



Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 12 December 2019

David Hurley
Governor-General

By His Excellency's Command

Michael McCormack
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional
Development

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1 Name

This instrument is the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	17 December 2019
2. Schedules 1 to 3	25 March 2021.	25 March 2021
3. Schedule 4	The day after this instrument is registered.	17 December 2019

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 relating to Part 103

Civil Aviation Safety Regulations 1998

1 Part 103

Repeal the Part, substitute:

Part 103—Sport and recreation aircraft

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103.130 Towing of Part 103 aircraft by other aircraft

Subpart 103.A—Preliminary

103.005 Application of Part 103

- (1) This Part (other than Subpart 103.Z) applies to Part 103 aircraft.
- (2) Despite subregulation (1), this Part does not apply to the operation of a Part 103 aircraft if Part 132, 133, 135 or 137 applies to the operation.
- (3) Subpart 103.Z applies in relation to the towing of a Part 103 aircraft by an aircraft that is not a Part 103 aircraft.

Meaning of Part 103 aircraft

- (4) An aircraft is a **Part 103 aircraft** if:
 - (a) the aircraft is not registered; and
 - (b) the aircraft is any of the following:
 - (i) a powered parachute;
 - (ii) a gyroglider;
 - (iii) a hang glider or powered hang glider;
 - (iv) a paraglider or powered paraglider;
 - (v) a rotorcraft prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (vi) a weight-shift-controlled aeroplane prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (vii) any other aeroplane prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph.

- (5) A sailplane is a **Part 103 aircraft**.

Note: This subregulation applies to all sailplanes, including sailplanes registered under Part 47 and sailplanes that are foreign registered aircraft. Sailplanes are required to be registered under Part 47, unless an exception in subregulation 47.015(1) applies.

- (6) Despite subregulations (4) and (5), neither of the following aircraft are **Part 103 aircraft**:
 - (a) an RPA;
 - (b) a model aircraft.

103.010 Other key definitions for Part 103

In these Regulations:

Part 103 activity means any of the following:

- (a) operating a Part 103 aircraft;
- (b) maintaining, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft;
- (c) providing training in an activity covered by paragraph (a) or (b).
- (d) carrying on a business or undertaking involving the provision of services or equipment for undertaking an activity covered by paragraph (a) or (b);
- (e) the towing of a Part 103 aircraft by another Part 103 aircraft;

- (f) an activity prescribed by the Part 103 Manual of Standards.

Part 103 ASAO means an ASAO whose approved function is or includes administering a Part 103 activity.

103.015 Issue of Manual of Standards for Part 103

For the purposes of 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 103 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.

103.020 Approvals by CASA for Part 103

- (1) If a provision of this Part refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

Subpart 103.B—Aircraft listing, certification and markings

103.025 Listing with a Part 103 ASAO

- (1) A Part 103 aircraft is listed with a Part 103 ASAO for the purposes of this regulation if the aircraft is listed with the Part 103 ASAO in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.

Certain Part 103 aircraft must be listed

- (2) The owner of a Part 103 aircraft contravenes this subregulation if:
 - (a) the aircraft is an aircraft other than a sailplane, hang glider, powered hang glider, paraglider or powered paraglider; and
 - (b) the aircraft has an empty weight of more than 70 kg; and
 - (c) a person operates the aircraft; and
 - (d) the aircraft is not listed with a Part 103 ASAO.

Other Part 103 aircraft may be listed

- (3) If paragraphs (2)(a) and (b) do not apply to a Part 103 aircraft, the aircraft may be listed with a Part 103 ASAO.

Listing with more than one ASAO prohibited

- (4) The owner of a Part 103 aircraft contravenes this subregulation if:
 - (a) a person operates the aircraft; and
 - (b) the aircraft is listed with more than one Part 103 ASAO at the same time.

Offence

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

Penalty: 50 penalty units.

103.030 Flying without a certificate of airworthiness—airworthiness standards for aircraft to which Part 21 does not apply

- (1) Subregulation (2) applies to a Part 103 ASAO if the approved functions of the Part 103 ASAO include administering Part 103 aircraft:
 - (a) for which neither a certificate of airworthiness issued under regulation 21.176 nor an experimental certificate is in force; and
 - (b) in relation to which no person is eligible to apply for such a certificate.
- (2) The exposition for the Part 103 ASAO must include the following:
 - (a) procedures for setting airworthiness standards for the aircraft;
 - (b) procedures for accepting an aircraft that meets those standards;
 - (c) procedures for issuing a statement of acceptance to the owner of an aircraft accepted in accordance with the procedures mentioned in paragraph (b).
- (3) Procedures mentioned in paragraph (2)(a), (b) or (c) must meet any requirements prescribed by the Part 103 Manual of Standards for the purposes of this regulation.
- (4) For the purposes of paragraph 20AA(3)(b) of the Act, a flight in a Part 103 aircraft (other than an aircraft for which a certificate of airworthiness issued under regulation 21.176, or an experimental certificate, is in force) is authorised without a certificate of airworthiness if a Part 103 ASAO has issued a statement of acceptance to the owner of the aircraft in accordance with the procedures mentioned in paragraph (2)(c) of this regulation.

103.035 Display of markings—aircraft other than sailplanes

- (1) Part 45 does not apply to a Part 103 aircraft that is not a sailplane.
- (2) If the approved functions of a Part 103 ASAO include administering a Part 103 activity in relation to Part 103 aircraft that are not sailplanes, the exposition for the Part 103 ASAO must:
 - (a) include requirements relating to the display of markings (within the ordinary meaning of the term) on the aircraft; and
 - (b) prohibit the operation of the aircraft if the aircraft does not meet the requirements mentioned in paragraph (a).

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

- (3) Without limiting subregulation (2), the exposition must include requirements relating to the following:
 - (a) when markings must be displayed;
 - (b) the number of sets of markings that must be displayed;
 - (c) the location of sets of markings on aircraft;
 - (d) the characters to be used in each set of markings, including height, width and font requirements.

Subpart 103.C—General obligations

103.040 Requirements for undertaking Part 103 activities

Part 103 activity must be authorised

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a Part 103 activity; and
 - (b) the person does not hold an authorisation from a Part 103 ASAO authorising the person to undertake the activity.
- (2) Subregulation (1) does not apply if:
 - (a) the person holds an approval under regulation 103.020 to undertake the activity; or
 - (b) the person is otherwise authorised under these Regulations to undertake the activity.

Part 103 activity must be undertaken in accordance with authorisation

- (3) A person contravenes this subregulation if the person:
 - (a) undertakes a Part 103 activity; and
 - (b) holds an authorisation from a Part 103 ASAO authorising the person to undertake the activity; and
 - (c) undertakes the activity in a way that contravenes the authorisation.

Offence

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (2): see subsection 13.3(3) of the *Criminal Code*.

Subpart 103.D—Operational procedures

103.045 Minimum height rules—other than over populous areas or public gatherings

- (1) This regulation applies if a Part 103 aircraft is flown other than over a populous area or a public gathering.

Note: For minimum height rules if an aircraft is flown over a populous area or a public gathering, see regulation 91.315.

- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown below 500 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the aircraft; and
 - (b) none of the circumstances mentioned in subregulation (3) applies.

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- (3) The circumstances are the following:
- (a) the aircraft is taking off, operating or landing in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
 - (b) the aircraft is engaged in a missed approach;
 - (c) the aircraft is a glider engaged in ridge or hill soaring;
 - (d) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice emergency procedure at an aerodrome;
 - (e) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice forced landing procedure with the consent of the person or authority having control over the land or water above which the procedure is carried out;
 - (f) the aircraft is performing training circuits at an aerodrome in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
 - (g) the pilot holds an approval for the purposes of regulation 91.180 (air displays in Australian territory);
 - (h) all of the following apply:
 - (i) the pilot in command of the aircraft holds an approval under regulation 103.020 to fly the aircraft below the height mentioned in paragraph (2)(a);
 - (ii) the pilot in command of the aircraft conducts a risk assessment of the area to be flown over;
 - (iii) the point on the ground or water vertically below the aircraft is not within 150 m of a person, vessel, vehicle or structure;
 - (i) for a rotorcraft—the rotorcraft is hovering, air transiting, air taxiing or ground taxiing at an aerodrome;
 - (j) for a rotorcraft, seaplane or amphibian—the aircraft is flying within an access lane:
 - (i) that is for use by aircraft taking off from, or landing at, a particular place; and
 - (ii) details of which are published in the authorised aeronautical information for the flight;
 - (k) the aircraft is engaged in a procedure to determine the suitability of an aerodrome for a landing.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

103.050 Safety when aircraft operating on ground

- (1) A person contravenes this subregulation if:
 - (a) the person starts the engine of a Part 103 aircraft, or causes the engine to be started, while the aircraft is on the ground; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the person who starts the engine or causes the engine to be started must be:

- (i) authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
 - (ii) a person of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and
 - (b) if subparagraph (a)(ii) applies—the aircraft must be secured from moving; and
 - (c) if the aircraft is hand-started—the requirements relating to hand-starting prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (3) A person contravenes this subregulation if:
- (a) the person operates a Part 103 aircraft on the ground, or causes a Part 103 aircraft to be operated on the ground; and
 - (b) the person permits another person to board the aircraft or to remain on the aircraft while a pilot seat of the aircraft is not occupied by a person who is competent to apply the brakes and control the engine.
- (4) For the purposes of paragraph (3)(b), a person is competent to apply the brakes and control the engine of an aircraft if:
- (a) the person has been given instructions on how, and assessed as competent, to apply the brakes and control the engine (including how to shut the engine down) by another person who is authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
 - (b) the person is authorised by a Part 103 ASAO to maintain the aircraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

103.055 Carriage of passengers

An exposition for a Part 103 ASAO must include requirements in relation to the carriage of passengers on Part 103 aircraft.

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

103.060 Carriage and restraint of persons

Carriage of infants

- (1) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that an infant must not be carried on the flight except in the circumstances prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.

Restraint of adults and children

- (3) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (4) is not met.
- (4) The requirements are the following:

- (a) if the aircraft is fitted with any seats—at all times during the flight:
 - (i) the pilot in command must occupy a pilot seat, with the seatbelt, and the shoulder harness (if any), securely fastened; and
 - (ii) any other adult carried on the flight must occupy a seat, with the seatbelt, and the shoulder harness (if any), securely fastened;
 - (b) if the aircraft is not fitted with any seats—at all times during the flight each adult on the flight must be wearing a harness or restraint that is securely fastened;
 - (c) in any case—any child carried on the flight must be restrained in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (5) Subregulation (4) does not apply in relation to a person if regulation 105.105 imposes requirements in relation to restraint of the person.

Note: Regulation 105.105 is about restraint of persons carried on an aircraft being operated to facilitate a parachute descent.

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (5): see subsection 13.3(3) of the *Criminal Code*.

103.065 Carriage of cargo

- (1) This regulation does not apply in relation to an animal carried in a passenger cabin.
- Note: For the carriage of animals, see regulation 91.620.
- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) cargo is carried on the flight; and
 - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The requirements are the following:
- (a) cargo must not be carried in a place where the cargo may damage, obstruct or cause the failure of any part of the aircraft, or any equipment, that is essential to the safe operation of the aircraft;
 - (b) cargo carried on the aircraft must be:
 - (i) securely stowed in accordance with the aircraft flight manual instructions; or
 - (ii) otherwise safely restrained;
 - (c) cargo must be carried in accordance with any requirements relating to the carriage of cargo:
 - (i) in the aircraft flight manual instructions for the aircraft; or
 - (ii) on a placard on the aircraft;
 - (d) if cargo is carried on an unoccupied seat in the aircraft:
 - (i) the cargo must not weigh more than the weight limitation for that seating position; and
 - (ii) the cargo, and the means of restraint of the cargo, must not interfere with the safe operation of the aircraft;

(e) any other requirement relating to the restraint or stowage of cargo prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.

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

Penalty: 50 penalty units.

103.070 Simulating IMC flying

- (1) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) during the flight, IMC are simulated; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the aircraft must be of a kind prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
 - (b) a pilot (the **safety pilot**) must:
 - (i) occupy a pilot seat fitted with fully functioning flight controls; and
 - (ii) have adequate vision forward and to each side of the aircraft;
 - (c) a pilot (the **second pilot**) flying the aircraft under simulated IMC must occupy a pilot seat fitted with fully functioning flight controls;
 - (d) the safety pilot must be authorised by a Part 103 ASAO to pilot the aircraft.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

103.075 Training flight limitations etc.

- (1) In this regulation:

permitted person, in relation to an aircraft, means a person who is carried on the aircraft for the purpose of:

- (a) giving or receiving flying training; or
- (b) practising for the issue of an authorisation by a Part 103 ASAO; or
- (c) being assessed for the issue of an authorisation by a Part 103 ASAO.

- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a person other than a permitted person is carried on the aircraft; and
 - (b) the pilot in command permits the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft.
- (3) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a person other than the following is carried on the aircraft:
 - (i) a permitted person;
 - (ii) a person prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and

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- (b) the pilot in command permits a test of the aircraft, or any of its instruments, indicators, items of equipment or systems (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

103.080 Consumption or provision of alcohol

- (1) A person on a Part 103 aircraft for a flight contravenes this subregulation if:
 - (a) the person consumes alcohol; or
 - (b) the person provides alcohol to another person on the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

103.085 Additional requirements in relation to Part 103 activities

- (1) The Part 103 Manual of Standards may prescribe additional requirements in relation to undertaking a Part 103 activity.
- (2) Without limiting subregulation (1), the Part 103 Manual of Standards may prescribe requirements relating to the following:
 - (a) flights over populous areas, prohibited areas, restricted areas or water;
 - (b) flights in specified classes of airspace;
 - (c) monitoring the primary communications medium used by air traffic control while flying in controlled airspace;
 - (d) flights at or above specified altitudes;
 - (e) the operation of a Part 103 aircraft at, or within a prescribed distance from, an aerodrome;
 - (f) the conduct of aerobatic manoeuvres during flights;
 - (g) the dropping of things from a Part 103 aircraft during flights;
 - (h) the towing of a Part 103 aircraft by another Part 103 aircraft;
 - (i) the conduct of training in operating a Part 103 aircraft;
 - (j) placards that must be displayed in a Part 103 aircraft;
 - (k) documents that must be carried on a Part 103 aircraft for a flight;
 - (l) documents or authorisations that must be in force when a Part 103 aircraft begins a flight.
- (3) A person contravenes this subregulation if:
 - (a) the person is subject to a requirement mentioned in subregulation (1) in relation to a Part 103 activity; and
 - (b) the requirement is not met in undertaking the Part 103 activity.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Subpart 103.K—Instruments, indicators, equipment and systems

103.090 Instruments, indicators, equipment and systems—requirements

- (1) The Part 103 Manual of Standards may prescribe the following:
 - (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, a Part 103 aircraft in circumstances prescribed by the Part 103 Manual of Standards;
 - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, a Part 103 aircraft in circumstances prescribed by the Part 103 Manual of Standards;
 - (c) requirements in relation to an instrument, indicator, item of equipment or system that is fitted to, or carried on, a Part 103 aircraft in circumstances prescribed by the Part 103 Manual of Standards (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).
- (2) The operator and the pilot in command of a Part 103 aircraft for a flight each contravene this subregulation if, when the flight begins:
 - (a) an instrument, indicator, item of equipment or system required to be fitted to, or carried on, the aircraft under paragraph (1)(a), is not fitted to, or carried on, the aircraft (as the case requires); or
 - (b) an instrument, indicator, item of equipment or system that must not be fitted to, or carried on, the aircraft under paragraph (1)(b), is fitted to, or carried on, the aircraft (as the case requires).
- (3) A person on a Part 103 aircraft for a flight contravenes this subregulation if:
 - (a) the person is subject to a requirement mentioned in paragraph (1)(c); and
 - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

103.095 When aircraft may be flown with inoperative instruments, indicators, equipment or systems

If an instrument, indicator, item of equipment or system is required under regulation 103.090 to be fitted to, or carried on, a Part 103 aircraft for a flight, the aircraft may begin the flight with the instrument, indicator, item of equipment or system inoperative if circumstances prescribed by the Part 103 Manual of Standards for the purposes of this regulation apply to the flight.

Subpart 103.M—Airworthiness requirements

103.100 Application of CAR Parts 4 to 4D

- (1) Parts 4 and 4A of CAR do not apply to a Part 103 aircraft.

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- (2) Parts 4B, 4C and 4D of CAR do not apply to a Part 103 aircraft that is not a sailplane.

103.105 Requirements prescribed by the Part 103 Manual of Standards

- (1) The Part 103 Manual of Standards may prescribe requirements relating to the maintenance, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft.
- (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.

103.110 Permission for section 20AB of Act

For the purposes of subsection 20AB(2) of the Act, a person is permitted to carry out maintenance:

- (a) on a Part 103 aircraft; or
- (b) on an aeronautical product for a Part 103 aircraft;

if the person holds an authorisation from a Part 103 ASAO authorising the person to carry out the maintenance.

Note: See also regulation 103.040.

103.115 Requirements for ASAO exposition

- (1) This regulation applies if the approved functions of a Part 103 ASAO include administering the activity mentioned in paragraph (b) of the definition of **Part 103 activity** (maintaining, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft).
- (2) The exposition for the Part 103 ASAO must include requirements relating to undertaking the activity.

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

103.120 Aircraft data plate—aircraft to which Part 21 does not apply

- (1) This regulation applies in relation to an aircraft data plate attached, or to be attached, to a Part 103 aircraft that is administered by a Part 103 ASAO (other than a data plate attached in accordance with Division 21.Q.2).
- (2) The exposition for the Part 103 ASAO must include requirements relating to the procedures to be used for attaching an aircraft data plate to the aircraft.
- Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.
- (3) The owner of a Part 103 aircraft contravenes this subregulation if an aircraft data plate attached to the aircraft does not meet the requirements prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.

- (4) A person contravenes this subregulation if:
 - (a) the person removes or engages in conduct that results in the alteration of any of the information on an aircraft data plate attached to a Part 103 aircraft; and
 - (b) the person does not hold an approval under regulation 103.020 to do so.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

103.125 Major defects

Reporting of defects

- (1) A person contravenes this subregulation if the person:
 - (a) is the owner or operator of a Part 103 aircraft that is administered by a Part 103 ASAO; and
 - (b) knows there is a major defect in the aircraft; and
 - (c) does not report the defect, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph, to the Part 103 ASAO within 3 business days after becoming aware of the defect.

Note: Part 4B of CAR contains additional requirements in relation to the reporting of defects in sailplanes.

- (2) A Part 103 ASAO contravenes this subregulation if the Part 103 ASAO:
 - (a) receives a report under subregulation (1); and
 - (b) does not, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph, provide a copy of the report to the following:
 - (i) CASA;
 - (ii) each other Part 103 ASAO prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (iii) the manufacturer of the aircraft.

Recording of defects

- (3) A person contravenes this subregulation if the person:
 - (a) is the owner or operator of a Part 103 aircraft that is administered by a Part 103 ASAO; and
 - (b) knows there is a major defect in the aircraft; and
 - (c) does not record the defect, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (4) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is administered by a Part 103 ASAO; and
 - (b) a major defect in the aircraft has been recorded in accordance with subregulation (3); and
 - (c) when the flight begins, a person authorised by the Part 103 ASAO has not signed a release to service for the aircraft in relation to the defect.

Offences

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

Subpart 103.Z—Towing of Part 103 aircraft by other aircraft

103.130 Towing of Part 103 aircraft by other aircraft

- (1) The Part 103 Manual of Standards may prescribe requirements in relation to the towing of a Part 103 aircraft by an aircraft that is not a Part 103 aircraft.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (1) 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.

2 Part 1 of the Dictionary (definition of *empty weight*)

Repeal the definition, substitute:

empty weight, for a hang glider, powered hang glider, paraglider or powered paraglider, means the weight of the hang glider, powered hang glider, paraglider or powered paraglider in its airborne configuration, including all fittings and equipment but excluding recovery or personnel parachutes.

3 Part 1 of the Dictionary (definition of *glider*)

Omit “inoperative”, substitute “not being operated”.

4 Part 1 of the Dictionary (definition of *gyroglider*)

Repeal the definition, substitute:

gyroglider means a non-power-driven heavier-than-air aircraft supported in flight by the reaction of the air on 1 or more rotors that rotate freely on substantially vertical axes.

5 Part 1 of the Dictionary (definition of *hang glider*)

Repeal the definition, substitute:

hang glider means a glider with some rigid structure and an empty weight of 70 kg or less.

6 Part 1 of the Dictionary (definition of *paraglider*)

Repeal the definition, substitute:

paraglider means a glider with an empty weight of 70 kg or less and a wing that is inflated and maintains its profile in flight due to the ram-air pressure of the air through which it moves.

7 Part 1 of the Dictionary

Insert:

Part 103 activity: see regulation 103.010.

Part 103 aircraft: see subregulations 103.005(4), (5) and (6).

Part 103 ASAO: see regulation 103.010.

Part 103 Manual of Standards means the Manual of Standards issued by CASA under regulation 103.015.

power-assisted sailplane means a powered sailplane that has insufficient performance with the engine operating to achieve the applicable take-off and climb performance criteria for powered sailplanes.

8 Part 1 of the Dictionary (definition of *powered hang glider*)

Repeal the definition, substitute:

powered hang glider means a hang glider with an engine attached.

9 Part 1 of the Dictionary (definition of *powered paraglider*)

Repeal the definition, substitute:

powered paraglider means a paraglider with an engine attached.

10 Part 1 of the Dictionary (definition of *powered sailplane*)

Omit “inoperative”, substitute “not being operated”.

11 Part 1 of the Dictionary (at the end of the definition of *powered sailplane*)

Add:

Note: A *powered sailplane* includes a touring motor glider.

12 Part 1 of the Dictionary

Insert:

touring motor glider means a powered sailplane that:

- (a) has an integrally mounted, non-retractable, engine and a non-retractable propeller; and
- (b) is capable of taking off and climbing under its own power according to the touring motor glider’s flight manual.

weight-shift-controlled aeroplane means an aeroplane where flight control is attained primarily by weight-shift.

Schedule 2—Amendments relating to Part 105

Civil Aviation Regulations 1988

1 Regulation 152

Repeal the regulation.

Civil Aviation Safety Regulations 1998

2 Subparagraph 99.015(2)(c)(iv)

Omit “and”.

3 At the end of paragraph 99.015(2)(c)

Add:

(v) reserve parachutes or emergency parachutes; and

4 At the end of subregulation 99.015(2)

Add:

; and (m) undertaking parachute descents; and

(n) supervising parachute descents.

5 Subregulation 99.015(3)

Omit “(l)”, substitute “(n)”.

6 Part 105

Repeal the Part, substitute:

Part 105—Parachuting from aircraft

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Subpart 105.A—Preliminary

105.005 Application of Part 105

This Part does not apply in relation to:

- (a) parachutes that are not personnel parachutes; or
- (b) parachute descents that are not from aircraft; or
- (c) emergency parachute descents.

105.010 Key definitions for Part 105

In these Regulations:

emergency parachute has the meaning given by the Part 105 Manual of Standards.

major defect means:

- (a) for an emergency parachute—a defect of any part of the emergency parachute that may affect the safe operation of the parachute or cause the parachute to become a danger to persons or property;
- (b) for a reserve parachute—a defect of any part of the reserve parachute assembly that may affect the safe operation of the parachute or cause the parachute to become a danger to persons or property.

parachute does not include a parasail or a powered parachute.

parachute operator means a person who carries on a business or undertaking involving the provision of services or equipment for undertaking parachute descents.

parachuting activity means any of the following:

- (a) a parachute descent;
- (b) packing a parachute;
- (c) maintaining a parachute;
- (d) assembling a parachute;
- (e) supervising a parachute descent;
- (f) operating an aircraft to facilitate a parachute descent;
- (g) providing training in an activity covered by paragraphs (a) to (f);
- (h) carrying on a business or undertaking involving the provision of services or equipment for undertaking a parachute descent;
- (i) an activity prescribed by the Part 105 Manual of Standards.

Part 105 ASAO means an ASAO whose approved function is or includes administering a parachuting activity.

reserve parachute has the meaning given by the Part 105 Manual of Standards.

reserve parachute assembly has the meaning given by the Part 105 Manual of Standards.

tandem parachutist means a person undertaking a parachute descent in which the person's harness is attached to the harness of another person who is in control of the descent.

trainee parachutist has the meaning given by the Part 105 Manual of Standards.

105.015 Issue of Manual of Standards for Part 105

For the purposes of 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 105 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

Subpart 105.C—General

Division 105.C.1—General flight limitations

105.020 Parachutists must not create hazards

- (1) A person contravenes this subregulation if the person undertakes a parachute descent in a way that creates a hazard to an aircraft, another person or property.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

105.025 Persons must not create hazards to aircraft operated to facilitate parachute descents

- (1) A person contravenes this subregulation if the person does an act that creates a hazard to an aircraft that is being operated to facilitate a parachute descent.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 105.C.2—Operational documents

Note: This Division is reserved for future use.

Division 105.C.3—Flight related documents

Note: This Division is reserved for future use.

Division 105.C.4—Reporting and recording defects, incidents etc.

105.045 Reserve parachutes and emergency parachutes—reporting of major defects by maintainers

- (1) This regulation applies to a person if the person holds an authorisation from a Part 105 ASAO to carry out maintenance on:
 - (a) reserve parachutes; or
 - (b) emergency parachutes.
- (2) A person contravenes this subregulation if the person:
 - (a) carries out maintenance on a reserve parachute or emergency parachute; and
 - (b) knows there is a major defect in the parachute; and
 - (c) does not report the defect to the Part 105 ASAO within 3 business days after becoming aware of the defect.
- (3) The report must:
 - (a) be made in writing; and
 - (b) be made in a form approved by the Part 105 ASAO; and
 - (c) contain the following information:

-
- (i) the make and type of the parachute;
 - (ii) the serial number of the parachute;
 - (iii) the name and address of the owner of the parachute;
 - (iv) a description of the defect;
 - (v) how the defect may affect the safety of the parachute or cause the parachute to become a danger to persons or property.
- (4) An ASAO contravenes this subregulation if the ASAO:
- (a) receives a report under subregulation (2); and
 - (b) does not provide a copy of the report to the following within 3 business days of receiving the report:
 - (i) CASA;
 - (ii) the manufacturer of the parachute;
 - (iii) all other Part 105 ASAOs.
- (5) A person commits an offence if the person contravenes subregulation (2) or (4).
- Penalty: 50 penalty units.

105.050 Reserve parachutes—reporting of major defects by parachutists

- (1) This regulation applies to a person if the person holds an authorisation from a Part 105 ASAO to undertake a parachute descent.
- (2) A person contravenes this subregulation if the person:
 - (a) knows there is a major defect in the reserve parachute; and
 - (b) knows that the major defect has not been reported to the Part 105 ASAO; and
 - (c) does not report the defect to the Part 105 ASAO within 3 business days after becoming aware of the defect.
- (3) The report must:
 - (a) be made in writing; and
 - (b) be made in a form approved by the Part 105 ASAO; and
 - (c) contain the following information:
 - (i) the make and type of the parachute;
 - (ii) the serial number of the parachute;
 - (iii) the name and address of the owner of the parachute;
 - (iv) a description of the defect;
 - (v) how the defect may affect the safety of the parachute or cause the parachute to become a danger to persons or property.
- (4) An ASAO contravenes this subregulation if the ASAO:
 - (a) receives a report under subregulation (2); and
 - (b) does not provide a copy of the report to the following within 3 business days of receiving the report:
 - (i) CASA;
 - (ii) the manufacturer of the reserve parachute;
 - (iii) all other Part 105 ASAOs.
- (5) A person commits an offence if the person contravenes subregulation (2) or (4).

Penalty: 50 penalty units.

Division 105.C.5—Search and rescue services and emergency and survival equipment

105.055 Reserve parachute and emergency parachute equipment requirements

Reserve parachutes

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a parachute descent; and
 - (b) the person is not equipped with a reserve parachute that meets the requirements in subregulation (3).
- (2) A person contravenes this subregulation if:
 - (a) the person provides a reserve parachute to another person for the purposes of the other person undertaking a parachute descent; and
 - (b) the reserve parachute does not meet the requirements in subregulation (3).
- (3) The requirements are as follows:
 - (a) the reserve parachute assembly must meet the requirements prescribed by the Part 105 Manual of Standards;
 - (b) the reserve parachute assembly must have been maintained in accordance with the requirements prescribed by the Part 105 Manual of Standards.

Emergency parachutes

- (4) A person contravenes this subregulation if:
 - (a) the person provides an emergency parachute to another person for carriage on board an aircraft prescribed by the Part 105 Manual of Standards; and
 - (b) the emergency parachute does not meet the requirements in subregulation (5).
- (5) The requirements are as follows:
 - (a) the emergency parachute must meet the requirements prescribed by the Part 105 Manual of Standards;
 - (b) the emergency parachute must have been maintained in accordance with the requirements prescribed by the Part 105 Manual of Standards.

Offence

- (6) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (4).

Penalty: 50 penalty units.

105.060 Defective reserve parachutes and defective emergency parachutes

Defective reserve parachutes

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a parachute descent; and
 - (b) the person is equipped with a defective reserve parachute.

- (2) Subregulation (1) does not apply if the person is a tandem parachutist or a trainee parachutist.

Defective reserve parachutes and defective emergency parachutes

- (3) A person contravenes this subregulation if the person provides a defective reserve parachute or a defective emergency parachute to another person for the purposes of the other person undertaking a parachute descent.

Offence

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (2): see subsection 13.3(3) of the *Criminal Code*.

Defective reserve parachute

- (5) For the purposes of this regulation, a **defective reserve parachute** means a reserve parachute:
- (a) that is covered by a report under regulation 105.045 or 105.050; or
 - (b) that is covered by an airworthiness directive; or
 - (c) whose assembly does not meet a requirement prescribed by the Part 105 Manual of Standards for the purposes of paragraph 105.055(3)(a); or
 - (d) for which the manufacturer of the parachute has issued a notice stating that action must be taken in relation to the parachute to ensure the safety of air navigation and that action has not been taken.

Defective emergency parachute

- (6) For the purposes of this regulation, a **defective emergency parachute** means an emergency parachute:
- (a) that is covered by a report under regulation 105.045; or
 - (b) that is covered by an airworthiness directive; or
 - (c) that does not meet a requirement prescribed by the Part 105 Manual of Standards for the purposes of paragraph 105.055(5)(a); or
 - (d) for which the manufacturer of the parachute has issued a notice stating that action must be taken in relation to the parachute to ensure the safety of air navigation and that action has not been taken.

Division 105.C.6—Miscellaneous requirements

105.065 Requirements for undertaking parachuting activities

Parachuting activity must be authorised

- (1) A person contravenes this subregulation if the person:
- (a) undertakes a parachuting activity; and
 - (b) does not hold an authorisation from a Part 105 ASAO authorising the person to undertake the activity.

Parachuting activity must be undertaken in accordance with authorisation

- (2) A person contravenes this subregulation if the person:
- (a) undertakes a parachuting activity; and
 - (b) holds an authorisation from a Part 105 ASAO authorising the person to undertake the activity; and
 - (c) undertakes the activity in a way that contravenes the authorisation.

Offence

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

Penalty: 50 penalty units.

105.070 Additional obligations applying to parachute operators

- (1) A parachute operator must take reasonable steps to ensure that each person employed or otherwise engaged by the operator to provide services or equipment for undertaking parachute descents:
- (a) is aware of the obligations imposed on persons under this Part; and
 - (b) complies with any written procedures of the operator relating to the safe provision of those services or that equipment.
- (2) A parachute operator must take reasonable steps to ensure that a person to whom the operator provides services or equipment for undertaking parachute descents:
- (a) is aware of the obligations imposed on the person under this Part; and
 - (b) complies with any written procedures of the operator relating to the safe conduct of parachute descents.
- (3) A person commits an offence if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

105.075 Permission to undertake parachute descent

- (1) This regulation applies in relation to a person undertaking a parachute descent other than as a tandem parachutist.
- (2) A person (the **parachutist**) contravenes this subregulation if:
- (a) the parachutist undertakes a parachute descent; but
 - (b) before the parachutist exits the aircraft to begin the parachute descent, the pilot in command of the aircraft, or a person nominated by the pilot, has not given permission for the parachutist to do so.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.080 General requirements for aircraft used for parachute descents

- (1) The pilot in command of an aircraft contravenes this subregulation if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) the aircraft is not one of the following:

-
- (i) a Part 103 aircraft;
 - (ii) an aeroplane;
 - (iii) a helicopter;
 - (iv) a powered-lift aircraft;
 - (v) a manned free balloon.
 - (2) The pilot in command of a Part 103 aircraft contravenes this subregulation if the aircraft is being operated to facilitate a parachute descent by either or both of the following:
 - (a) a trainee parachutist;
 - (b) a tandem parachutist.
 - (3) The pilot in command of an aircraft (other than a Part 103 aircraft) contravenes this subregulation if:
 - (a) the aircraft is being operated to facilitate a parachute descent by either or both of the following:
 - (i) a trainee parachutist;
 - (ii) a tandem parachutist; and
 - (b) the pilot does not meet the pilot training requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
 - (4) The pilot in command of a multi-engine aeroplane or a single-engine turbine-powered aeroplane contravenes this subregulation if:
 - (a) the aircraft is being operated to facilitate a parachute descent by either or both of the following:
 - (i) a trainee parachutist;
 - (ii) a tandem parachutist; and
 - (b) the pilot does not meet the flight time required by subregulation (5).
 - (5) The flight time required by this subregulation is:
 - (a) if the aircraft is a multi-engine aeroplane:
 - (i) at least 10 hours of experience as pilot in command of the type of aircraft being operated; or
 - (ii) at least 100 hours of experience as pilot in command, or as pilot in command under supervision, of a multi-engine aeroplane; or
 - (b) if the aircraft is a single-engine turbine-powered aeroplane:
 - (i) at least 10 hours of experience as pilot in command of the type of aircraft being operated; or
 - (ii) at least 100 hours of experience as pilot in command, or as pilot in command under supervision, of a multi-engine aeroplane or a single-engine turbine-powered aeroplane.
 - (6) The pilot in command of a powered-lift aircraft contravenes this subregulation if:
 - (a) the aircraft is being operated to facilitate a parachute descent by either or both of the following:
 - (i) a trainee parachutist;
 - (ii) a tandem parachutist; and
 - (b) the pilot does not meet the flight time requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
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- (7) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), (3), (4) or (6).

Penalty: 50 penalty units.

- (8) In this regulation:

flight time has the same meaning as in Part 61.

multi-engine aeroplane has the same meaning as in Part 61.

105.085 Requirements for aircraft used for descents by trainee parachutists and tandem parachutists

- (1) This regulation applies if an aircraft is being operated to facilitate a parachute descent by either or both of the following:
- (a) a trainee parachutist;
 - (b) a tandem parachutist.
- (2) The pilot in command of the aircraft contravenes this subregulation if the aircraft does not meet a requirement mentioned in subregulation (3).
- (3) The requirements are as follows:
- (a) a standard certificate of airworthiness must be in force for the aircraft;
 - (b) if the certificate of airworthiness is granted subject to a condition or requirement—the condition or requirement must be complied with;
 - (c) there must be either:
 - (i) a certificate of release to service for the most recent maintenance carried out on the aircraft; or
 - (ii) a maintenance release for the aircraft;
 - (d) the aircraft and each of the aircraft's engines must have been maintained in accordance with the requirements prescribed by the Part 105 Manual of Standards.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.090 Dropping things over populous areas

- (1) A person contravenes this subregulation if:
- (a) the person undertakes a parachute descent over a populous area; and
 - (b) the person causes a thing to be dropped:
 - (i) from the aircraft before the descent; or
 - (ii) during the descent; and
 - (c) the thing is dropped otherwise than in accordance with any requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

105.095 Dropping things other than over populous areas

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a parachute descent other than over a populous area; and
 - (b) the person causes a thing to be dropped:
 - (i) from the aircraft before the descent; or
 - (ii) during the descent; and
 - (c) either or both of the following apply:
 - (i) the thing is dropped otherwise than in accordance with an authorisation from a Part 105 ASAO to cause the thing to be dropped;
 - (ii) the thing is dropped otherwise than in accordance with any requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
- (2) A person contravenes this subregulation if:
 - (a) the person undertakes a parachute descent; and
 - (b) the person causes a thing to be dropped:
 - (i) from the aircraft before the descent; or
 - (ii) during the descent; and
 - (c) the thing creates a hazard to another aircraft, a person or property.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Subpart 105.D—Operational requirements**105.100 Additional requirements in relation to parachuting activities**

- (1) The Part 105 Manual of Standards may prescribe additional requirements in relation to undertaking parachuting activities.
- (2) Without limiting subregulation (1), the Part 105 Manual of Standards may prescribe requirements relating to the following:
 - (a) commencing parachute descents;
 - (b) the making of broadcasts by pilots in command of aircraft being operated to facilitate parachute descents;
 - (c) entering cloud during parachute descents;
 - (d) descents through different classes of airspace or in restricted areas;
 - (e) descents that involve landings near public gatherings;
 - (f) descents that involve landings in populous areas;
 - (g) packing, inspecting, maintaining, assembling, repairing, modifying or altering reserve parachutes, reserve parachute assemblies or emergency parachutes;
 - (h) the safe management of parachuting drop zones.
- (3) 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.

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

Penalty: 50 penalty units.

105.105 Restraint of persons other than flight crew members

- (1) The pilot in command of an aircraft contravenes this subregulation if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) a person is carried on the aircraft who is not a flight crew member; and
 - (c) the person is not provided with any of the following restraint devices:
 - (i) a seatbelt;
 - (ii) a shoulder harness;
 - (iii) a single-point or dual-point restraint that is an approved restraint device.
- (2) The pilot in command of an aircraft contravenes this subregulation if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) a person is carried on the aircraft who is not a flight crew member; and
 - (c) the person:
 - (i) is provided with a restraint device mentioned in paragraph (1)(c); but
 - (ii) is not provided with instructions for the use of the device.
- (3) The pilot in command of an aircraft contravenes this subregulation if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) a person is carried on the aircraft who is not a flight crew member; and
 - (c) the person is provided with a restraint device mentioned in paragraph (1)(c); and
 - (d) before doing any of the following, the requirement mentioned in subregulation (4) is not met:
 - (i) taxiing;
 - (ii) taking off;
 - (iii) landing.
- (4) The requirement is that the person must be directed to fasten the person's restraint device.
- (5) The pilot in command of an aircraft contravenes this subregulation if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) a person is carried on the aircraft who is not a flight crew member; and
 - (c) the person is provided with a restraint device mentioned in paragraph (1)(c); and
 - (d) the pilot in command has reason to believe it is necessary, for the safety of the person, that the person's restraint device is fastened; and
 - (e) the pilot in command does not direct the person to fasten the person's restraint device.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), (3) or (5).

Penalty: 50 penalty units.

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- (7) For the purposes of this regulation, a restraint device is an ***approved restraint device*** if it is approved by CASA under regulation 21.305.

105.110 Persons other than flight crew members—compliance with safety directions

- (1) A person contravenes this subregulation if:
- (a) a person is carried on an aircraft being operated to facilitate a parachute descent; and
 - (b) the person is not a flight crew member; and
 - (c) a direction mentioned in subregulation 105.105(4) or paragraph 105.105(5)(e) is given to the person; and
 - (d) the person does not comply with the direction.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

105.115 Restrictions on aircraft occupants for descents by trainee parachutists and tandem parachutists

- (1) This regulation applies if an aircraft is being operated to facilitate a parachute descent by either or both of the following:
- (a) a trainee parachutist;
 - (b) a tandem parachutist.
- (2) The pilot in command of the aircraft contravenes this subregulation if a person is carried on the aircraft and the person is not:
- (a) undertaking a parachute descent from the aircraft; or
 - (b) a crew member; or
 - (c) an officer, or delegate of CASA, who is on board the aircraft to carry out the officer's or delegate's duties; or
 - (d) performing a duty in accordance with the exposition of a Part 105 ASAO; or
 - (e) authorised by a Part 105 ASAO to be carried on the flight for training purposes.
- (3) Subregulation (2) does not apply if:
- (a) the aircraft is a manned free balloon; and
 - (b) the pilot in command holds an authorisation from a Part 105 ASAO to carry the person on board the balloon.
- (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*.

Subpart 105.G—Personnel fatigue management

105.120 Management of fatigue in relation to persons exercising certain parachute descent duties

- (1) The Part 105 Manual of Standards may prescribe requirements in relation to managing the risk of fatigue in persons who exercise a duty in relation to the operation of aircraft being operated to facilitate parachute descents.
- (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.

Subpart 105.J—Weight and balance

105.125 Loading of aircraft used for parachute descents

- (1) The Part 105 Manual of Standards may prescribe requirements in relation to the loading of aircraft being operated to facilitate a parachute descent.
- (2) Without limiting subregulation (1), the Part 105 Manual of Standards may prescribe requirements relating to one or more of the following:
 - (a) aircraft loading procedures that must be followed;
 - (b) aircraft loading system requirements;
 - (c) the making and retention of aircraft loading records.
- (3) 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.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Subpart 105.K—Instruments, indicators, equipment and systems

105.130 Requirements relating to radio equipment and oxygen equipment

- (1) The Part 105 Manual of Standards may prescribe requirements relating to one or more of the following:
 - (a) radio equipment that must be carried on aircraft that are being operated to facilitate parachute descents;

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- (b) oxygen equipment that must be carried on aircraft that are being operated to facilitate parachute descents;
 - (c) the circumstances in which equipment mentioned in paragraph (a) or (b) must be used.
 - (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.

Subpart 105.N—Flight crew

105.135 Pilot requirements for parachute descents—Part 103 aircraft

- (1) This regulation applies if a Part 103 aircraft is being operated to facilitate a parachute descent.
- (2) The pilot in command of the aircraft contravenes this subregulation if:
 - (a) the pilot does not satisfy the requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph; or
 - (b) the aircraft does not satisfy the requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.140 Pilot requirements for parachute descents—aeroplanes

- (1) This regulation applies if an aeroplane (other than a Part 103 aircraft) is being operated to facilitate a parachute descent.
- (2) The pilot in command of the aeroplane contravenes this subregulation if none of the following apply:
 - (a) the pilot holds an air transport pilot licence with an aeroplane category rating;
 - (b) the pilot holds a commercial pilot licence with an aeroplane category rating;
 - (c) the pilot has both:
 - (i) a private pilot licence with an aeroplane category rating; and
 - (ii) the aeronautical experience mentioned in regulation 61.610.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.145 Pilot requirements for parachute descents—helicopters

- (1) This regulation applies if a helicopter (other than a Part 103 aircraft) is being operated to facilitate a parachute descent.
- (2) The pilot in command of the helicopter contravenes this subregulation if none of the following apply:
 - (a) the pilot holds an air transport pilot licence with a helicopter category rating;
 - (b) the pilot holds a commercial pilot licence with a helicopter category rating;
 - (c) the pilot has both:
 - (i) a private pilot licence with a helicopter category rating; and
 - (ii) the aeronautical experience mentioned in regulation 61.610 in a helicopter.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.150 Pilot requirements for parachute descents—powered-lift aircraft

- (1) This regulation applies if a powered-lift aircraft is being operated to facilitate a parachute descent.
- (2) The pilot in command of the aircraft contravenes this subregulation if none of the following apply:
 - (a) the pilot holds an air transport pilot licence with a powered-lift aircraft category rating;
 - (b) the pilot holds a commercial pilot licence with a powered-lift aircraft category rating;
 - (c) the pilot has both:
 - (i) a private pilot licence with a powered-lift aircraft category rating; and
 - (ii) the aeronautical experience mentioned in regulation 61.610 in a powered-lift aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

105.155 Pilot requirements for parachute descents—manned free balloons

- (1) This regulation applies if a manned free balloon is being operated to facilitate a parachute descent.
- (2) The pilot in command of the balloon contravenes this subregulation if none of the following apply:
 - (a) the pilot holds a commercial pilot (balloon) licence;
 - (b) the pilot has both:
 - (i) an authorisation from a Part 131 ASAO that authorises the pilot to operate a manned free balloon; and
 - (ii) at least 75 hours of experience as pilot in command of a manned free balloon;

(c) the pilot meets the requirements prescribed by the Part 105 Manual of Standards for the purposes of this subregulation.

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

Penalty: 50 penalty units.

7 Subregulation 149.285(2)

Repeal the subregulation, substitute:

- (2) An ASAO must ensure that the ASAO's personnel have ready access to the reference materials.

8 Subpart 202.FE

Repeal the Subpart, substitute:

Subpart 202.FE—Transitional provisions for Part 105 (Parachuting from aircraft)

Division 202.FE.1—Amendments made by the Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019

202.500 Definitions for Division 202.FE.1

In this Division:

amending regulations means the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*.

202.501 Application of Part 105 to parachuting activities

Part 105, as inserted by Schedule 2 to the amending regulations, applies in relation to parachuting activities undertaken on or after 25 March 2021.

202.502 Transitional—parachute descents authorised by CASA

- (1) Despite regulation 202.501, Part 105 does not apply in relation to a parachute descent if the descent is authorised by, and conducted in accordance with:
 - (a) instrument CASA 263/02 or instrument CASA 36/19 (as either is in force from time to time); and
 - (b) if the descent is being undertaken by a trainee parachutist or tandem parachutist—instrument CASA 11/17 or instrument CASA 84/18 (as either is in force from time to time); and
 - (c) subsection 15 of Civil Aviation Order 20.16.3 (as in force immediately before 25 March 2021).
- (2) If Part 105 does not apply to a parachute descent because of the operation of subregulation (1), Part 105 also does not apply to any other parachuting activity undertaken for the purposes of the descent.

- (3) Despite the repeal of regulation 152 of CAR by Schedule 2 to the amending regulations, instruments CASA 263/02 and CASA 36/19 (as in force immediately before the commencement of Schedule 2 to the amending regulations) continue in force (and may be dealt with) after that commencement as if that repeal had not happened.
- (4) This regulation is repealed at the end of the day that is 3 years after the day on which the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* commenced.

202.503 Transitional—manned free balloons

- (1) Despite regulation 202.501, a pilot in command of a manned free balloon that is being operated to facilitate a parachute descent is taken to satisfy subparagraph 105.155(2)(b)(i) if the pilot meets the requirements specified in Civil Aviation Order 95.54.
- (2) This regulation is repealed at the end of the day that is 3 years after the day on which the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* commenced.

9 Part 1 of the Dictionary

Insert:

emergency parachute: see regulation 105.010.

10 Part 1 of the Dictionary (at the end of the definition of *major defect*)

Add:

- ; and (c) for an emergency parachute—see regulation 105.010; and
(d) for a reserve parachute—see regulation 105.010.

11 Part 1 of the Dictionary

Insert:

parachute has a meaning affected by regulation 105.010.

parachute operator: see regulation 105.010.

parachuting activity: see regulation 105.010.

Part 105 ASAO: see regulation 105.010.

Part 105 Manual of Standards means the Manual of Standards issued by CASA under regulation 105.015.

reserve parachute: see regulation 105.010.

reserve parachute assembly: see regulation 105.010.

tandem parachutist: see regulation 105.010.

trainee parachutist: see regulation 105.010.

Schedule 3—Amendments relating to Part 131

Civil Aviation Safety Regulations 1998

1 After Part 129

Insert:

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Subpart 131.A—Preliminary

131.005 Application of Part 131

- (1) This Part (other than Subpart 131.Z) applies in relation to Part 131 aircraft.
- (2) A *Part 131 aircraft* is any of the following:
 - (a) a manned free balloon;
 - (b) a hot air airship.
- (3) Subpart 131.Z applies in relation to a tethered gas balloon that:
 - (a) is capable of carrying 1 or more persons; and
 - (b) is intended for tethered flight only.

131.010 Definition of *balloon transport operation*

An operation is a *balloon transport operation* if the operation is:

- (a) a passenger transport operation conducted using a Part 131 aircraft that is a registered aircraft or a foreign registered aircraft; and
- (b) conducted for hire or reward; and
- (c) undertaken wholly within Australia; and

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- (d) not undertaken as part of a flight into or out of Australian territory.

131.015 Definitions of *balloon transport AOC* and *balloon transport operator*

- (1) A ***balloon transport AOC*** means an AOC that authorises the operation of a Part 131 aircraft for a balloon transport operation.
- (2) A ***balloon transport operator*** means a person who holds a balloon transport AOC.

131.020 Definition of *specialised balloon operation*

An operation is a ***specialised balloon operation*** if the operation:

- (a) is conducted using a Part 131 aircraft; and
- (b) is not a balloon transport operation; and
- (c) involves one or more of the following:
 - (i) specialised instruments, indicators, items of equipment or systems that affect the flight characteristics of the aircraft and that are fitted to, or carried on, the aircraft;
 - (ii) carrying a load (other than a hang glider) outside the aircraft;
 - (iii) operating the aircraft for advertising, or making a film or television production, solely or predominantly for hire or reward;
 - (iv) a flight into or out of Australian territory;
 - (v) an activity prescribed by the Part 131 Manual of Standards for the purposes of this subparagraph.

131.025 Definition of *Part 131 recreational activity*

- (1) A ***Part 131 recreational activity*** means operating a Part 131 aircraft other than for one of the following:
- (a) a balloon transport operation;
 - (b) a specialised balloon operation.
- (2) Despite subsection (1), a ***Part 131 recreational activity*** does not include operating a Part 131 aircraft in any circumstances prescribed by the Part 131 Manual of Standards for the purposes of this subregulation.

131.030 Definition of *significant change*

A ***significant change***, for a balloon transport 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 balloon transport operations;
 - (vi) the kinds of balloon transport operations the operator is authorised to conduct under the operator's balloon transport AOC;
 - (vii) the operator's areas of operation, including beginning to operate in a new area;
 - (viii) the classes of Part 131 aircraft used in the operator's balloon transport operations, including the addition of a new class; or
- (b) 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 balloon transport 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 change to the registration of a Part 131 aircraft used in the operator's balloon transport operations;
 - (v) any leasing or other arrangements for the supply of a Part 131 aircraft used in the operator's balloon transport operations; or
- (c) 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.

131.035 Approvals by CASA for Part 131

- (1) If a provision of this Part 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 paragraph 131.145(2)(a).

131.040 Prescribed purpose—balloon transport operations

For the purposes of subsection 27(9) of the Act, the flying or operation of a Part 131 aircraft for a balloon transport operation is a prescribed purpose.

131.045 Prescribed position—safety manager

Note: This regulation heading is reserved for future use.

131.050 Required material—reference library

- (1) For the purposes of paragraph 28BH(2)(b) of the Act, the following material is required for a balloon transport operator:
 - (a) the civil aviation legislation that is relevant to the operator's balloon transport operations;
 - (b) the parts of the AIP that are relevant to the operations;

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- (c) all information about the flight operations of each class of Part 131 aircraft operated by the operator for the operations that is necessary to ensure the safe conduct of the operations;
 - (d) any other publications, information or data required for the reference library by the operator's exposition.
- (2) To avoid doubt, if material is required under subregulation (1), the requirement is taken to be satisfied if an electronic copy of the material is readily available.

131.055 Issue of Manual of Standards for Part 131

For the purposes of 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 131 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Subpart 131.B—Operator certification and management

Division 131.B.1—Requirement for certification for balloon transport operations

131.060 Balloon transport AOC required to conduct balloon transport operations

- (1) A person contravenes this subregulation if:
 - (a) the person conducts a balloon transport operation; and
 - (b) the person does not hold a balloon transport AOC that authorises the person to conduct the operation.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.065 Compliance with balloon transport AOC

- (1) A person contravenes this subregulation if:
 - (a) the person conducts a balloon transport operation; and
 - (b) the person:
 - (i) holds a balloon transport AOC that authorises the person to conduct the balloon transport operation; but
 - (ii) conducts the operation in a way that contravenes the AOC.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.070 Compliance with conditions of balloon transport AOC

- (1) A balloon transport operator contravenes this subregulation if the operator contravenes a condition of the operator's balloon transport AOC.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 131.B.2—Balloon transport AOCs

131.075 Application for balloon transport AOC

- (1) A person may apply to CASA for the issue of a balloon transport AOC.
- (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 the applicant's mailing address—the address of the applicant's operational headquarters;
- (c) if the applicant is an individual—a statement that the individual is, or proposes to be, the applicant's chief executive officer;
- (d) if the applicant is a corporation—the name of each of the directors of the corporation;
- (e) if the applicant is a corporation registered in Australia that has an ACN—its ACN and the address of its registered office;
- (f) if the applicant is a corporation not registered in Australia—the place it was incorporated or formed;
- (g) details of the balloon transport operations covered by the application;
- (h) a written undertaking that, if CASA issues the certificate, the organisation established by the applicant to conduct the applicant's proposed balloon transport operations (the **applicant's organisation**) will:
 - (i) be capable of operating in accordance with its exposition and the civil aviation legislation; and
 - (ii) operate in accordance with its exposition and the civil aviation legislation.

Note: For additional rules in relation to AOCs, see Division 2 of Part III of the Act.

- (3) The application must be:
 - (a) accompanied by a copy of the applicant's proposed exposition; and
 - (b) signed by the person appointed, or proposed to be appointed, as the chief executive officer of the applicant's organisation.

131.080 Conditions for issue of balloon transport AOC

- (1) It is a condition for the issue to the applicant of a balloon transport AOC that CASA is satisfied of each of the following:
 - (a) the applicant's proposed exposition complies with regulation 131.195;
 - (b) the applicant can conduct balloon transport operations safely and in accordance with its exposition and the civil aviation legislation;
 - (c) if the applicant is an individual—the applicant:
 - (i) is a fit and proper person to be issued a balloon transport AOC; and
 - (ii) is, or proposes to be, the chief executive officer of the organisation established, or proposed to be established, by the applicant to conduct the applicant's proposed balloon transport operations;
 - (d) if the applicant is a corporation—each director of the corporation is a fit and proper person to be a director of a corporation that is issued a balloon transport AOC;
 - (e) each of the applicant's proposed key personnel:
 - (i) is a fit and proper person to be appointed to the position; and
 - (ii) has the qualifications and experience required under Division 131.B.4 for the position; and
 - (iii) has the additional qualifications and experience required by CASA under regulation 131.175 for the position (if any); and
 - (iv) has the qualifications and experience required by the applicant under subparagraph 131.195(1)(e)(i) for the position (if any);

- (f) the applicant's arrangements for managing the continuing airworthiness of each class of Part 131 aircraft the applicant proposes to operate in its balloon transport operations comply with Part 4 of CAR.

Note: These matters are in addition to the matters specified in section 28 (CASA must issue AOC if satisfied about certain matters) of the Act.

- (2) For the purposes of paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:
 - (a) the applicant's proposed exposition;
 - (b) whether the applicant can comply with the proposed exposition;
 - (c) the content of the undertaking mentioned in paragraph 131.075(2)(h);
 - (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 by a multinational aviation authority;
 - (e) the suitability of the applicant's corporate and organisational structures for the 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 the purposes of paragraphs (1)(c) to (e), the matters CASA may consider in deciding whether a person is a fit and proper person include the following:
 - (a) the person's criminal record (if any), whether in Australia or a foreign country;
 - (b) the person's bankruptcy (if any), whether in Australia or a foreign country;
 - (c) the person's history (if any) of serious behavioural problems;
 - (d) any information held or obtained by CASA that the person has contravened:
 - (i) the civil aviation legislation; or
 - (ii) another law, whether in Australia or a foreign country, relating to transport (including aviation) safety or safety in any other safety-critical industry;
 - (e) the person's demonstrated attitude towards compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety;
 - (f) the record of compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety of any corporation or other body in which the person:
 - (i) is or was a director or partner (however described); or
 - (ii) holds or held a position equivalent to any of the applicant's key personnel;
 - (g) for any corporation in which the person is or was a director, or holds or held a position equivalent to any of the applicant's key personnel, in Australia or a foreign country—the following records:
 - (i) the corporation's criminal record (if any);
 - (ii) the corporation's record of insolvency, receivership or winding up (if any);

- (iii) the corporation's record (if any) as a body subject to investigation or comment by a statutory authority that regulates the share dealings by, or financial affairs of, corporations;
- (h) any other matter relating to the fitness of the person to:
 - (i) for an applicant—hold a balloon transport AOC; or
 - (ii) for a director or proposed director—be a director of a corporation that holds a balloon transport AOC.

131.085 Approval of exposition

If CASA issues a balloon transport AOC to an applicant, CASA is taken to have also approved the applicant's proposed exposition.

131.090 Conditions of balloon transport AOCs

For the purposes of paragraph 28BA(1)(b) of the Act, each of the following is a condition of a balloon transport AOC issued to an operator:

- (a) the operator must comply with each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations;
- (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 operations under the AOC;
- (c) each of the positions of the operator's key personnel must be filled;
- (d) each of the operator's personnel must comply with each provision of the civil aviation legislation that applies to the operator's operations under the AOC;
- (e) if the operator is an individual—the individual must be the chief executive officer of the operator's organisation;
- (f) for each Part 131 aircraft operated by the operator under the AOC, the operator must:
 - (i) be the registered operator of the aircraft; or
 - (ii) hold an approval under regulation 131.035 for this subparagraph for the aircraft.

Division 131.B.3—Changes relating to balloon transport operators

131.095 Changes of name etc.

- (1) A balloon transport 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 exposition to reflect the change; and
 - (ii) give CASA written notice of the change and a copy of the amended part of the exposition 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.

131.100 Application for approval of significant changes

- (1) A balloon transport operator contravenes this subregulation if:
 - (a) the operator makes a significant change other than a significant change mentioned in subregulation (2); and
 - (b) CASA has not approved the significant change.
 - (2) A balloon transport 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 131.195(1)(e)(iv); and
 - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (3), within 7 days after the change is made.
 - (3) 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 exposition affected by the change, clearly identifying the change.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).
- Penalty: 50 penalty units.

131.105 Approval of significant changes

- (1) CASA may approve a significant change for a balloon transport operator only if satisfied that the requirements mentioned in section 28 of the Act and subregulation 131.080(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 exposition covered by the application for the change.

131.110 Changes must be made in accordance with process in exposition

- (1) A balloon transport 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 exposition in accordance with paragraph 131.195(1)(m).

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

Penalty: 50 penalty units.

131.115 CASA directions relating to exposition or key personnel

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to a balloon transport operator, direct the operator to change its exposition:
- (a) to remove particular information, procedures or instructions from the exposition; or
 - (b) to include particular information, procedures or instructions in the exposition; or
 - (c) to revise or vary the information, procedures or instructions in the exposition.
- (2) CASA may, by written notice given to a balloon transport operator, direct the 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 notice under this regulation must state the period within which the direction must be complied with.
- (4) A balloon transport operator contravenes this subregulation if:
- (a) CASA gives the operator a direction under this regulation; and
 - (b) the operator does not comply with the direction within the period stated in the notice.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

Division 131.B.4—Organisation and personnel

131.120 Organisation and personnel

- (1) A balloon transport operator must maintain an organisational structure that effectively manages its balloon transport operations, taking into account the size, nature and complexity of the operations.
- (2) A balloon transport 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 exposition or this Part.
- (3) A person commits an offence if the person contravenes subregulation (2).

Penalty: 50 penalty units.

131.125 Key personnel cannot carry out responsibilities

- (1) A balloon transport 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 35 days; and
 - (b) the operator does not tell CASA of that fact within the time mentioned in subregulation (2).
- (2) For the purposes of 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; and
 - (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.

131.130 Familiarisation training for key personnel

A balloon transport 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.

131.135 Chief executive officer—experience

- (1) The chief executive officer of a balloon transport operator must have the experience required under subregulation (2).
- (2) The experience required is:
 - (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
- (3) The experience is the following:
 - (a) sufficient relevant experience in organisational, operational, financial and people management of air operations to capably lead, manage and set standards to enable the operator to conduct safe operations in accordance with the operator's exposition and the civil aviation legislation;
 - (b) a satisfactory record in the conduct or management of air operations.

131.140 Chief executive officer—responsibilities and accountabilities

- (1) The chief executive officer of a balloon transport operator's organisation is responsible for the following:
 - (a) ensuring that, for the safe conduct of the operator's balloon transport operations in accordance with the operator's balloon transport AOC and exposition and the civil aviation legislation, the operator:

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- (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) complies with the civil aviation legislation; and
 - (ii) implements and manages the operator's safety management system (if any); and
 - (iii) has procedures that ensure that all of the operator's personnel understand the operator's safety policy; and
 - (iv) sets and maintains standards for flight and ground operations; and
 - (v) tells CASA if the operator becomes aware that a leasing, financing or other arrangement for the supply of a Part 131 aircraft that the operator operates under the operator's balloon transport AOC may affect the operator's safe conduct of the operator's balloon transport operations; and
 - (vi) for each Part 131 aircraft that is a registered foreign aircraft (if any) used in the operator's balloon transport operations—maintains the aircraft in accordance with the law of the country in which the aircraft is registered;
 - (c) establishing and regularly reviewing the operator's safety performance indicators and targets (if any);
 - (d) ensuring that the operator's exposition is monitored and managed for continuous improvement;
 - (e) ensuring that training and checking of the operator's operational safety-critical personnel (other than flight crew) conducted by or for the operator are conducted in accordance with the operator's exposition;
 - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with the operator's exposition and the civil aviation legislation.
- (2) The chief executive officer of a balloon transport operator's organisation is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

131.145 Head of flying operations—qualifications and experience

- (1) The head of flying operations of a balloon transport operator must:
 - (a) hold a commercial pilot (balloon) licence endorsed for the classes of Part 131 aircraft to be used in the operator's balloon transport operations; and
 - (b) have the experience required under subregulation (2); and
 - (c) have a satisfactory record in the conduct or management of balloon transport operations; and
 - (d) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's balloon transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The experience required is:
 - (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or

- (b) if paragraph (a) does not apply—both of the following:
 - (i) at least 250 hours flight time as the pilot in command of a Part 131 aircraft;
 - (ii) at least 2 years' experience in the conduct of Part 131 aircraft operations.
- (3) CASA may, by written notice given to the head of flying operations, or proposed head of flying operations, of a balloon transport operator, direct the person to undertake an assessment mentioned in subregulation (4).
- (4) The assessment:
 - (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the head of flying operation's or proposed head of flying operation's suitability as head of flying operations for the operator; and
 - (b) may include a free flight assessment in a Part 131 aircraft.

131.150 Head of flying operations—responsibilities

- (1) The head of flying operations of a balloon transport operator must safely manage the flying operations of the operator.
- (2) Without limiting subregulation (1), the responsibilities of the head of flying 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 exposition that apply to flying operations;
 - (b) ensuring that the operator's flight crew members are provided with the information and documentation necessary to properly carry out their responsibilities;
 - (c) ensuring the proper allocation and deployment of the operator's Part 131 aircraft, and the operator's personnel, for use in the operator's balloon transport operations;
 - (d) ensuring that the operator complies with section 28BH (Reference library) of the Act in relation to flight crew members.
 - (e) ensuring that training and checking of flight crew conducted by or for the operator is conducted in accordance with the operator's exposition;
 - (f) 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 these Regulations to conduct the activities involved in the recurrent training or checking; and
 - (ii) telling the Part 142 operator, in writing, of any change in the balloon transport operator's exposition relating to the training and checking activities the Part 142 operator conducts under the contract.

131.155 Head of training and checking—qualifications and experience

Note: This regulation heading is reserved for future use.

131.160 Head of training and checking—responsibilities

Note: This regulation heading is reserved for future use.

131.165 Safety manager—experience

Note: This regulation heading is reserved for future use.

131.170 Safety manager—responsibilities

Note: This regulation heading is reserved for future use.

131.175 Key personnel—additional qualification and experience requirements

- (1) This regulation applies to:
 - (a) an applicant for a balloon transport AOC; and
 - (b) a balloon transport 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 Part.
- (3) If CASA is 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 balloon transport operations safely and in accordance with its exposition 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 131.B.5—Systems**131.180 Safety management system requirements**

Note: This regulation heading is reserved for future use.

131.185 Training and checking system

Note: This regulation heading is reserved for future use.

131.190 Fatigue management system

A balloon transport operator must have a system for managing crew fatigue that complies with the requirements prescribed by the Part 131 Manual of Standards.

Division 131.B.6—Expositions for balloon transport operators

131.195 Content of exposition

- (1) An exposition for a balloon transport 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; and
 - (iii) each of the operator's operational facilities;
 - (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 131.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 131.B.4 for the position;
 - (iii) the name of the person appointed to the position;
 - (iv) the name of each person 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 131.140;
 - (g) an outline of the balloon transport operations conducted by the operator under the operator's balloon transport AOC including the areas of operation;
 - (h) details of each plan, process, procedure, program and system implemented by the operator to safely conduct and manage the operator's balloon transport operations in compliance with the civil aviation legislation;
 - (i) for each Part 131 aircraft registered in Australia—its class and model and registration mark;
 - (j) for each Part 131 aircraft that is a foreign registered aircraft—its class and model, nationality and registration mark;
 - (k) a description of the arrangements for managing the continuing airworthiness of the operator's Part 131 aircraft;
 - (l) a description of any leasing or other arrangements for the supply of Part 131 aircraft as the arrangements relate to the operational control or continuing airworthiness of the aircraft, or to any other safety matter;
 - (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 exposition 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) A balloon transport operator contravenes this subregulation if the operator's exposition 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.

131.200 Compliance with exposition by operator

- (1) A balloon transport operator contravenes this subregulation if the operator does not meet a requirement of the operator's exposition.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.205 Providing personnel with exposition

- (1) A balloon transport operator contravenes this subregulation if:
 - (a) a person who is a member of the operator's personnel is subject to a requirement under the operator's exposition; and
 - (b) the operator does not make the part of the exposition that relates to the requirement available to the person before the person first begins carrying out the person's duties relating to the requirement.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.210 Compliance with exposition by personnel

- (1) A member of a balloon transport operator's personnel contravenes this subregulation if:
 - (a) the member is subject to a requirement under the operator's exposition in relation to the safe conduct of the operator's balloon transport operations; and
 - (b) the member does not meet the requirement.
- (2) A balloon transport operator contravenes this subregulation if:
 - (a) a member of the operator's personnel is subject to a requirement under the operator's exposition in relation to the safe conduct of the operator's balloon transport operations; and
 - (b) 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.

Division 131.B.7—Records and documents

131.215 Personnel training and checking records—making records

- (1) A balloon transport operator contravenes this subregulation if:
- (a) a person who is a member of the operator's personnel undertakes an activity, obtains a qualification or certificate or gains flying experience; and
 - (b) the activity, qualification, certificate or flying experience is mentioned for the person in subregulation (2); and
 - (c) 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) when 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) The activities, qualifications, certificates and flying experience for the person are the following:
- (a) for a flight crew member of the operator's personnel:
 - (i) training, or a check, flight test, flight review or assessment of competency under Subpart 131.N; or
 - (ii) a qualification or certificate under Subpart 131.N; or
 - (iii) flying experience under Subpart 131.N; or
 - (iv) training or education in the operator's safety management system (if any);
 - (b) for a member of the operator's operational safety-critical personnel (other than a flight crew member)—training or education in the operator's safety management system (if any);
 - (c) for a member of the operator's personnel who performs ground support duties—any training;
 - (d) for a member of the operator's personnel not mentioned in paragraph (a), (b) or (c)—training or education in the operator's safety management system (if any).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.220 Personnel training and checking records—availability of records

- (1) A balloon transport operator contravenes this subregulation if:
- (a) the operator makes a record about a person under regulation 131.215; 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) A balloon transport operator contravenes this subregulation if:
- (a) a record is made under regulation 131.215; and
 - (b) the operator receives a request from another balloon transport 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 balloon transport operator if requested; and
 - (d) the operator does not give a copy of the record to the other balloon transport 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.

131.225 Copies of balloon flight crew licences and medical certificates

- (1) A balloon transport 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 balloon flight crew licence for the operator; and
 - (b) the operator does not have the following:
 - (i) a copy of the person's balloon flight crew licence;
 - (ii) a copy of the person's medical certificate.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.230 Retention periods for personnel records

- (1) A balloon transport operator contravenes this subregulation if:
- (a) the operator is required, under this Part, to make or have a record of a kind mentioned in column 1 of an item of the following table about a person who is a member of the operator's personnel; and
 - (b) the operator does not keep the record for at least the period mentioned in column 2 of the item.

Retention periods—personnel records		
Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
1	A record required under regulation 131.215 for a flight crew member	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	A record required under regulation 131.215 for a member of the operator's personnel who performs ground support duties	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 copy of a flight crew member's balloon	The period during which the member is

Retention periods—personnel records		
Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
	flight crew licence and medical certificate required by regulation 131.225	exercising the privileges of the licence for the operator

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

Penalty: 50 penalty units.

Division 131.B.8—Miscellaneous offences

131.235 Dealings in relation to cancelled, suspended, varied, pending or refused civil aviation authorisations

Requirement for approval

- (1) A balloon transport operator contravenes this subregulation if:
- (a) the operator enters into an agreement with another person; and
 - (b) the operator does an act mentioned in subregulation (2), (4), (6) or (8); and
 - (c) the operator does not hold an approval under regulation 131.035 to do the act.

Acts in relation to cancelled authorisations

- (2) For the purposes of paragraph (1)(b), the acts are the following:
- (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which was authorised by a cancelled authorisation;
 - (b) to employ a person, in connection with a balloon transport operation, who was, at the time of the cancellation of a cancelled authorisation, employed in connection with an operation that was authorised by the cancelled authorisation;
 - (c) to conduct an operation, or part of an operation, that was authorised by a cancelled authorisation.

Acts in relation to suspended or varied authorisations

- (3) Subregulation (4) applies in relation to an authorisation that has been suspended or varied other than on the application or request of the holder of the authorisation.
- (4) For the purposes of paragraph (1)(b), the acts are the following:
- (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which:
 - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
 - (ii) is no longer authorised by the authorisation as suspended or varied;
 - (b) to employ a person, in connection with a balloon transport operation, who was, at the time of the suspension or variation, employed in connection with an operation that:

- (i) was, immediately before the suspension or variation, authorised by the authorisation; but
- (ii) is no longer authorised by the authorisation as suspended or varied;
- (c) to conduct an operation, or part of an operation, that:
 - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
 - (ii) is no longer authorised by the authorisation as suspended or varied.

Note: See section 28BB (CASA may impose and vary AOC conditions) of the Act in relation to varying AOC conditions.

Pending applications for authorisations

- (5) Subregulation (6) applies in relation to an application for a civil aviation authorisation that has not been finally determined by CASA.
- (6) For the purposes of paragraph (1)(b), the acts are the following:
 - (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which would be authorised by the authorisation;
 - (b) to employ, in a balloon transport operation, a person employed, or proposed to be employed, in connection with an operation that would be authorised by the authorisation;
 - (c) to conduct an operation, or part of an operation, that would be authorised by the authorisation.

Application for authorisation refused

- (7) Subregulation (8) applies in relation to an application for a civil aviation authorisation that has been refused by CASA.
- (8) For the purposes of paragraph (1)(b), the acts are the following:
 - (a) to use, in a balloon transport operation, a Part 131 aircraft the use of which would have been authorised by the authorisation;
 - (b) to employ, in a balloon transport operation, a person employed, or proposed to be employed, in connection with an operation that would have been authorised by the authorisation;
 - (c) to conduct an operation, or part of an operation, that would have been authorised by the authorisation.
- (9) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

- (10) In this regulation:

cancelled authorisation means a civil aviation authorisation that has been cancelled otherwise than on the application or request of the holder of the authorisation.

employ includes engage, whether by contract or other arrangement.

131.240 Maximum period for use of foreign registered Part 131 aircraft in Australian territory

- (1) A balloon transport operator contravenes this subregulation if, in any 12 month period, the operator uses a Part 131 aircraft that is a foreign registered aircraft to conduct balloon transport operations for a total of more than the number of days mentioned in subregulation (2).
- (2) The number of days is:
 - (a) 90; or
 - (b) if the operator holds an approval under regulation 131.035 in relation to the Part 131 aircraft—the number mentioned in the approval for the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 131.C—General

Division 131.C.1—General flight limitations

131.245 Pilots must be authorised

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the flight must be conducted by at least one pilot who holds a Part 131 pilot authorisation that authorises the pilot to conduct the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.250 Simulation of emergency or abnormal situations

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if, during the flight, an emergency or abnormal situation is simulated.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 131.C.2—Operational documents

131.255 Compliance with flight manual

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight, the aircraft is operated in a way 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.

Note: The pilot in command of the aircraft must also ensure the aircraft is operated in accordance with the aircraft flight manual instructions: see regulation 91.095.

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

Penalty: 50 penalty units.

131.260 Availability of checklists

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that, before a crew member for the flight begins to carry out a duty for the flight, the operator must make available to the member each checklist of normal, abnormal and emergency procedures for the aircraft that is relevant to the duty.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 131.C.3—Flight related documents

131.265 Electronic documents

To avoid doubt, if a document is required to be carried on a flight of an aircraft under this Subpart, 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.

131.270 Availability of parts of exposition

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if the following parts of the operator's exposition 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.

131.275 Carriage of documents

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, when the aircraft begins the flight, a document prescribed by the Part 131 Manual of Standards is not carried on the aircraft.

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

Penalty: 50 penalty units.

131.280 Keeping documents with a person on the ground during flight

A balloon transport operator's exposition must include procedures for keeping the documents prescribed by the Part 131 Manual of Standards accessible to a person on the ground for the duration of a flight of a Part 131 aircraft.

Division 131.C.4—Reporting and recording information

131.285 Reporting and recording information

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the recording, retaining and reporting of information for a flight of a Part 131 aircraft, including (but not limited to) the following information:
- (a) flight time;
 - (b) fuel usage;
 - (c) passenger lists;
 - (d) aircraft defects;
 - (e) flight incidents;
 - (f) weight documents.
- (2) Without limiting subregulation (1), the Part 131 Manual of Standards may prescribe different requirements:
- (a) for Part 131 aircraft that are operated under a balloon transport AOC; and
 - (b) for Part 131 aircraft that are not operated under a balloon transport AOC.
- (3) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
- (a) a requirement mentioned in subregulation (1) applies for the flight; and
 - (b) the requirement is not met for the flight.
- (4) A person commits an offence if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Division 131.C.5—Search and rescue services and emergency and survival equipment

131.290 Information about search and rescue services

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins, information about the search and rescue services relevant to the flight is not readily accessible to the flight crew members for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.295 Information about emergency and survival equipment

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if:
 - (a) the Part 131 Manual of Standards prescribes an item of equipment for the purposes of this regulation; and
 - (b) when the flight begins, the information prescribed by the Part 131 Manual of Standards for that equipment is not available for immediate communication by the operator to a rescue coordination centre.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 131.C.6—Miscellaneous requirements for balloons**131.300 Competence of ground support personnel**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, before a member of the operator's personnel carries out a ground support duty for the flight, the member has not met a requirement mentioned in subregulation (2).
- (2) The requirements are the following:
 - (a) the member must have successfully completed training for the duty;
 - (b) the member must have been assessed as competent to carry out the duty.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.305 Flights over populous areas, public gatherings and other areas

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown over a populous area or a public gathering; and
 - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown other than over a populous area or a public gathering; and
 - (b) a requirement prescribed by the Part 131 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 (1) or (2).

Penalty: 50 penalty units.

131.310 Dropping things from aircraft

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) a thing is dropped from the aircraft; and
 - (b) the safety of the aircraft, or of any person or property, is likely to be endangered as a result of the thing being dropped.

Note: Part 105 applies in relation to parachute descents undertaken from Part 131 aircraft.

- (2) Subregulation (1) does not apply in relation to a thing of a kind prescribed by the Part 131 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (2): see subsection 13.3(3) of the *Criminal Code*.

131.315 Flights at night

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
 - (a) the aircraft is flown at night; and
 - (b) the operator or pilot in command does not hold an approval under regulation 131.035 to fly the aircraft at night.
- (2) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if:
 - (a) the aircraft is flown at night; and
 - (b) the pilot in command does not hold:
 - (i) if the flight is a specialised balloon operation that requires an approval under regulation 131.035 to conduct the operation—an approval under regulation 131.035 to fly the aircraft at night; or
 - (ii) otherwise—an authorisation from a Part 131 ASAO to fly the aircraft at night.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

131.320 Use of supplemental oxygen equipment etc.

- (1) The operator and pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
 - (a) during the flight, the aircraft is flown above 10,000 ft above mean sea level; and
 - (b) the operator does not hold an approval under regulation 131.035 to fly the aircraft above that height.
- (2) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, a requirement mentioned in subregulation (3) is not met for the flight.

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- (3) The Part 131 Manual of Standards may prescribe requirements about the use, by persons on board a Part 131 aircraft for a flight, of equipment to supply supplemental oxygen during the flight.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

131.325 Specialised balloon operations

- (1) The operator of a Part 131 aircraft for a flight that involves a specialised balloon operation contravenes this subregulation if the requirement in subregulation (2) is not met for the flight.
- (2) The requirement is that the operator must hold an approval under regulation 131.035 to conduct the specialised balloon operation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.330 Additional requirements for specialised balloon operations

- (1) The Part 131 Manual of Standards may prescribe additional requirements relating to flights of Part 131 aircraft involving specialised balloon operations.
- (2) To avoid doubt, the Part 131 Manual of Standards may prescribe different requirements for different kinds of specialised balloon operations referred to in regulation 131.020.
- (3) The operator of a Part 131 aircraft for a flight involving a specialised balloon operation contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) The pilot in command of a Part 131 aircraft for a flight involving a specialised balloon operation contravenes this subregulation if:
 - (a) the pilot in command is subject to a requirement mentioned in subregulation (1) 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.

Subpart 131.D—Operational procedures

Division 131.D.1—Operational control

Note: This Division is reserved for future use.

Division 131.D.2—Flight preparation

131.340 Flight preparation requirements

- (1) The Part 131 Manual of Standards may prescribe requirements relating to flight preparation and weather assessments for Part 131 aircraft (the ***balloon flight preparation (weather assessments) requirements***).
- (2) A balloon transport operator's exposition must include procedures for complying with the balloon flight preparation (weather assessments) requirements for a flight of a Part 131 aircraft.
- (3) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if a balloon flight preparation (weather assessments) requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Division 131.D.3—Flight planning and pre-flight checks

131.345 Balloon flight planning and notification requirements

- (1) The Part 131 Manual of Standards may prescribe requirements (the ***balloon flight planning and notification requirements***) relating to flight plans and notifications for flights of Part 131 aircraft.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if a balloon flight planning and notification 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.

131.350 Matters to be checked before take-off

- (1) The Part 131 Manual of Standards may prescribe requirements relating to checks to be carried out on Part 131 aircraft prior to take-off.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, when the aircraft takes off for the flight, a check prescribed by the Part 131 Manual of Standards has not been carried out.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Division 131.D.4—Flight rules**131.355 Additional right of way rules**

- (1) The pilot in command of a Part 131 aircraft contravenes this subregulation if:
 - (a) the aircraft is in the vicinity of another Part 131 aircraft; and
 - (b) the aircraft is higher than the other aircraft; and
 - (c) the pilot in command contravenes the right of way rule mentioned in subregulation (2).
- (2) The right of way rule is that a higher aircraft must give way to a lower aircraft.
- (3) Subregulation (2) does not apply if the other aircraft is a hot air airship.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

131.360 Operations at non-controlled aerodromes

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is operated at, or within the vicinity of, an aerodrome of a kind prescribed by the Part 131 Manual of Standards; and
 - (b) circumstances prescribed by the Part 131 Manual of Standards apply in relation to the operation of the aircraft; and
 - (c) a requirement prescribed by the Part 131 Manual of Standards for operating an aircraft at, or within the vicinity of, an aerodrome of that kind, in those circumstances, is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.365 Flights over water

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
 - (a) the aircraft is flown over water in circumstances prescribed by the Part 131 Manual of Standards for the purposes of this paragraph; and
 - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if:
 - (a) the aircraft is flown over water in circumstances prescribed by the Part 131 Manual of Standards for the purposes of this paragraph; and
 - (b) a requirement prescribed by the Part 131 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 (1) or (2).

Penalty: 50 penalty units.

Division 131.D.5—Taking off, landing and ground operations

131.370 Procedures for safety during ground operations

A balloon transport operator's exposition must include procedures to ensure the safety of persons in the vicinity of a Part 131 aircraft when any of the following circumstances apply:

- (a) a person is embarking or disembarking the aircraft;
- (b) the aircraft is being prepared for flight;
- (c) the aircraft is being manoeuvred on the ground.

131.375 Operation of Part 131 aircraft while tethered

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is tethered to the ground for the flight; and
 - (b) a requirement prescribed by the Part 131 Manual of Standards is not met for the flight.

Note: See Subpart 131.Z for rules to apply to permanently tethered gas balloons.

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

Penalty: 50 penalty units.

Division 131.D.6—Fuel requirements

131.380 Fuel and ballast procedures

A balloon transport operator's exposition must include procedures to ensure that a flight of a Part 131 aircraft is conducted in accordance with the requirements mentioned in subregulation 131.385.

131.385 Fuel and ballast requirements

- (1) The Part 131 Manual of Standards may prescribe requirements relating to fuel and ballast for Part 131 aircraft, including (but not limited to) the following:
- (a) matters that must be considered when determining whether a Part 131 aircraft has sufficient fuel or ballast to complete a flight safely;
 - (b) the amounts of fuel or ballast that must be carried on board a Part 131 aircraft for a flight;
 - (c) procedures for monitoring amounts of fuel or ballast during a flight of a Part 131 aircraft;
 - (d) procedures to be followed if fuel or ballast reaches specified amounts during a flight of a Part 131 aircraft.

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- (2) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
 - (3) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

Division 131.D.7—Safety of persons on aircraft and cargo requirements

131.390 Smoking not permitted during flight or within 15 metres of Part 131 aircraft

- (1) A person on a Part 131 aircraft for a flight contravenes this subregulation if the person smokes during the flight.
- (2) A person contravenes this subregulation if the person smokes within 15 metres of a Part 131 aircraft that:
 - (a) is being prepared for a flight; or
 - (b) is being fuelled for a flight; or
 - (c) is being deflated after a flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

131.395 Certain Part 131 aircraft to have signage about smoking

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, before the flight begins, the operator has not provided as many permanent “no smoking” signs or graphics in the aircraft as are necessary to indicate to all occupants of the aircraft that smoking is not permitted.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.400 Carriage of infants

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
 - (a) an infant is carried on the aircraft during the flight; and
 - (b) the operator does not hold an approval under regulation 131.035 to carry an infant on the aircraft during the flight.

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

Penalty: 50 penalty units.

131.405 Carriage of persons requiring assistance

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
- (a) a passenger is carried on the flight who is likely to require assistance; and
 - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.410 Passengers—safety briefings and instructions

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, before the aircraft takes off for the flight, a passenger is not given a safety briefing and instructions that include each of the matters prescribed by the Part 131 Manual of Standards for the flight.
- (2) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
- (a) during the flight circumstances prescribed by the Part 131 Manual of Standards apply; and
 - (b) a passenger is not given a safety briefing and instructions that include each of the matters prescribed by the Part 131 Manual of Standards for those circumstances.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

131.415 Safety briefing in the event of an emergency

A balloon transport operator's exposition must include procedures for briefing passengers on what to do if an emergency occurs during a flight of a Part 131 aircraft.

131.420 Passengers—compliance with safety directions

- (1) A passenger on a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) an instruction mentioned in subregulation 131.410(1) or (2) is given to the passenger; and
 - (b) the passenger does not comply with the direction.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.425 Restraint of cargo

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is landing; and
 - (b) any cargo carried on the aircraft is not restrained or securely stowed.
 - (2) A person commits an offence if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

131.430 Procedures relating to carriage of animals

A balloon transport operator's exposition must include procedures for the carriage of animals for a flight of a Part 131 aircraft.

Division 131.D.8—Miscellaneous**131.435 Training flight limitations**

- (1) The pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight, the pilot in command permits balloon flying training for a person who does not hold either of the following:
 - (a) a commercial pilot (balloon) licence;
 - (b) a CAR certificate of validation.
 - (2) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

131.440 Test flights

- (1) The pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight, the pilot in command permits a test of the aircraft, or any of its components or equipment (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).
 - (2) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

Subpart 131.F—Performance**131.445 Loading weights**

Maximum loading weights

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the aircraft's weight is greater than:

- (a) the maximum loading weight (however described) permitted by the flight manual for the aircraft; or
 - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 131 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for a Part 131 aircraft for a flight must be calculated under this subregulation; and
 - (b) methods for calculating that weight.

Minimum loading weights

- (3) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the aircraft's weight is less than:
 - (a) any minimum loading weight (however described) permitted by the flight manual for the aircraft; or
 - (b) if circumstances prescribed under paragraph (4)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (4)(b).
- (4) The Part 131 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for a Part 131 aircraft for a flight must be calculated under this subregulation; and
 - (b) methods for calculating that weight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

131.450 Loading procedures

A balloon transport operator's exposition must include procedures for loading a Part 131 aircraft for a flight.

131.455 Carriage of passengers

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the carriage of passengers for a flight of a Part 131 aircraft.
- (2) Without limiting subregulation (1), the Part 131 Manual of Standards may prescribe requirements relating to:
 - (a) the maximum number of passengers that may be carried for the flight; and
 - (b) the location of passengers on the Part 131 aircraft for the flight.
- (3) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Subpart 131.K—Instruments, indicators, equipment and systems

131.460 Instruments, indicators, equipment and systems—requirements

- (1) The Part 131 Manual of Standards may prescribe the following:
 - (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards;
 - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards;
 - (c) requirements in relation to an instrument, indicator, item of equipment or system that is fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).
- (2) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, when the flight begins:
 - (a) an instrument, indicator, item of equipment or system required to be fitted to, or carried on, the aircraft under paragraph (1)(a), is not fitted to, or carried on, the aircraft (as the case requires); or
 - (b) an instrument, indicator, item of equipment or system that must not be fitted to, or carried on, the aircraft under paragraph (1)(b), is fitted to, or carried on, the aircraft (as the case requires).
- (3) A crew member of a Part 131 aircraft for a flight contravenes this subregulation if:
 - (a) the crew member is subject to a requirement mentioned in paragraph (1)(c); and
 - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

131.465 When Part 131 aircraft may be flown with inoperative instruments, indicators, equipment or systems

If an instrument, indicator, item of equipment or system is required under regulation 131.460 to be fitted to, or carried on, a Part 131 aircraft for a flight, the aircraft may begin the flight with the instrument, indicator, item of equipment or system inoperative if circumstances prescribed by the Part 131 Manual of Standards for the purposes of this regulation apply to the flight.

Subpart 131.M—Continuing airworthiness

Note: This Subpart heading is reserved for future use.

Subpart 131.N—Flight crew

131.565 Qualifications and training for pilots

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
 - (a) the pilot in command of the Part 131 aircraft for the flight must hold one or more of the following that authorises the pilot to operate the Part 131 aircraft:
 - (i) a commercial pilot (balloon) licence;
 - (ii) a CAR certificate of validation;
 - (iii) an authorisation from a Part 131 ASAO;
 - (b) the pilot must meet any training and checking requirements for the flight prescribed by the Part 131 Manual of Standards;
 - (c) the pilot must have any other qualification or experience prescribed by the Part 131 Manual of Standards for the purposes of this paragraph;
 - (d) if the flight is a balloon transport operation—the pilot must have any other qualification or experience required by the operator’s exposition;
 - (e) if the flight is a specialised balloon operation—the pilot must have any other qualification or experience set out in the approval under regulation 131.035 that authorises the operation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 131.P—Other operational safety-critical personnel

Division 131.P.1—Ground support personnel

131.570 Qualifications and training for ground support personnel

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) or (3) is not met.
- (2) The requirement is that each member of the operator’s ground support personnel who carries out a ground support duty for the flight must meet any training and checking requirements for the flight prescribed by the Part 131 Manual of Standards.
- (3) The requirement is that the number of ground support personnel carrying out ground support duties for the flight must be at least the number of ground support personnel prescribed by the Part 131 Manual of Standards for the number of passengers carried on the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 131.P.2—Other operational support personnel

Note: This Division is reserved for future use.

Subpart 131.R—Part 131 recreational activities

131.580 Part 131 recreational activities must be authorised

Part 131 recreational activity must be authorised

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a Part 131 recreational activity; and
 - (b) the person does not hold a Part 131 pilot authorisation that authorises the person to undertake the activity.
- (2) Subregulation (1) does not apply if the person is otherwise permitted under these Regulations to undertake the activity.

Part 131 recreational activity must be undertaken in accordance with authorisation

- (3) A person contravenes this subregulation if the person:
 - (a) undertakes a Part 131 recreational activity; and
 - (b) holds a Part 131 pilot authorisation that authorises the person to undertake the activity; and
 - (c) undertakes the activity in a way that contravenes the authorisation.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (2): see subsection 13.3(3) of the *Criminal Code*.

131.585 Procedures for carrying hang gliders

If the approved functions of a Part 131 ASAO include authorising a person to undertake an activity that involves carrying a hang glider outside a Part 131 aircraft, the exposition for the Part 131 ASAO must include procedures for the carrying of hang gliders outside a Part 131 aircraft.

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

Subpart 131.S—Balloon flight crew licensing

Note: This Subpart heading is reserved for future use.

Subpart 131.Z—Tethered gas balloons

131.685 Approval required to operate

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon; and
 - (b) the person does not hold an approval under regulation 131.035 to operate the tethered gas balloon.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.690 Compliance with Part 131 Manual of Standards

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon; and
 - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the operation.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.695 Operation under cloud

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon; and
 - (b) the balloon does not remain at least 500 ft (measured vertically) below the cloud ceiling.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.700 Operation at night

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon at night at or above 400 ft above ground level; and
 - (b) the balloon is not lit so as to be visible from at least 4,000 metres away.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

131.705 Rapid deflation device required

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon; and

- (b) the balloon is not fitted with a device that will cause it to deflate rapidly and completely if it escapes from its mooring.
 - (2) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

131.710 What to do if balloon escapes

- (1) A person contravenes this subregulation if:
 - (a) the person operates a tethered gas balloon; and
 - (b) the balloon escapes from its mooring; and
 - (c) the balloon is not deflated completely using a deflation device; and
 - (d) the person does not comply with the requirement in subregulation (2).
 - (2) The requirement is that the person must tell Air Traffic Services as soon as possible:
 - (a) where the balloon was launched; and
 - (b) what time it broke free; and
 - (c) the direction it was headed when last seen.
 - (3) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

2 Part 1 of the Dictionary

Insert:

balloon flight planning and notification requirements: see subregulation 131.345(1).

balloon flight preparation (weather assessments) requirements: see subregulation 131.340(1).

CAR certificate of validation means a certificate issued under regulation 5.27 of CAR.

commercial (balloon) pilot licence means a commercial pilot (balloon) licence issued under Part 5 of CAR.

flight radiotelephone operator licence means a flight radiotelephone operator licence issued under Part 5 of CAR.

Part 131 aircraft: see subregulation 131.005(2).

Part 131 ASAO means an ASAO whose approved functions include administering a Part 131 recreational activity.

Part 131 pilot authorisation means:

- (a) a commercial pilot (balloon) licence; or
- (b) a CAR certificate of validation; or
- (c) an authorisation from a Part 131 ASAO that authorises the holder to operate a Part 131 aircraft; or

(d) a flight radiotelephone operator licence.

Part 131 recreational activity: see subregulation 131.025(1).

Schedule 4—Other amendments

Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019

1 Item 21 of Schedule 1 (definition of *operational safety-critical personnel*)

Repeal the definition, substitute:

operational safety-critical personnel, for an Australian air transport operator, an aerial work operator or a balloon transport operator:

- (a) means personnel carrying out, or responsible for, safety-related work, including:
 - (i) personnel carrying out roles that have direct contact with the physical operation of aeroplanes, rotorcraft or Part 131 aircraft used in the operator's Australian air transport operations, aerial work operations or balloon transport operations; and
 - (ii) personnel carrying out roles that have operational contact with personnel who operate aeroplanes, rotorcraft or Part 131 aircraft used in those operations; and
 - (iii) personnel described as operational safety-critical personnel in the operator's exposition or operations manual; but
- (b) does not include personnel who are employed or engaged by the operator (whether by contract or other arrangement) and are engaged in:
 - (i) the provision of continuing airworthiness management services for aeroplanes, rotorcraft or Part 131 aircraft used in the operator's Australian air transport operations, aerial work operations or balloon transport operations; or
 - (ii) carrying out maintenance on an aeroplane, rotorcraft, Part 131 aircraft or aeronautical product on behalf of an approved maintenance organisation.

2 Item 27 of Schedule 1 (definition of *special VFR*)

Repeal the definition, substitute:

special VFR means:

- (a) for an aircraft other than a Part 131 aircraft—the visual flight rules prescribed by the Part 91 Manual of Standards; or
- (b) for a Part 131 aircraft—the visual flight rules prescribed by the Part 131 Manual of Standards.

3 Item 29 of Schedule 1 (definition of *VMC criteria*)

Repeal the definition, substitute:

VMC criteria:

- (a) for a class of aircraft (other than Part 131 aircraft) and a class of airspace (including flight visibility and distance from cloud)—means the criteria prescribed for the class of aircraft and class of airspace by the Part 91 Manual of Standards; and

- (b) for Part 131 aircraft and a class of airspace (including flight visibility and distance from cloud)—means the criteria prescribed for the aircraft and class of airspace by the Part 131 Manual of Standards.

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4 Item 1 of Schedule 1 (after the heading to regulation 91.030)

Insert:

Part 101

5 Item 1 of Schedule 1 (regulation 91.030)

Before “This Part”, insert “(1)”.

6 Item 1 of Schedule 1 (regulation 91.030)

Omit “, 103 or 131”.

7 Item 1 of Schedule 1 (at the end of regulation 91.030)

Add:

Part 103

- (2) The following provisions of this Part do not apply to the operation of a Part 103 aircraft:
 - (a) regulation 91.105;
 - (b) regulations 91.110 and 91.115;
 - (c) regulation 91.145;
 - (d) regulation 91.190;
 - (e) regulation 91.245;
 - (f) regulation 91.250;
 - (g) regulation 91.320;
 - (h) regulations 91.425 and 91.430;
 - (i) regulations 91.545 and 91.550;
 - (j) regulation 91.560;
 - (k) regulations 91.570 and 91.575;
 - (l) regulation 91.585;
 - (m) regulations 91.590 to 91.615;
 - (n) regulation 91.635;
 - (o) regulations 91.720 and 91.725;
 - (p) regulations 91.780 and 91.785;
 - (q) Subpart 91.K;
 - (r) regulation 91.915.

Part 131

- (3) The following provisions of this Part do not apply to the operation of a Part 131 aircraft:
 - (a) Division 91.C.3;
 - (b) regulation 91.190;

- (c) Divisions 91.D.2 and 91.D.3;
- (d) Subdivisions 91.D.4.1 and 91.D.4.3;
- (e) regulation 91.335;
- (f) regulation 91.355;
- (g) Subdivision 91.D.4.6 (other than regulation 91.360);
- (h) regulation 91.445;
- (i) regulation 91.455;
- (j) regulation 91.480;
- (k) regulation 91.510;
- (l) regulation 91.515;
- (m) Division 91.D.7 (other than regulations 91.520, 91.525, 91.600 and 91.620);
- (n) Subpart 91.F;
- (o) Subpart 91.J;
- (p) Subpart 91.K;
- (q) Subpart 91.P.

8 Item 1 of Schedule 1 (regulation 91.035)

Repeal the heading, substitute:

91.035 Application of Part 91—certain provisions of this Part do not apply if provisions of Part 105, 121, 133, 135 or 138 apply

9 Item 1 of Schedule 1 (subregulation 91.035(1))

After “provision of Part”, insert “105,”.

10 Item 1 of Schedule 1 (subregulation 91.035(1) (table heading))

After “provisions of Part”, insert “105,”.

11 Item 1 of Schedule 1 (subregulation 91.035(1) (table, heading to column 2))

After “of Part”, insert “105,”.

12 Item 1 of Schedule 1 (subregulation 91.035(1) (cell at table item 3, column 2))

Repeal the cell, substitute:

Regulation 105.090

Regulation 105.095

Regulation 138.425

13 Item 1 of Schedule 1 (subregulation 91.035(1) (cell at table item 12, column 2))

Repeal the cell, substitute:

Regulation 105.105

Regulation 138.375

14 Item 1 of Schedule 1 (subregulation 91.035(1) (after table item 12))

Insert:

15 Item 1 of Schedule 1 (regulation 91.065)

Repeal the regulation, substitute:

91.065 Flying aircraft under VFR or IFR

- (1) The pilot in command of an aircraft for a flight, other than a Part 103 aircraft or a Part 131 aircraft, contravenes this subregulation if, at any time during the flight, the aircraft is not flown under the VFR or IFR.
- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if any part of the flight takes place other than by day and under the VFR.
- (3) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if any part of the flight takes place other than under the VFR.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

16 Item 1 of Schedule 1 (paragraph 91.155(1)(b))

Repeal the paragraph, substitute:

- (b) any of the following apply:
 - (i) for an Australian aircraft other than a Part 103 aircraft or a Part 131 aircraft—the person is not authorised to pilot the aircraft under Part 61;
 - (ii) for a foreign registered aircraft—the person is not qualified to pilot the aircraft under the law of the aircraft's State of registry or the State of the operator;
 - (iii) for a Part 103 aircraft—the person is not authorised to pilot the aircraft by a Part 103 ASAO;
 - (iv) for a Part 131 aircraft—the person is not authorised to pilot the aircraft by a Part 131 pilot authorisation.

17 Item 1 of Schedule 1 (paragraph 91.155(2)(b))

Repeal the paragraph, substitute:

- (b) any of the following apply:
 - (i) for an Australian aircraft other than a Part 103 aircraft or a Part 131 aircraft—the person is not authorised to pilot the aircraft under Part 61;
 - (ii) for a foreign registered aircraft—the person is not qualified to pilot the aircraft under the law of the aircraft's State of registry or the State of the operator;
 - (iii) for a Part 103 aircraft—the person is not authorised to pilot the aircraft by a Part 103 ASAO;
 - (iv) for a Part 131 aircraft—the person is not authorised to pilot the aircraft by a Part 131 pilot authorisation.

18 Item 1 of Schedule 1 (after subregulation 91.200(2))

Insert:

- (2A) Subregulation (1) does not apply if:
- (a) the aircraft is being operated to facilitate a parachute descent; and
 - (b) the requirements prescribed by the Part 105 Manual of Standards are met.

19 Item 1 of Schedule 1 (note to subregulation 91.200(3))

After “(2)”, insert “or (2A)”.

20 Item 1 of Schedule 1 (after subregulation 91.205(1))

Insert:

- (1A) Subregulation (1) does not apply if the requirements prescribed by the Part 91 Manual of Standards for the purposes of this subregulation are met in relation to the flight.

21 Item 1 of Schedule 1 (at the end of regulation 91.205)

Add:

Note: A defendant bears an evidential burden in relation to the matters in subregulation (1A): see subsection 13.3(3) of the *Criminal Code*.

22 Item 1 of Schedule 1 (paragraph 91.270(2)(b))

Repeal the paragraph, substitute:

- (b) for an aircraft (other than a Part 131 aircraft)—fly the aircraft out of the area; and
- (c) for a Part 131 aircraft:
 - (i) fly the aircraft out of the area; or
 - (ii) if it is not possible to fly the aircraft out of the area—land the aircraft and inform the authority controlling the area as soon as is practicable.

23 Item 1 of Schedule 1 (after subregulation 91.275(1))

Insert:

- (1A) Subregulation (1) does not apply in relation to a Part 131 aircraft if the pilot in command of the aircraft lands the aircraft and informs the authority controlling the area as soon as is practicable after entering the air defence identification zone.

24 Item 1 of Schedule 1 (at the end of regulation 91.275)

Add:

Note: A defendant bears an evidential burden in relation to the matters in subregulation (1A): see subsection 13.3(3) of the *Criminal Code*.

25 Item 1 of Schedule 1 (at the end of subregulation 91.285(2))

Add:

- ; (d) the aircraft is a glider in soaring flight.

26 Item 1 of Schedule 1 (paragraph 91.285(3)(b))

Omit “clearance to fly the aircraft at that cruising level”, substitute “an air traffic control instruction, or an air traffic control clearance, to fly the aircraft other than at a specified VFR cruising level for the track”.

27 Item 1 of Schedule 1 (after subregulation 91.335(5))

Insert:

(5A) Paragraph (2)(b) does not apply if:

- (a) the aircraft is a glider engaged in ridge or hill soaring; and
- (b) the pilot flies the aircraft so that it passes between the ridge or hill and the other aircraft.

28 Item 1 of Schedule 1 (note to regulation 91.335)

After “(5)”, insert “, (5A)”.

29 Item 1 of Schedule 1 (subregulation 91.370(2))

After “subject aircraft” (first occurring), insert “(other than a glider being towed by a glider tug)”.

30 Item 1 of Schedule 1 (subregulation 91.370(4))

After “subject aircraft” (first occurring), insert “(other than a glider)”.

31 Item 1 of Schedule 1 (at the end of subregulation 91.370(4))

Add:

Note: Regulation 91.055 prohibits an aircraft (including a glider) being operated in a manner that creates a hazard to another aircraft, a person or property.

32 Item 1 of Schedule 1 (subregulation 91.385(2))

Repeal the subregulation, substitute:

- (2) Subregulation (1) not apply to the pilot in command of an aircraft if:
 - (a) the aircraft is a seaplane or amphibian and the pilot in command contravenes the subregulation only to the extent necessary:
 - (i) to avoid an obstacle; or
 - (ii) to avoid undue noise over a populous area without compromising the aircraft’s safety; or
 - (iii) for a single-engine seaplane or amphibian—to enable the aircraft to land on water if its engine fails; or
 - (b) the aircraft is a glider (other than a glider with an engine operating) and the pilot in command contravenes the subregulation only to the extent necessary to enable the aircraft to land safely.

33 Item 1 of Schedule 1 (subregulation 91.390(1))

After “rotorcraft”, insert “, a glider or a powered parachute”.

34 Item 1 of Schedule 1 (paragraph 91.395(2)(c))

Omit “other than an approach carried out in IMC using an instrument approach procedure”, substitute “other than an approach covered by subregulation (2A)”.

35 Item 1 of Schedule 1 (after subregulation 91.395(2))

Insert:

- (2A) An approach is covered by this subregulation if:
- (a) the approach is carried out in IMC using an instrument approach procedure; or
 - (b) the approach is by a Part 103 aircraft prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.

36 Item 1 of Schedule 1 (at the end of paragraph 91.400(3)(d))

Add:

- ; or (iii) if the aircraft is a Part 103 aircraft—authorised to operate the radio by a Part 103 ASAO.

37 Item 1 of Schedule 1 (subregulation 91.405(3))

After “an aircraft”, insert “(other than a Part 131 aircraft)”.

38 Item 1 of Schedule 1 (subparagraphs 91.415(1)(b)(i) and (ii))

After “aircraft”, insert “other than a Part 103 aircraft”.

39 Item 1 of Schedule 1 (at the end of paragraph 91.415(1)(b))

Add:

- ; (v) for a Part 103 aircraft—the person is not authorised by a Part 103 ASAO to taxi the aircraft.

40 Item 1 of Schedule 1 (paragraph 91.465(2)(a))

After “aircraft”, insert “(other than a Part 131 aircraft)”.

41 Item 1 of Schedule 1 (paragraph 91.475(2)(a))

Omit “at least 2 fire extinguishers”, substitute “at least the number of fire extinguishers mentioned in subregulation (2A)”.

42 Item 1 of Schedule 1 (after subregulation 91.475(2))

Insert:

- (2A) For the purposes of paragraph (2)(a) the number of fire extinguishers is:
- (a) for an aircraft other than a Part 131 aircraft—2; and
 - (b) for a Part 131 aircraft—one.

43 Item 1 of Schedule 1 (after subregulation 91.510(2))

Insert:

- (2A) Subregulation (1) or (2) does not apply in relation to the replacement of fuel cylinders on a Part 131 aircraft.

44 Item 1 of Schedule 1 (at the end of regulation 91.510)

Add:

- Note: A defendant bears an evidential burden in relation to the matters in subregulation (2A): see subsection 13.3(3) of the *Criminal Code*.

45 Item 1 of Schedule 1 (heading to regulation 91.530)

Repeal the heading, substitute:

91.530 When smoking not permitted

46 Item 1 of Schedule 1 (subregulations 91.530(1) and (2))

After “person on an aircraft”, insert “(other than a Part 103 aircraft)”.

47 Item 1 of Schedule 1 (after subregulation 91.530(3))

Insert:

(3A) A person on a Part 103 aircraft for a flight contravenes this subregulation if the person smokes on the aircraft.

48 Item 1 of Schedule 1 (subregulation 91.530(5))

Omit “or (2)”, substitute “, (2) or (3A)”.

49 Item 1 of Schedule 1 (subparagraph 91.625(1)(b)(i))

After “aircraft”, insert “(other than a Part 103 aircraft or a Part 131 aircraft)”.

50 Item 1 of Schedule 1 (at the end of paragraph 91.625(1)(b))

Add:

- ; or (iii) for a Part 103 aircraft—by a Part 103 ASAO; or
- (iv) for a Part 131 aircraft—by a Part 131 pilot authorisation.

51 Item 1 of Schedule 1 (paragraph 91.640(1)(b))

Omit “or eligible”, substitute “eligible or authorised”.

52 Item 1 of Schedule 1 (subparagraph 91.640(1)(b)(i))

After “aircraft”, insert “(other than a Part 103 aircraft or a Part 131 aircraft)”.

53 Item 1 of Schedule 1 (subparagraph 91.640(1)(b)(ii))

Omit “and”, substitute “or”.

54 Item 1 of Schedule 1 (at the end of paragraph 91.640(1)(b))

Add:

- (iii) for a Part 103 aircraft—by a Part 103 ASAO; or
- (iv) for a Part 131 aircraft—by a Part 131 pilot authorisation; and

55 Item 1 of Schedule 1 (paragraph 91.670(1)(a))

After “an aircraft”, insert “other than a glider”.

56 Item 1 of Schedule 1 (paragraph 91.715(2)(c))

After “Part 61”, insert “, by a Part 103 ASAO or by a Part 131 pilot authorisation”.

57 Item 1 of Schedule 1 (paragraph 91.875(2)(c))

After “operation” insert “or a balloon transport operation”.

58 Item 1 of Schedule 1 (paragraph 91.885(b))

Repeal the paragraph, substitute:

- (b) if paragraph (a) does not apply and the aircraft is a Part 103 aircraft—2; or
- (c) in any other case—the lesser of the following:
 - (i) the number of persons the aircraft was designed to carry;
 - (ii) 6.

59 Item 1 of Schedule 1 (subparagraph 91.900(2)(b)(i))

Repeal the subparagraph, substitute:

- (i) under Part 91 or Part 103; or