out de-icing and anti-icing measures before a flight for which these measures are necessary;
- (c) procedures for using de-icing and anti-icing equipment during a flight.

138.385 Procedures in relation to polar operations

- (1) This regulation applies to an aircraft if it is used to conduct a flight to or from an aerodrome in a polar region.
- (2) The aerial work operator's operations manual must include procedures for the following:
- (a) monitoring and dealing with fuel freezing;
 - (b) ensuring communication capability for the duration of an operation that includes a flight mentioned in subregulation (1);
 - (c) training the aircraft's flight crew in polar operations;
 - (d) ensuring that maintenance personnel who will carry out maintenance on the aircraft in a polar region are appropriately trained;
 - (e) mitigating crew member and aerial work passenger exposure to cosmic radiation during solar flare activity;
 - (f) if the aircraft will not be flown over water during a flight mentioned in subregulation (1) and it is reasonably likely a normal or emergency landing will expose persons on the aircraft to the polar environment in a location without support personnel immediately available—ensuring that each person on the aircraft will wear a serviceable, cold-weather, anti-exposure suit;
 - (g) if the aircraft will be flown over water during a flight mentioned in subregulation (1) and it is reasonably likely that an emergency landing will

- expose the persons on the aircraft to a landing on or in water—ensuring that each person on the aircraft will wear an immersion suit that is appropriate for the temperatures in which the flight will be conducted;
- (h) dealing with emergency landings, or instruments, indicators, equipment or systems becoming inoperative, while the aircraft is away from the base for an operation that includes a flight mentioned in subregulation (1).

Division 138.D.10—Rules for external load operations

138.400 Certain night operations prohibited unless operation is an emergency service operation or approved by CASA

- (1A) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (1) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
- (a) the operation is an external load operation at night; and
 - (b) the operation is not conducted as part of an emergency service operation; and
 - (c) the requirement in subregulation (2) is not met.
- (2) The requirement is that the operator must hold an approval under regulation 138.025 to conduct the operation at night.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.410 Manual of Standards may prescribe requirements for external load operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to flights of aircraft involving external load operations.
- (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe classes of external loads.
- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (5) The operator of an aircraft for a flight contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.

- (6) A person commits an offence of strict liability if the person contravenes subregulation (4) or (5).

Penalty: 50 penalty units.

Division 138.D.11—Rules for dispensing operations

138.425 Manual of Standards may prescribe requirements for dispensing operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to dispensing operations.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) The operator of an aircraft for a flight contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

Division 138.D.12—Rules for task specialist operations

138.430 Manual of Standards may prescribe requirements for task specialist operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to flights of aircraft involving task specialist operations.
- (3) The pilot in command of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
- (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and

(b) the requirement is not met for the flight.

- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

138.432 Possessing and discharging firearms

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
- (a) either or both of the following apply for the flight:
 - (i) a person carries or otherwise possesses a firearm on an aircraft;
 - (ii) a person discharges a firearm while on an aircraft; and
 - (b) a requirement prescribed by the Part 138 Manual of Standards for the purposes of this paragraph is not met for the flight.

- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

- (4) This regulation applies despite regulations 91.160, 91.165 and 91.190.

Subpart 138.F—Performance

138.435 Take-off performance

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to take-off performance for a flight of an aircraft.
- (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe requirements that relate to one or more of the following:
- (a) the kinds of operations to be carried out during the flight;
 - (b) characteristics of the aerodrome at which the aircraft takes off;
 - (c) characteristics of the route flown by the aircraft;
 - (d) characteristics of the aerodrome at which the aircraft lands.
- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.

- (5) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (4) or (5).

Penalty: 50 penalty units.

138.440 Landing performance

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to landing performance for a flight of an aircraft.
- (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe requirements relating to one or more of the following:
 - (a) the aircraft's configuration;
 - (b) the operation of any equipment for the flight;
 - (c) characteristics of the aerodrome at which the aircraft lands;
 - (d) safety factor percentages to be applied.
- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (5) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (4) or (5).

Penalty: 50 penalty units.

Subpart 138.J—Weight and balance

138.450 Loading of aircraft

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, when the flight

begins, the aircraft is loaded in a way that contravenes the aircraft's weight and balance limits.

- (3) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, during the flight, the aircraft ceases to be loaded in accordance with the aircraft's weight and balance limits.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

138.460 Weight and balance documents

- (1) The Part 138 Manual of Standards may prescribe the weight and balance documents that are required for flights involving aerial work operations, and requirements in relation to those documents.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, when the flight begins:
 - (a) weight and balance documents for the flight are required by the Part 138 Manual of Standards; and
 - (b) either:
 - (i) there are no weight and balance documents for the flight; or
 - (ii) the weight and balance documents for the flight do not comply with the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Subpart 138.K—Equipment

138.465 Requirements relating to equipment

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (2) The Part 138 Manual of Standards may prescribe requirements relating to:
 - (a) the fitment and non-fitment of equipment to an aircraft; and
 - (b) the carrying of equipment on an aircraft; and
 - (c) equipment that is fitted to, or carried on, an aircraft.
- (3) A person contravenes this subregulation if:
 - (a) the person is subject to a requirement mentioned in subregulation (2); and
 - (b) the requirement is not met.

- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Subpart 138.N—Flight crew

138.475 Composition, number, qualifications and training

- (1A) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
- (a) the composition of the aircraft's flight crew for the flight must comply with the aircraft flight manual instructions for the aircraft;
 - (b) if the aerial work operation is one for which the operator's operations manual requires the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
 - (c) each flight crew member must:
 - (i) if the aircraft is an Australian aircraft—be authorised to pilot the aircraft during the flight under Part 61; or
 - (ii) if the aircraft is a foreign registered aircraft—be authorised to pilot the aircraft during the flight by the aircraft's State of registry;
 - (f) each flight crew member must meet the training and checking requirements for the flight crew member and the flight mentioned in subregulation (3).
- (3) The Part 138 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a flight crew member for a flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.480 Training for new or inexperienced flight crew members

An aerial work operator's operations manual must include the requirements that must be met for new or inexperienced flight crew members to be assigned to duty on the aircraft for an aerial work operation conducted by the operator.

138.485 Competence

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:

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- (a) the operator assigns a person to duty as a flight crew member for the flight; and
 - (b) the person has not been assessed by the operator as competent to perform the duties assigned to the person for the flight in accordance with the operator's operations manual.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.490 Assignment to duty of pilot in command

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, none of the pilots assigned as flight crew members for the flight is assigned to duty as the pilot in command of the aircraft for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.500 Qualification as pilot in command

- (1A) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate authorising the operation.
- (1) A pilot is qualified as pilot in command of an aircraft for a flight involving an aerial work operation if:
- (a) the pilot is:
 - (i) if the aircraft is an Australian aircraft—authorised under Part 61 to carry out, in relation to the flight, the duties assigned to the pilot by the operator of the flight; or
 - (ii) if the aircraft is a foreign registered aircraft—authorised by the aircraft's State of registry to carry out, in relation to the flight, the duties assigned to the pilot by the operator of the flight; and
 - (b) the pilot has the qualifications and experience required by the operator's operations manual (if any) for the flight; and
 - (c) the pilot has the qualifications and experience prescribed by the Part 138 Manual of Standards for the flight.
- (2) The pilot in command of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
- (a) the pilot performs a duty as pilot in command for the flight; and
 - (b) the pilot is not qualified under subregulation (1) as pilot in command for the flight.
- (2A) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:

- (a) the operator assigns a pilot to duty as pilot in command of the aircraft for the flight; and
 - (b) the pilot is not qualified under subregulation (1) as pilot in command for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2) or (2A).

Penalty: 50 penalty units.

138.505 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft contravenes this subregulation if:
- (a) a flight crew member of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by:
- (a) an individual who:
 - (i) is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
 - (ii) meets the requirements prescribed by the Part 138 Manual of Standards; or
 - (b) a Part 142 operator with which the operator has a contract for the Part 142 operator to conduct the training or check for the operator.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 138.P—Air crew members and task specialists

Division 138.P.1—Air crew members

138.535 Application of Division 138.P.1

This Division applies in relation to an operator of an aircraft for a flight involving an aerial work operation if an air crew member is carried on the aircraft for the flight.

138.540 Composition, number, qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:

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- (a) if the aerial work operation is one for which the operator's operations manual requires the carriage of air crew members—those air crew members must be carried on the flight;
 - (b) each air crew member must meet the training and checking requirements for the air crew member and the flight mentioned in subregulation (3).
- (3) The Part 138 Manual of Standards may prescribe requirements relating to training and checking that must be completed by an air crew member for a flight.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.550 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft contravenes this subregulation if:
 - (a) an air crew member of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by an individual:
 - (a) who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
 - (b) who meets the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.P.2—Task specialists

138.575 Application of Division 138.P.2

This Division applies in relation to an operator of an aircraft for a flight involving an aerial work operation if a task specialist is carried on the aircraft for the flight.

138.580 Qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
 - (a) if the aerial work operation is one for which the operator's operations manual requires the carriage of task specialists—those task specialists must be carried on the flight;

- (b) each task specialist must meet the training and checking requirements for the task specialist and the flight mentioned in subregulation (3).
- (3) The Part 138 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a task specialist for a flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.590 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft contravenes this subregulation if:
 - (a) a task specialist of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by an individual:
 - (a) who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
 - (b) who meets the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Civil Aviation Safety Amendment (Part 138) Regulations 2018	18 Dec 2018 (F2018L01789)	<u>2 Dec 2021 (s 2(1) item 1)</u>	
Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020	6 Oct 2020 (F2020L01283)	Sch 1 (items 160–225) and Sch 3 (item 9): 7 Oct 2020 (s 2(1) items 2, 4) Sch 2 (item 3): <u>2 Dec 2021 (s 2(1) item 3)</u>	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	am F2020L01283
Schedule 1	
item 1	am F2020L01283 (Sch 2 item 3)
	ed C1

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Item 1 of Schedule 1 (paragraphs 138.050(1)(g) and (h))**Kind of editorial change**

Give effect to the misdescribed amendment as intended and change to punctuation

Details of editorial change

Schedule 1 item 165 of the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* provides as follows:

165 Paragraph 138.050(1)(h)

Repeal the paragraph.

There is no paragraph 138.050(1)(h). However, there is a Schedule 1 item 1 that substitutes Part 138 in the *Civil Aviation Safety Regulations 1998*. The substituted Part 138 contains a paragraph 138.050(1)(h).

The repeal of Schedule 1 item 1 (paragraph 138.050(1)(h)) results in Schedule 1 item 1 (paragraph 138.050(1)(g)) ending with a semicolon despite being the last provision of that subregulation.

This compilation was editorially changed to repeal Schedule 1 item 1 (paragraph 138.050(1)(h)) to give effect to the misdescribed amendment as intended and to omit the semicolon at the end of Schedule 1 item 1 (paragraph 138.050(1)(g)) and substitute a full stop to correct the punctuation.

Item 1 of Schedule 1 (subregulation 138.302(1))**Kind of editorial change**

Changes to grammar, syntax or the use of conjunctives or disjunctives

Details of editorial change

Schedule 1 item 175 of the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* instructs to add regulation 138.302 at the end of Division 138.D.6 in item 1 of Schedule 1. The newly inserted subregulation 138.302(1) contains the phrase “in relation an”.

This compilation was editorially changed to omit “in relation an” and substitute “in relation to an” in item 1 of Schedule 1 (subregulation 138.302(1)) to correct the grammatical error.