



Australian Government

Civil Aviation Safety Authority

Civil Aviation Regulations 1988

This consolidation has been prepared by CASA's Legislative Drafting Branch in the Legal Services Group for information purposes only. It is not an official version of the legislation.

Please Note that the *Civil Aviation Regulations 1988* will now be known as **CAR 1988.**

The consolidation includes all amendments up to 15 July 2006.

The text will be updated as necessary, to ensure that it accurately reflects the current Regulations. Should you have any enquiries, please contact Nadia Spesyvy on (02) 6217 1604.

(Statutory Rules 1988 No. 158, as amended by Statutory Rules 1988 Nos. 209, 373 and 376; 1989 Nos. 31 and 276; 1990 Nos. 100, 215, 216, 258, 260, 289, 310, 331, 332 and 466; Act No. 25, 1990; Statutory Rules 1991 Nos. 54, 147, 157, 247, 287, 382, 409, 410, 426 and 487 (as amended by 1992 No. 174); 1992 Nos. 36, 174, 254, 258, 279, 325, 342, 380, 417 and 418; 1993 Nos. 221, 268, 319 (new regulation 239 contained in regulation 16 was disallowed by the Senate on 23 March 1994) and 368; 1994 Nos. 93, 173, 187, 188, 260, 294, 382 and 396; 1995 Nos. 122, 147, 148, and 224; 1996 No 88; 1997 Nos. 23, 67, 111, 139 and 220; 1998 Nos. 31, 32, 219, 234 (disallowed by the senate on 8 March 1999), 235, 236 and 288; 1999 Nos. 166 (as amended by 1999 No. 262), 167, 210, 229, 262, 353 and 354; 2000 No. 8, 204 (Items [1], [4] and [5] of Schedule 3 disallowed by the Senate on 8 November 2000), 205, 227, 261, 294, 295, 296, 362; 2001 Nos. 348, 349; 2002 Nos 79, 167, 180, 221, 267, 319, 350; 2003 Nos. 58, 75, 95, 189, 201, 232, 240, 365; 2004 Nos. 134, 216, 217, 222, 345; 2005 Nos. 137, 242, 243, 321; 2006 No. 184

Act Nos. 25, 1990; 137/2000, 105/03.

The Notes at the end of this edition of the Regulations incorporate the text of transitional, savings and applications provisions which are part of the amending Regulations as indicated. These provisions have been included in various amending regulations to ensure that if an amending regulation relates to an instrument (for example, a licence, direction, rating, delegation) which was in force before the amendment, the instrument continues to have effect as if made under the amending regulation.

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Civil Aviation Regulations

Statutory Rules 1988 No. 158¹

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and pursuant to section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Civil Aviation Act 1988*.

Dated 30 June 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Minister of State for Transport and Communications

PART 1 PRELIMINARY

1 Citation

These Regulations are the *Civil Aviation Regulations 1988*.

2 Interpretation

(1) In these Regulations, unless the contrary intention appears:

AA means a body called Airservices Australia established by subsection 7 (1) of the *Air Services Act 1995*.

acrobatic flight means manoeuvres intentionally performed by an aircraft involving an abrupt change in its attitude, an abnormal attitude, or an abnormal variation in speed.

adopted in pursuance of the Convention means adopted by the International Civil Aviation Organisation in pursuance of Article 37 of the Convention.

aerodrome control service means an air traffic control service for aerodrome traffic.

aerodrome meteorological minima means the minimum heights of cloud base and minimum values of visibility which are determined in pursuance of regulation 257 for the purpose of determining whether an aerodrome may be used for take-off or landing.

aerodrome reference point, in relation to an aerodrome, means the geographical location of the aerodrome:

- (a) determined in accordance with the document known as the Rules and Practices for Aerodromes that is published by CASA; or
- (b) specified by a flying school in its operations manual.

aerodrome traffic means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome.

aerodyne means an aircraft whose support in flight is derived dynamically from the reaction on surfaces in motion relative to the air.

Aeronautical Information Publications or ***AIP*** has the meaning given by regulation 4.12 of the Air Services Regulations.

aeronautical mobile radio service means a radio service between aircraft radio stations and land stations and between two or more aircraft radio stations.

aeroplane means a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight, but does not include power-assisted sailplane.

aeroplane flight review means a test of the aeronautical skills and aeronautical knowledge relevant to aeroplane flight of the person undertaking the review.

aeroplane pilot licence means:

- (a) a private pilot (aeroplane) licence; or
- (b) a commercial pilot (aeroplane) licence; or
- (c) an air transport pilot (aeroplane) licence.

aeroplane pilot rating means:

- (a) a flight instructor (aeroplane) rating; or
- (b) an aeroplane grade of night V.F.R. rating; or
- (c) a command (multi-engine aeroplane) grade of instrument rating;
or
- (d) a command (single engine aeroplane) grade of instrument rating;
or
- (e) a co-pilot (aeroplane) grade of instrument rating; or
- (ea) a multi-engine aeroplane grade of private I.F.R. rating; or
- (eb) a single-engine aeroplane grade of private I.F.R. rating; or
- (f) an aeroplane grade of agricultural rating; or
- (g) an aeroplane grade of night V.F.R. agricultural rating.

aeroplane proficiency check means a check:

- (a) that tests the aeronautical skills and aeronautical knowledge relevant to aeroplane flight of the person undertaking the check; and
- (b) that is required by:
 - (i) subregulation 217 (2); or
 - (ii) if the person flies aeroplanes for an operator who is based in a Contracting State—by the operator or the responsible authority of the State.

agricultural operations means the broadcasting of chemicals, seeds, fertilizers and other substances from aircraft for agricultural purposes, including purposes of pest and disease control.

airborne weather radar system means a radar system installed in an aircraft for the purpose of detecting potentially hazardous weather conditions in the flight path of the aircraft.

aircraft component means:

- (a) any part or equipment for an aircraft that, when fitted to, or provided in an aircraft may, if it is not sound or functioning correctly, affect the safety of the aircraft, its occupants or its cargo or cause the aircraft to become a danger to person or property; or
- (b) flotation equipment, evacuation equipment, ration packs, portable breathing apparatus, fire-fighting equipment, or any other equipment or apparatus, fitted to, or provided in, an aircraft for use in an emergency;

but does not include any part, equipment or apparatus for an aircraft in respect of which a direction is in force under subregulation (2).

aircraft log book means a log book kept for the purposes of subregulation 50A (1).

aircraft maintenance engineer licence means an aircraft maintenance engineer licence in force under regulation 31.

aircraft maintenance record means:

- (a) an aircraft log book; or
- (b) an approved alternative maintenance record.

aircraft material means a material (including a fluid) for use in the manufacture, maintenance, servicing or operation of an aircraft or of an aircraft component, but does not include an aircraft component.

aircraft welding authority means an authority granted under regulation 33D.

air law examination means an examination of a person's knowledge of:

- (a) the requirements of the Act, these Regulations and the Civil Aviation Orders; and
- (b) the information and instructions published in AIP or NOTAMS; set and conducted by CASA under subregulation 5.41 (3).

airline means the operator of a regular public transport service.

airship means a power-driven lighter-than-air aircraft.

airship ground party means a person appointed by the operator of an airship to assist in the arrival and departure of an airship.

airship instructor means a person appointed by CASA under regulation 5.34.

airship proficiency check means a check:

- (a) that tests the aeronautical skills and aeronautical knowledge relevant to airship flight of the person undertaking the check; and
- (b) that is required by:
 - (i) subregulation 217 (2); or
 - (ii) if the person flies airships for an operator who is based in a Contracting State—by the operator or the responsible authority of the State.

air traffic means aircraft:

- (a) in flight; or
- (b) operating on the manoeuvring area of an aerodrome.

air traffic control means:

- (a) AA in its capacity as a provider of air traffic control services; or
- (b) the Defence Force in its capacity as a provider of air traffic control services; or
- (c) a person who provides an air traffic control service in cooperation with AA in accordance with paragraph 11 (3) (b) of the *Air Services Act 1995* or by arrangement with AA in accordance with paragraph 11 (3) (c) of that Act.

air traffic control clearance means an authorisation given by a person performing duty in air traffic control for an aircraft to proceed under conditions specified in the authorisation.

air traffic control instructions means directions given by a person performing duty in air traffic control for an aircraft to conduct its flight in the manner specified in the directions.

air traffic controller licence means a licence granted under regulation 102.

air traffic control service means a service provided for the purpose of:

- (a) preventing collisions:
 - (i) between aircraft; and
 - (ii) on the manoeuvring area between aircraft and obstructions;
and
- (b) expediting and maintaining an orderly flow of air traffic.

Note The definition is essentially that in Annex 11, *Air Traffic Services*, to the Chicago Convention.

air transport (aeroplane) pilot means the holder of an air transport pilot (aeroplane) licence.

air transport (helicopter) pilot means the holder of an air transport pilot (helicopter) licence.

air transport pilot licence means:

- (a) an air transport pilot (aeroplane) licence; or
- (b) an air transport pilot (helicopter) licence.

airworthiness authority means an authority under regulation 33B.

airworthiness directive means:

- (a) an airworthiness directive that has been issued by CASA under regulation 39.001 of CASR and has effect; and
- (b) an airworthiness directive that was issued by CASA under regulation 37A (as previously in force) and continues to have effect because of regulation 202.004 of CASR.

alternate aerodrome means an aerodrome specified in the flight plan to which a flight may proceed when it becomes inadvisable to land at the aerodrome of intended landing.

altitude means the vertical distance of a level or a point, or an object considered as a point, measured from mean sea level.

approach control service means an air traffic control service for arriving or departing flights of aircraft.

approved means approved by CASA.

approved alternative maintenance record means a record kept for the purposes of subregulation 50B (3) or (4).

approved check radio operator means:

- (a) a person who holds:
 - (i) a commercial pilot licence or an air transport pilot licence;
and
 - (ii) a flight instructor rating; or
- (b) a person:
 - (i) employed by, or working under an arrangement with, a training and checking organisation established for the purposes of regulation 217; and
 - (ii) approved by the manager of the organisation to conduct a flight radiotelephone theory examination, a flight practical test, an aircraft radiotelephone certificate examination and an aircraft radiotelephone certificate practical test.

approved maintenance data, in relation to an aircraft, aircraft component or aircraft material, has the meaning given by regulation 2A.

approved system of certification of completion of maintenance means a system of certification of completion of maintenance for which an approval under regulation 42ZG is in force.

approved system of maintenance, in relation to an Australian aircraft, means a system of maintenance for the aircraft in relation to which an approval under regulation 42M is in force.

approved testing officer, for the purposes of a provision in which that expression occurs, means:

- (a) if the provision mentions a particular kind of flight test—a person to whom the Director has delegated CASA's power under regulation 5.19 or subregulation 5.41 (4) to conduct a flight test of that kind; or
- (b) in any other case—a person to whom the Director has delegated CASA's power under regulation 5.19 or subregulation 5.41 (4) to conduct a flight test.

apron means that part of an aerodrome to be used:

- (a) for the purpose of enabling passengers to board, or disembark from, aircraft;
- (b) for loading cargo on to, or unloading cargo from, aircraft; or
- (c) for refuelling, parking or carrying out maintenance on aircraft.

area control service means an air traffic control service for flights of aircraft in control areas.

authorised means authorised by CASA or by a person, or a person included in a class of persons, appointed by CASA to give the authority concerned.

authorised flight instructor means a person who:

- (a) in relation to an aircraft that is not an airship—holds a current flight instructor rating that:
 - (i) is appropriate to the aircraft; and
 - (ii) authorises the holder to give the training concerned; and
- (b) in relation to an airship—is an airship instructor; and
- (c) either:
 - (i) is the holder of an Air Operator's Certificate that authorises flying training; or
 - (ii) is employed to instruct by, or instructs under an arrangement with, a person who is the holder of an Air Operator's Certificate that authorises flying training.

authorised person, for the purposes of a provision in which that expression occurs, means:

- (a) a person appointed under regulation 6 to be an authorised person for the purposes of that first-mentioned provision; or

- (b) a person included in a class of persons appointed under regulation 6 to be authorised persons for the purposes of that first-mentioned provision.

aviation authority means:

- (a) in relation to Australia—CASA; and
(b) in relation to any other country—the authority that has responsibility for regulating the airworthiness standards of civil aircraft in the country.

balloon means a non-power-driven lighter-than-air aircraft.

balloon flight instructor means a person who holds a flight instructor (balloon) rating.

balloon flight review means a test of the aeronautical skills and aeronautical knowledge of the person undertaking the review that are relevant to the safe flight of balloons in aerial work, or charter, operations.

balloon proficiency check means a check:

- (a) that tests the aeronautical skills and aeronautical knowledge relevant to balloon flight of the person undertaking the check; and
(b) that is required by subregulation 217 (2).

car, in relation to a lighter-than-air aircraft, means **basket** whenever, in the case of any particular type of such aircraft, a basket is a constructional feature of that type.

cargo means things other than passengers carried in aircraft.

CASA flying operations inspector means a person employed by CASA as:

- (a) a flying operations inspector (however called); or
(b) a senior flying operations inspector (however called).

CASA maintenance schedule means the schedule of maintenance set out in Schedule 5.

CASA system of certification of completion of maintenance means the system of certification of completion of maintenance set out in Schedule 6.

CASR means the *Civil Aviation Safety Regulations 1988*.

ceiling means the height above the ground or water of the base of the lowest layer of cloud below twenty thousand feet covering more than one-half of the sky.

centre of gravity, in relation to an aircraft at any time, means the centre of gravity of the aircraft at that time estimated in accordance with the method set out in a direction in force under subregulation 235 (1).

certificate of airworthiness means a certificate of airworthiness issued under regulation 21.176 of CASR.

certificate of approval means a certificate of approval in force under regulation 30.

certificate of type approval means a certificate of type approval continued in force under regulation 313 or a type certificate issued under regulation 21.013A or 21.029 of CASR.

certificate of validation means a certificate issued under regulation 5.27.

channel means the part of a water aerodrome that is navigable and cleared for the safety of aircraft taking-off or landing in a given direction.

check flight engineer means a person to whom the Director has delegated CASA's power under subregulation 5.41 (4) to conduct a flight engineer flight test.

chief flying instructor means a person:

- (a) who holds a current flight instructor rating; and
- (b) who is appointed by a flying school to supervise the flying training given by the school; and
- (c) whose appointment is approved by CASA under regulation 5.58.

Civil Aviation Orders means orders issued by CASA under regulation 5.

class A aircraft means an Australian aircraft, other than a balloon, that satisfies either or both of the following paragraphs:

- (a) the aircraft is certificated as a transport category aircraft;
- (b) the aircraft is being used, or is to be used, by the holder of an Air Operator's Certificate which authorises the use of that aircraft for the commercial purpose referred to in paragraph 206 (c).

[Note Subregulation 2 (2C) sets out how an aircraft is certificated as a transport category aircraft.]

class B aircraft means an Australian aircraft that is not a class A aircraft.

class of airspace means a class of airspace determined under subregulation 2.04 (1) (b) of the Air Services Regulations.

commercial (aeroplane) pilot means the holder of a commercial pilot (aeroplane) licence.

commercial (airship) pilot means the holder of a commercial pilot (airship) licence.

commercial (balloon) pilot means the holder of a commercial pilot (balloon) licence.

commercial (gyroplane) pilot means the holder of a commercial pilot (gyroplane) licence.

commercial (helicopter) pilot means the holder of a commercial pilot (helicopter) licence.

commercial operations means civil air operations other than private operations.

commercial pilot licence means:

- (a) a commercial pilot (aeroplane) licence; or
- (b) a commercial pilot (helicopter) licence; or
- (c) a commercial pilot (gyroplane) licence; or
- (d) a commercial pilot (balloon) licence; or
- (e) a commercial pilot (airship) licence.

Commonwealth aircraft means an aircraft, other than a military aircraft, that is in the possession or under the control of the Commonwealth or an authority of the Commonwealth or is being used wholly or principally for a purpose of the Commonwealth.

constable has the same meaning as in the *Crimes Act 1914*.

control area means airspace to which a determination under paragraph 2.04 (1) (d) of the Air Services Regulations applies.

controlled aerodrome means an aerodrome to which a determination under paragraph 2.04 (1) (a) of the Air Services Regulations applies.

controlled airspace means a control area or a control zone.

control zone means an airspace to which a determination under paragraph 2.04 (1) (e) of the Air Services Regulations applies.

co-pilot means a pilot serving in any piloting capacity other than the pilot in command.

crew member means a person assigned by an operator for duty on an aircraft during flight time, and any reference to “crew” has a corresponding meaning.

cross-country flight time means flight time during which the pilot of an aircraft applies a particular method to determine the aircraft’s position and course by geometry, topography or radio navigation aids while the aircraft is flying along a route segment.

cross-country training means flight for the purpose of practising the navigation sequences set out in a syllabus.

cruising level, in relation to an aircraft in flight, means the height above ground or water, or above an atmospheric datum, at which the aircraft flies when it is not climbing or descending.

current certificate holder means a person who holds a private pilot certificate (balloons) that is in force.

current flight plan means the flight plan, with any changes brought about by subsequent air traffic control clearances and air traffic control instructions.

daily inspection, in relation to an aircraft, means:

- (a) if the aircraft is maintained in accordance with the CASA maintenance schedule—the inspection referred to in Part 1 of the schedule; and
- (b) if the aircraft is not maintained in accordance with the CASA maintenance schedule—the inspection required to be carried out under:
 - (i) the manufacturer’s maintenance schedule; or
 - (ii) the aircraft’s approved system of maintenance;
 before the start of flying operations on each day that the aircraft is to be flown.

danger area means an area declared under regulation 2.07 of the Air Services Regulations to be a danger area.

dangerous lights means any lights which may endanger the safety of aircraft, whether by reason of glare, or by causing confusion with or preventing clear visual reception of aeronautical lights or signals.

design standard means:

- (a) a design standard in force under regulation 21 or 21A; or
- (b) a design standard (however described) identified in:
 - (i) a type certificate; or
 - (ii) a type acceptance certificate; or
 - (iii) a supplemental type certificate; or
 - (iv) an Australian Parts Manufacturer Approval issued under subregulation 21.303 (9) of CASR; or
 - (v) an Australian Technical Standard Order mentioned in paragraph 21.601 (2) (a) of CASR.

dual flying means flying in an aircraft fitted with fully functioning dual controls for the purpose of receiving flying training from a person who is authorised by these Regulations to give the training.

elevation means the vertical distance of a point or level on or affixed to the surface of the earth, measured from mean sea level.

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

examination means an examination by way of a test of theoretical knowledge or a practical test of knowledge and skill.

expected approach time means the time at which it is expected that an arriving aircraft will be cleared to commence approach for a landing.

experimental aircraft means an aircraft for which a special certificate of airworthiness is in force under regulation 21.195A of CASR.

FAA means the Federal Aviation Administration of the United States of America.

facilities, in relation to an air route or airway, has the same meaning as in subregulation 1.03 (1) of the Air Services Regulations.

Federal airport has the same meaning as in the *Federal Airports Corporation Act 1986*.

flight control system, in relation to an aircraft, includes:

- (a) the aircraft's main control surfaces and associated operating mechanisms and control systems; and
- (b) the aircraft's lift and drag devices and associated operating mechanisms and control systems; and
- (c) the aircraft's trim and artificial feel systems and associated operating mechanisms and control systems; and
- (d) the aircraft's flight control lock system and associated operating mechanisms and control systems; and
- (e) the aircraft's yaw system and associated operating mechanisms and control systems; and
- (f) if the aircraft is a rotorcraft—the aircraft's pitch control systems; and
- (g) if the aircraft is an airship—the aircraft's ballonnet system and associated operating mechanisms and control systems.

flight crew licence means a licence of a kind referred to in regulation 5.08 and issued under regulation 5.09.

flight crew member means a licensed crew member charged with duties essential to the operation of an aircraft during flight time, and any reference to **flight crew** has a corresponding meaning.

flight crew rating means a rating of a kind mentioned in regulation 5.13.

flight engineer means the holder of a flight engineer licence.

flight engineer proficiency check means a check that would be required under regulation 217 if the flight engineer was a member of an operating crew of an operator to which that regulation applies.

flight engineer time means flight time during which a person performs the duties of a flight engineer in an aircraft, whether or not the person performs the duties under supervision.

flight information area means airspace to which a determination under subparagraph 2.04 (1) (c) (i) of the Air Services Regulations applies.

flight information service means a service provided by air traffic control or Flight Service for the purpose of giving advice and information for the safe and efficient conduct of flights.

flight level 290, in relation to a flight of an aircraft, means the height at which the aircraft's altimeter, if it were adjusted to a reading on the subscale of 1013.2 hectopascals, would show a height of 29 000 feet.

flight manual has the meaning given by regulation 54.

flight navigator time means flight time during which a person carries out the duties of a flight navigator.

flight plan means specified information, provided to air traffic control, relative to the intended flight of an aircraft.

flight radiotelephone practical test means a test set by CASA under subregulation 5.41 (5).

Flight Service means flight advisory services provided by AA.

flight service officer licence means a licence granted under regulation 112.

Note: For definitions of *flight simulator* and *flight training device*, see the CASR Dictionary.

flight test means a practical test of a person's aeronautical knowledge and practical flying skill set by CASA.

flight time means:

- (a) in the case of a heavier-than-air aircraft—the total time from the moment at which the aircraft first moves under its own power for the purpose of taking-off until the moment at which it comes to rest after landing; and
- (b) in the case of a lighter-than-air aircraft—the total time from the moment at which the aircraft first becomes airborne until it comes to rest on the ground, excluding any time during which the aircraft is moored.

flight visibility means the average range of visibility forward from the cockpit of an aircraft in flight.

flying school means a school for which there is an Air Operator's Certificate that authorises the school to conduct flying training.

flying training means any training given during flight time in an aircraft for the purpose of increasing a person's skill in flying the aircraft.

flying training aircraft means an aircraft that is used by a flying school to give flying training.

flying training area, in relation to an aerodrome, means an area that is specified in a flying school's operations manual as the flying training area for the aerodrome.

foreign aircraft means an aircraft registered:

- (a) in a Contracting State or in a foreign country other than a Contracting State; or
- (b) under a joint registration plan or an international registration plan.

free flight time, in relation to a balloon, means any part of the flight time in the balloon during which it is not tethered.

general flight time means flight time that is not:

- (a) cross-country flight time; or
- (b) flight time in flying for the purpose of training in an activity for which a flight crew rating is required.

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

glider means a non-power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight.

grant, in relation to a licence or certificate, means grant of the licence or certificate, either by way of initial issue or by renewal from time to time.

gross weight, in relation to an aircraft at any time, means the weight of the aircraft, together with the weight of all persons and goods (including fuel) on board the aircraft, at that time, estimated in accordance with the method set out in a direction in force under subregulation 235 (1).

ground radar, in relation to a secondary surveillance radar transponder, means an installation on the ground which:

- (a) emits radio signals; and
- (b) may, in response to its signal, receive data signals from a secondary surveillance radar transponder; and
- (c) may direct the data signals to an air traffic control radar display.

group A ultralight means an aircraft that is classified by Recreational Aviation Australia Inc. as a group A ultralight.

gyroplane means a heavier-than-air aircraft:

- (a) that is supported in flight by the reaction of the air on rotors that are not power-driven but rotate when the aircraft is moving because of the action of the air; and
- (b) that has a power-driven propulsion system that is independent of the rotors.

gyroplane flight review means a test of the aeronautical skills and aeronautical knowledge relevant to gyroplane flight of the person undertaking the review.

gyroplane pilot licence means:

- (a) a private pilot (gyroplane) licence; or
- (b) a commercial pilot (gyroplane) licence.

gyroplane pilot rating means:

- (a) a flight instructor (gyroplane) rating; or
- (b) a gyroplane grade of night V.F.R. rating.

gyroplane proficiency check means a check:

- (a) that tests the aeronautical skills and aeronautical knowledge relevant to gyroplane flight of the person undertaking the check; and
- (b) that is required by:
 - (i) subregulation 217 (2); or
 - (ii) if the person flies gyroplanes for an operator who is based in a Contracting State—by the operator or the responsible authority of the State.

hazardous weather conditions means:

- (a) a thunderstorm; or
- (b) wind shear; or
- (c) any other similar meteorological activity;

that may endanger the safety of aircraft or aircraft operations.

heading means the direction in which the longitudinal axis of an aircraft is pointed, usually expressed in degrees from North (true, magnetic or compass).

heavier-than-air aircraft is the generic term for aircraft deriving their lift in flight chiefly from aerodynamic forces.

helicopter means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more normally power-driven rotors on substantially vertical axes.

helicopter flight review means a test of the aeronautical skills and aeronautical knowledge relevant to helicopter flight of the person undertaking the review.

helicopter pilot licence means:

- (a) a private pilot (helicopter) licence; or
- (b) a commercial pilot (helicopter) licence; or
- (c) an air transport pilot (helicopter) licence.

helicopter pilot rating means:

- (a) a flight instructor (helicopter) rating; or
- (b) a helicopter grade of night V.F.R. rating; or
- (c) a command (multi-engine helicopter) grade of instrument rating;
or
- (d) a command (single engine helicopter) grade of instrument rating;
or
- (e) a co-pilot (helicopter) grade of instrument rating; or
- (ea) a multi-engine helicopter grade of private I.F.R. rating; or
- (eb) a single-engine helicopter grade of private I.F.R. rating; or
- (f) a helicopter grade of agricultural rating; or
- (g) a helicopter grade of night V.F.R. agricultural rating.

helicopter proficiency check means a check:

- (a) that tests the aeronautical skills and aeronautical knowledge relevant to helicopter flight of the person undertaking the check;
and
- (b) that is required by:
 - (i) subregulation 217 (2); or
 - (ii) if the person flies helicopters for an operator who is based in a Contracting State—by the operator or the responsible authority of the State.

holder, in relation to a licence or a certificate granted or issued under these Regulations, means a person to whom the licence or the certificate has been granted or issued.

horizontal plane, in relation to an aeroplane, means the plane containing the longitudinal axis and perpendicular to the plane of symmetry of the aeroplane.

hot air airship means an airship given buoyancy by hot air.

ICAO Doc. 9574-AN/934 means Doc. 9574-AN/934 (Manual on Implementation of a 300 m (1 000 ft) Vertical Separation Minimum Between FL 290 and FL 410 Inclusive) approved and published by decision of the Council of the International Civil Aviation Organisation, as in force from time to time.

I.F.R. is the symbol used to designate the Instrument Flight Rules described in Part 12.

I.F.R. flight means a flight conducted in accordance with the Instrument Flight Rules prescribed in Part 12.

I.F.R. operation means an operation conducted in accordance with the Instrument Flight Rules prescribed in Part 12.

I.M.C. is the symbol used to designate meteorological conditions other than those designated by the symbol “V.M.C.”.

instrument flight time means flight time during which a person is flying an aircraft solely by reference to instruments and without external reference points.

instrument ground time means time during which a person practices simulated instrument flight in a synthetic flight trainer that has been approved by CASA under regulation 5.60.

instrument rating means a rating mentioned in paragraph 5.13 (g).

international air service means an air service which passes through the airspace over the territory of more than one country.

international operating agency means an international operating agency referred to in Article 77 of the Convention.

international registration plan means a plan for the registration by an international organisation of aircraft operated, or to be operated, by an international operating agency, being a plan approved by the Council by a determination made in pursuance of Article 77 of the Convention.

International Telecommunications Convention means:

- (a) the International Telecommunications Convention signed at Buenos Aires on 22 December 1952; and
- (b) the Radio Regulations annexed to that Convention.

jet-propelled aircraft includes an aircraft that is propelled by one or more engines of the following kinds, namely, turbofan engines, turbojet engines, unducted fan engines or rocket engines, but does not include an aircraft that is propelled solely by conventional propeller engines.

joint registration plan means a plan for joint registration by Contracting States constituting an international operating agency of aircraft operated, or to be operated, by the agency, being a plan approved by the Council by a determination made in pursuance of Article 77 of the Convention.

landing area means the part of the manoeuvring area primarily intended for landing or take-off of aircraft.

landing strip means a rectangular portion of the landing area, specially prepared for the take-off and landing of aircraft in a particular direction.

land station means a radio station, not capable of being moved, which performs a mobile service.

licensed means licensed under these Regulations.

lighter-than-air aircraft is the generic term for aircraft supported chiefly by their buoyancy in the air.

long-range radio navigation system means a navigation system which:

- (a) is carried on, or installed in, an aircraft; and
- (b) is used to determine the position of the aircraft by simultaneously interpreting radio signals transmitted by a network of ground-based or satellite-based radio transmitters.

maintenance means:

- (a) in relation to an aircraft:
 - (i) the doing of any work (including a modification or repair) on the aircraft that may affect the safety of the aircraft or cause the aircraft to become a danger to person or property; or
 - (ii) the making of a test or an inspection for the purpose of ascertaining whether the aircraft is in a fit state for flying; or
- (b) in relation to an aircraft component or aircraft material:
 - (i) the doing of any work (including a modification or repair) on the aircraft component or aircraft material that may affect its soundness or correct functioning; or
 - (ii) the making of a test or an inspection for the purpose of ascertaining whether the aircraft component or aircraft material is sound or functioning correctly.

maintenance controller means a person:

- (a) appointed under regulation 42ZV; and
- (b) whose appointment:
 - (i) is approved under regulation 42ZW; and
 - (ii) is not suspended or cancelled under regulation 42ZX.

maintenance control manual means a maintenance control manual mentioned in regulation 42ZY.

maintenance instruction means an instruction that is issued by:

- (a) CASA or an authorised person in writing under regulation 38; or

- (b) the manufacturer of an aircraft, aircraft component or aircraft material; or
- (c) the designer of a modification or repair of an aircraft or aircraft component;

but does not include an instruction issued by a manufacturer or designer if it is clear from the terms of the instruction that the manufacturer or designer regards compliance with the instruction as optional.

maintenance release means a maintenance release in force under regulation 43.

maintenance schedule, in relation to a class B aircraft, means the maintenance schedule referred to in regulation 42A, 42B or 42C that applies to the aircraft.

major damage, in relation to an aircraft, means damage of such a kind that it may affect the safety of the aircraft or cause the aircraft to become a danger to person or property.

major defect, in relation to an aircraft, means a defect of such a kind that it may affect the safety of the aircraft or cause the aircraft to become a danger to person or property.

manned balloon means a balloon that is:

- (a) capable of carrying one or more persons; and
- (b) equipped with controls that enable control of the altitude of the balloon.

manual welding means welding carried out and controlled completely by hand.

manufacturer's maintenance schedule, in relation to an aircraft, means a schedule issued by the manufacturer of the aircraft that sets out what maintenance should be carried out on the aircraft and when it should be carried out.

maximum landing weight, in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum landing weight.

maximum take-off weight, in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum take-off weight.

meteorological information means all classes of meteorological reports, analyses, forecasts, warnings, advices and revisions or amendments thereto which may be required in connection with the operation of air routes.

meteorological minima means the minimum values of meteorological elements as determined by CASA in respect of specified types of flight operation.

meteorological observation means the qualitative or quantitative evaluation by instrumental or visual means of one or more meteorological elements at a place at a given time.

meteorological observer means a person authorised by the Director of Meteorology to make or record meteorological observations or a person approved by CASA for that purpose.

meteorological report means a statement, presented in plain language or in code, either orally, in written form or by telecommunication, of past or present meteorological conditions at ground level or in the free air as observed from a given place.

mile means an International Nautical Mile, being 1,852 metres.

military aerodrome means an aerodrome under the control of any part of the Defence Force.

military aircraft means aircraft of any part of the Defence Force (including any aircraft that is being constructed for any part of the Defence Force), other than any aircraft that is registered under these Regulations as an Australian aircraft.

moored, in relation to lighter-than-air aircraft, means the aircraft:

- (a) is tethered; and
- (b) is not occupied by any person.

movement area, in relation to an aerodrome, has the same meaning as in subregulation 1.03 (1) of the Air Services Regulations.

navigation system, in relation to an aircraft, means a system by which the aircraft can be navigated.

night flight means flight during night.

non-controlled aerodrome means an aerodrome at which an air traffic control service is not operating.

Note A non-controlled aerodrome is also known as a non-towered aerodrome.

Notices to Airmen or **NOTAMS** has the meaning given by regulation 4.12 of the Air Services Regulations.

operating crew means any person who:

- (a) is on board an aircraft with the consent of the operator of the aircraft; and
- (b) has duties in relation to the flying or safety of the aircraft.

[*Note* This definition includes persons:

- (a) who are conducting flight tests; or
- (b) who are conducting surveillance to ensure that the flight is conducted in accordance with these Regulations; or
- (c) who are in the aircraft for the purpose of:
 - (i) receiving flying training; or
 - (ii) practising for the issue of a flight crew licence.]

operational information service means a service for the provision of advice and information to assist in the safe and efficient conduct of flights, including the provision of advice and information at the request of a pilot in command of an aircraft.

operator means a person, organisation, or enterprise engaged in, or offering to engage in, an aircraft operation.

overseas authorisation means an authorisation (whether called an authority, licence, certificate, rating or endorsement, or some other name) that:

- (a) authorises the holder to perform duties essential to the operation of aircraft during flight time; and
- (b) is issued by the responsible authority of a Contracting State.

overseas engineer licence means a licence (whether it is called a licence, certificate or authority, or is known by some other name).

- (a) that authorises the holder of the licence to act as an engineer member of the operating crew of an aircraft; and
- (b) that was issued by the responsible authority of a Contracting State.

overseas medical certificate, in relation to an overseas authorisation, means a certificate that:

- (a) is issued by the responsible authority of the Contracting State that issued the authorisation; and
- (b) indicates that its holder meets the medical standard set by the responsible authority; and
- (c) authorises its holder to exercise the authority given by the authorisation in the Contracting State.

overseas pilot licence means a licence (whether it is called a licence, certificate or authority, or is known by some other name):

- (a) that authorises the holder of the licence to act as a pilot member of the operating crew of an aircraft; and
- (b) that was issued by the responsible authority of a Contracting State.

overseas radio licence means a licence (whether it is called a licence, certificate or authority, or is known by some other name) issued in accordance with Annex 1 to the Chicago Convention by a country that is a signatory to the International Telecommunications Convention;

passenger means any person who is on board an aircraft other than a member of the operating crew.

permissible unserviceability, in relation to an aircraft, means a defect in, or damage to, the aircraft of a kind approved by CASA under regulation 37 as a permissible unserviceability in relation to the aircraft.

personal log book means the log book required by regulation 5.51;

pilot licence means:

- (a) private pilot (aeroplane) licence;
- (b) private pilot (helicopter) licence;
- (c) private pilot (gyroplane) licence ;
- (d) commercial pilot (aeroplane) licence;
- (e) commercial pilot (helicopter) licence;
- (f) commercial pilot (gyroplane) licence;
- (g) commercial pilot (balloon) licence;
- (h) commercial pilot (airship) licence;
- (i) air transport pilot (aeroplane) licence;
- (j) air transport pilot (helicopter) licence.

position report means a message, in a specified form, containing information on the position and progress of an aircraft.

positive position fix, in relation to an aircraft in flight, is the point on the surface of the earth vertically below the aircraft as established by:

- (a) in the case of a V.F.R. flight:
 - (i) visual observation; or
 - (ii) use of a radio navigation system or systems; or
 - (iii) use of an approved self-contained navigation system; or
 - (iv) use of an approved long-range radio navigation system; and
- (b) in the case of an I.F.R. flight:
 - (i) use of a radio navigation system or systems; or
 - (ii) use of an approved self-contained navigation system; or
 - (iii) use of an approved long-range radio navigation system.

power-assisted sailplane means an aircraft that the Gliding Federation of Australia has registered as a power-assisted sailplane.

private (aeroplane) pilot means the holder of a private pilot (aeroplane) licence.

private (gyroplane) pilot means the holder of a private pilot (gyroplane) licence.

private (helicopter) pilot means the holder of a private pilot (helicopter) licence.

private I.F.R. rating means a rating mentioned in paragraph 5.13 (ga).

private pilot certificate (balloons) means a certificate that is issued by the Australian Ballooning Federation Ltd.

private pilot licence means:

- (a) a private pilot (aeroplane) licence; or
- (b) a private pilot (helicopter) licence; or
- (c) a private pilot (gyroplane) licence.

prohibited area means an area declared under regulation 2.07 of the Air Services Regulations to be a prohibited area.

provisionally certificated aircraft means an aircraft for which a provisional certificate of airworthiness is in force.

publications means Aeronautical Information Publications or Visual Flight Guides published by the Aeronautical Information Service, and includes any amendments of those publications published by that Service from time to time.

public transport service means a service for the carriage of persons or cargo for hire or reward.

radiocommunication system means equipment is capable of maintaining two-way voice communication through the aeronautical mobile radio service.

radio navigation aid means an installation on the ground that emits radio signals on specified frequencies.

radio navigation system means equipment carried on, or installed in, an aircraft for the purpose of navigating the aircraft by reference to the signals emitted by a radio navigation aid.

radiotelephonic language means:

- (a) the words and phrases that CASA has directed under regulation 82A must be used in communicating by radiotelephone; and
- (b) the voice techniques commonly applied to radiotelephonic communication;

with, or in relation to, an aircraft.

recognised aeroplane means an aeroplane:

- (a) that is on the register of aircraft kept by a Contracting State; or
- (b) that is operated by the Defence Force of Australia or of a Contracting State.

recognised flight time means flight time that is:

- (a) in the case of flight time in a registered aeroplane, or a recognised aeroplane—flown by the holder of:
 - (i) an aeroplane pilot licence; or
 - (ii) a student pilot licence; or
 - (iii) an overseas pilot licence that authorises the holder to fly aeroplanes; or
 - (iv) a pilot qualification issued by the Defence Force of Australia, or of a Contracting State, that authorises the holder to fly aeroplanes; as pilot in command or in dual flying; or
- (b) in the case of flight time in a helicopter—flown by the holder of:
 - (i) a helicopter pilot licence; or

- (ii) a student pilot licence; or
- (iii) an overseas pilot licence that authorises the holder to fly helicopters; or
- (iv) a pilot qualification issued by the Defence Force of Australia, or of a Contracting State, that authorises the holder to fly aeroplanes;
 - as pilot in command or in dual flying; or
- (c) in the case of flight time in a gyroplane—flown by the holder of:
 - (i) a gyroplane pilot licence; or
 - (ii) a student pilot licence; and
 - (iii) an overseas pilot licence that authorises the holder to fly gyroplanes; or
 - (iv) a pilot qualification issued by the Defence Force of Australia, or of a Contracting State, that authorises the holder to fly gyroplanes;
 - as pilot in command or in dual flying; or
- (d) in the case of flight time in a glider, or power-assisted sailplane:
 - (i) flown by the holder of an FAI Silver C Certificate, or a higher certificate, issued by the Gliding Federation of Australia; and
 - (ii) recorded in the holder's log book and certified by a member of the Gliding Federation of Australia who is authorised by the Federation to certify flight time; or
- (e) in the case of flight time in a group A ultralight:
 - (i) flown by the holder of a pilot certificate, either before or after the certificate was issued to the holder, being a pilot certificate, other than a student certificate, issued by Recreational Aviation Australia Inc; and
 - (ii) recorded in the holder's logbook and certified by a member of Recreational Aviation Australia Inc. who is authorised by that body to certify flight time.

Regional Air Navigation Agreement means a Regional Air Navigation Agreement approved by decision of the Council of the International Civil Aviation Organisation.

regular aerodrome means an aerodrome which is listed in the flight plan as an aerodrome of intended landing.

relevant airworthiness standards means:

- (a) for an aircraft that conforms to a type certificate issued, or taken to have been issued, under regulation 21.013A or 21.029 of CASR — the airworthiness standards included in the type certification basis for the aircraft; or

- (b) for an aircraft for which a type acceptance certificate has been issued, or is taken to have been issued, under regulation 21.029A of CASR — the airworthiness standards that the aircraft had to meet for the issue of the foreign type certificate that was the basis for issuing the type certificate.

Note For *type certificate basis* and *foreign type certificate* see the Dictionary at the end of CASR.

relevant NAA, for an aircraft manufactured in a foreign country, means the NAA of the country whose airworthiness standards make up the relevant airworthiness standards for the aircraft.

Note For *NAA* see the Dictionary at the end of CASR.

reporting point means a specified geographical location in relation to which the position of an aircraft can be reported.

reserve time means a period during which a flight crew member is required by an operator to hold himself available for a tour of duty.

responsible authority, in relation to a Contracting State, means the authority that has responsibility for the licensing of persons to perform duties essential to the operation of civil aircraft in the State.

responsible organisation means:

- (a) the responsible authority of a Contracting State; or
- (b) the Defence Force of Australia, or of a Contracting State; or
- (c) a sport aviation body.

rest period means a period of time during which a flight crew member is relieved by an operator of all duties associated with his employment.

restricted area means an area declared under regulation 2.07 of the Air Service Regulations to be a restricted area.

restricted flight engineer means the holder of a restricted flight engineer licence.

restricted flight engineer proficiency check means a check:

- (a) designed to test the competency of a restricted flight engineer; and
- (b) approved for the purposes of regulation 217.

rotorcraft means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more rotors on substantially vertical axes.

route sector means a route, or portion of a route, flown without an intermediate landing.

route segment means a route, or portion of a route, usually flown without an intermediate stop.

RVSM airspace means any of the following:

- (a) the airspace, at or above flight level 290, identified in AIP to be airspace where a vertical separation minimum of 1 000 feet applies;
- (b) the airspace, at or above flight level 290, designated, or otherwise recognised, by the competent authority of a foreign country to be airspace where a vertical separation minimum of 1 000 feet applies;
- (c) airspace, at or above flight level 290, where a vertical separation of 1 000 feet applies under the terms of a Regional Air Navigation Agreement.

RVSM airworthiness approval has the meaning given by regulation 181C.

RVSM airworthiness approved aircraft means:

- (a) an Australian aircraft for which an RVSM airworthiness approval is in force; or
- (b) a foreign aircraft for which an RVSM foreign airworthiness approval is in force.

RVSM foreign airworthiness approval has the meaning given by regulation 181D.

RVSM operational approval has the meaning given by regulation 181E.

secondary surveillance radar transponder means equipment that:

- (a) is carried on, or installed in, an aircraft; and
- (b) can respond to radio signals transmitted to the aircraft by ground radar and relay information about the aircraft's operations including the following:
 - (i) the identity of the aircraft;
 - (ii) the position of the aircraft;
 - (iii) the altitude of the aircraft.

self-contained navigation system means a navigation system which:

- (a) is carried on, or installed in, an aircraft; and
- (b) determines the position of the aircraft without reference to externally generated radio signals .

servicing, in relation to an aircraft, means preparing the aircraft for flight, and includes providing the aircraft with fuel and other fluids that are necessary for its operation, but does not include any work that is maintenance.

signal area means a selected part of an aerodrome used for the display of ground signals so that they will be visible to aircraft in the air.

special pilot licence means a pilot licence issued under regulation 5.198.

specific subject means a subject for examination under these Regulations, being a subject related to the maintenance of a particular type of aircraft, engine, electrical installation, instrument installation or radio system, declared by CASA, by notification published in Civil

Aviation Orders, to be a specific subject for the purposes of these Regulations.

sport aviation body means:

- (a) Recreational Aviation Australia Inc.; or
- (b) the Australian Ballooning Federation Ltd; or
- (c) the Gliding Federation of Australia; or
- (d) the Hang-gliding Federation of Australia; or
- (e) the Australian Parachute Federation; or
- (f) a body established in a Contracting State to administer sport aviation in that State.

State includes the Northern Territory.

student flight engineer means the holder of a student flight engineer licence.

student pilot means the holder of a student pilot licence.

student pilot area limit, in relation to a flight undertaken by a student pilot, means:

- (a) a traffic pattern; or
- (b) the area within 10 miles from the aerodrome reference point of the aerodrome from which the flight commenced; or
- (c) a flying training area associated with the aerodrome from which the flight commenced; or
- (d) the most direct route between the aerodrome from which the flight commenced and a flying training area associated with the aerodrome.

syllabus means a syllabus of training published under regulation 5.59.

synthetic flight trainer means a flight simulator, a flight training device, or a synthetic trainer.

Note 1 For definitions of **flight simulator** and **flight training device**, see the CASR Dictionary.

Note 2 Standards for flight simulators and flight training devices are set out in the document called 'Manual of Standards (MOS) – Part 60' published by CASA.

Note 3 Standards for synthetic trainers are set out in the document called 'FSD-2 Operational Standards and Requirements – Approved Synthetic Trainers' published by CASA.

synthetic trainer means a ground training device, other than a flight simulator or a flight training device, that simulates or represents flight conditions, aircraft characteristics and a cockpit environment.

taxi speed means the speed at which an aeroplane manoeuvres on the surface of an aerodrome under its own power when it is neither taking-off nor landing.

Territory does not include the Northern Territory.

tethered, in relation to a lighter-than-air aircraft, means attached to the ground, or an object on the ground, by flexible restraints that limit the movement of the aircraft.

tethered flight time, in relation to a balloon, means any part of the flight time in the balloon during which the balloon is tethered.

the Act means the *Civil Aviation Act 1988*.

the Convention means the Chicago Convention.

the Director of Meteorology means the Director of Meteorology under the *Meteorology Act 1955*.

theory examination means an examination of a person's aeronautical knowledge set and conducted by CASA under subregulation 5.41 (1).

these regulations includes CASR.

time-in-service means:

- (a) in relation to an aircraft—the period starting when the aircraft takes off on a flight and ending when the aircraft lands at the end of the flight; and
- (b) in relation to an aircraft component—the period:
 - (i) during which the component is fitted to or provided in an aircraft; and
 - (ii) starting when the aircraft takes off on a flight and ending when the aircraft lands at the end of the flight.

time-lifed aircraft component means an aircraft component (including an engine or propeller) that:

- (a) the manufacturer of the component; or
- (b) if the component has been modified—the designer of the modification; or
- (c) CASA;

has instructed must be retired or overhauled or removed from an aircraft within a particular period.

tour of duty means a period from the time at which a flight crew member commences any duties associated with his employment before making a flight or series of flights until the time at which he is finally relieved of all such duties after the termination of the flight or flights, and includes a period during which a flight crew member is required by an operator to hold himself available at an aerodrome for the performance of any such duties.

track means the projection on the earth's surface of the path of an aircraft, the direction of which at any point is usually expressed in degrees from North (true or magnetic).

traffic advisory service means a service provided by air traffic control for the purpose of giving traffic information and advice, except traffic avoidance advice, to help a pilot avoid a collision.

traffic avoidance advice means advice provided by air traffic control specifying manoeuvres to help a pilot avoid a collision.

traffic information means information issued by air traffic control or Flight Service to alert the pilot of an aircraft to other aircraft that may be close to the position, or the intended route, of his or her aircraft, so as to help the pilot avoid a collision.

traffic pattern means the path over the ground of aircraft in flight in the vicinity of an aerodrome during the execution of take-offs and landings and their paths when manoeuvring on the manoeuvring area.

training flight engineer means a flight engineer employed by, or working under an arrangement with, an approved training and checking organisation to carry out training and supervision of flight engineers.

TSO followed by the letter “C” and a number means the Technical Standard Order so numbered issued by the Administrator of the FAA.

unlawful interference with aviation has the same meaning as in section 3AE of the *Air Navigation Act 1920*.

vertical plane, in relation to an aeroplane, means a plane perpendicular to the horizontal plane.

V.F.R. is the symbol used to designate the Visual Flight Rules prescribed in Part 12.

V.F.R. flight means a flight conducted in accordance with Visual Flight Rules prescribed in Part 12.

V.F.R. operation means an operation conducted under Visual Flight Rules prescribed in Part 12.

visibility means the ability, as determined by atmospheric conditions and expressed in units of distance, to see and identify prominent unlighted objects by day and prominent lighted objects by night.

V.M.C. is the symbol used to designate meteorological conditions in which the flight visibility and distances from cloud during a flight are equal to, or greater than, the applicable distances determined by CASA under subregulation 172 (2).

- (2) CASA may direct that any part, equipment or apparatus for an aircraft shall, for the purposes of these Regulations, be deemed not to be an aircraft component.
- (2A) A reference in these Regulations to maintenance on an aircraft includes a reference to maintenance on aircraft components and aircraft materials.
- (2B) A reference in these Regulations to an aircraft component, or aircraft material, included in an aircraft includes a reference to an aircraft component or aircraft material that is usually included in the aircraft but that has been temporarily removed from the aircraft for any purpose (including for the purpose of having maintenance carried out).

- (2C) For the purposes of these Regulations, an aircraft is certificated as a transport category aircraft if:
- (a) there is a certificate of airworthiness in force in relation to the aircraft; and
 - (b) the certificate includes a statement to the effect that the certificate is issued in the transport category.
- (2D) For the purposes of these Regulations, the categories of maintenance are as follows:
- (a) maintenance on aircraft airframes;
 - (b) maintenance on aircraft engines;
 - (c) maintenance on aircraft radio systems;
 - (d) maintenance on aircraft electrical systems;
 - (e) maintenance on aircraft instruments.
- (3) In Division 2 of Part 11 and in Parts 12 and 13, unless the contrary intention appears:
- landing** includes alighting on the water and “to land” has a corresponding meaning;
- rule** means a rule prescribed by a regulation contained in that Division or those Parts and “the rules” has a corresponding meaning;
- visible**, in relation to lights, means visible on a dark night with a clear atmosphere.
- (4) For the purposes of Division 2 of Part 11 and Parts 12 and 13, an aircraft shall be deemed to be :
- (a) “on the surface of the water” when any part of the aircraft is in contact with the water;
 - (b) “making way” if, being under way in the air or on the surface of the water, it has a velocity relative to the air or the water, as the case may be;
 - (c) “under command” when it is able to manoeuvre as required by the rules contained in the provisions of Division 2 of Part 11 and in the provisions of Parts 12 and 13 of these Regulations or by the International Regulations for Preventing Collisions at Sea as set forth in Schedule 3 to the *Navigation Act 1920*;
 - (d) “under way” if, being in the air or on the surface of the water, it is not aground or moored to the ground or to any fixed object on the land or in the water.
- (5) Where any rule contained in the provisions of Division 2 of Part 11 or in the provisions of Parts 12 and 13 contains a provision similar to that of a rule contained in the Rules of the Air adopted in pursuance of the Convention, but a distance which in the last-mentioned rule is expressed by kilometres, metres or centimetres (as the case may be) is in the first-mentioned rule expressed in miles, feet or inches, an aircraft which, in respect of that distance, complies with the last-mentioned rule shall also be deemed to comply with the first-mentioned rule.

- (6) For the purposes of these Regulations, an aircraft shall be classified in accordance with the type of operations in which it is being employed at any time, as follows:
- (a) when an aircraft is being employed in aerial work operations, it shall be classified as an aerial work aircraft;
 - (b) when an aircraft is being employed in charter operations, it shall be classified as a charter aircraft;
 - (c) when an aircraft is being employed in regular public transport operations, it shall be classified as a regular public transport aircraft;
 - (d) when an aircraft is being employed in private operations, it shall be classified as a private aircraft.
- (7) For the purposes of these Regulations:
- (a) an aircraft that is flying or operating for a commercial purpose referred to in paragraph 206 (1) (a) shall be taken to be employed in aerial work operations;
 - (b) an aircraft that is flying or operating for a commercial purpose referred to in paragraph 206 (1) (b) shall be taken to be employed in charter operations;
 - (c) an aircraft that is flying or operating for the commercial purpose referred to in paragraph 206 (1) (c) shall be taken to be employed in regular public transport operations; and
 - (d) an aircraft that is flying or operating for the purpose of, or in the course of:
 - (i) the personal transportation of the owner of the aircraft;
 - (ii) aerial spotting where no remuneration is received by the pilot or the owner of the aircraft or by any person or organisation on whose behalf the spotting is conducted;
 - (iii) agricultural operations on land owned and occupied by the owner of the aircraft;
 - (iv) aerial photography where no remuneration is received by the pilot or the owner of the aircraft or by any person or organisation on whose behalf the photography is conducted;
 - (v) the carriage of persons or the carriage of goods without a charge for the carriage being made other than the carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft;
 - (va) the carriage of persons in accordance with subregulation (7A);
 - (vi) the carriage of goods otherwise than for the purposes of trade;
 - (vii) conversion training for the purpose of endorsement of an additional type or category of aircraft in a pilot licence; or
 - (viii) any other activity of a kind substantially similar to any of those specified in subparagraphs (i) to (vi) (inclusive);
 shall be taken to be employed in private operations.

- (7A) An aircraft that carries persons on a flight, otherwise than in accordance with a fixed schedule between terminals, is employed in a private operation if:
- (a) public notice of the flight has not been given by any form of public advertisement or announcement; and
 - (b) the number of persons on the flight, including the operating crew, does not exceed 6; and
 - (c) no payment is made for the services of the operating crew; and
 - (d) the persons on the flight, including the operating crew, share equally in the costs of the flight; and
 - (e) no payment is required for a person on the flight other than a payment under paragraph (d).
- (7B) For these Regulations, an unmanned aircraft that is operating in accordance with Part 101 of CASR, or an approval granted by CASA under that Part, is employed in aerial work operations.
- (8) For the purposes of these Regulations, civil air operations are divided into the classes of operations referred to in subregulation (7).
- (9) Any reference in these Regulations to the owner of an aircraft must, where under a contract of hire or charter agreement the control, maintenance and operation of the aircraft is vested in the hirer, be read as a reference to the hirer.
- (10) Any reference in these Regulations to height shall be read as a reference to:
- (a) the vertical distance of a level or a point, or if an object is specified, that object considered as a point, measured from the datum specified in connection with the reference, or where no datum is specified, measured from the ground or water; or
 - (b) the vertical dimension of an object;
- as the case requires.
- (11) For the purposes of these Regulations, any reference to endorsement in a licence or other document shall be read as a reference to endorsement on the document, and matter shall be deemed to be endorsed on a document if it is written on any part of the document.
- (12) A provision in these Regulations that requires, prohibits or authorises the doing by an aircraft or a person of an act or thing at night or by night shall be read as a provision that requires, prohibits or authorises, as the case may be, the doing by the aircraft or the person of the act or thing when the aircraft or person is at or over a place:
- (a) if a period has been determined in accordance with regulation 310 in respect of the area in which the place is—at any time in that period; or
 - (b) in any other case—at any time after evening civil twilight at that place has ended and before morning civil twilight at that place next commences.

- (13) Notes in square brackets in these Regulations are included for information only and do not form part of the Regulations.

2A Approved maintenance data

- (1) Subject to subregulation (3), the approved maintenance data for an aircraft, aircraft component or aircraft material consists of the requirements, specifications and instructions that are:
- (a) contained in the maintenance data set out in subregulation (2); and
 - (b) applicable to the maintenance of the aircraft, aircraft component or aircraft material, as the case requires.
- (2) For the purposes of paragraph (1) (a), the maintenance data are:
- (a) requirements in:
 - (i) regulations 42U, 42W, 42X, 42Y, 42Z and 42ZA or in instruments made under those regulations; and
 - (ii) directions (however described) made under an airworthiness directive or under regulation 25, 38 or 44; being requirements that specify how maintenance on aircraft, aircraft components or aircraft materials is to be carried out; and
 - (b) specifications in documents or designs approved under regulations 22 or 35 by CASA or by authorised persons as to how maintenance on aircraft, aircraft components or aircraft materials is to be carried out; and
 - (c) instructions, issued by the manufacturers of aircraft, aircraft components or aircraft materials, that specify how maintenance on the aircraft, components or materials is to be carried out; and
 - (d) instructions, issued by the designers of modifications of aircraft or aircraft components, that specify how maintenance on the aircraft or components is to be carried out; and
 - (e) any other instructions, approved by CASA under subregulation (4) for the purposes of this paragraph, relating to how maintenance on aircraft, aircraft components or aircraft materials is to be carried out.

- (3) CASA may, for the purpose of ensuring the safety of air navigation, declare in writing that an instruction mentioned in paragraph (2) (c) or (d) that CASA thinks is deficient is not included in the approved maintenance data for an aircraft, aircraft component or aircraft material.
- (4) CASA may, for the purposes of paragraph (2) (e), approve instructions relating to how maintenance on aircraft, aircraft components or aircraft material is to be carried out.

2B Powers to issue directions etc.

- (1) If:
 - (a) a provision of these Regulations refers to a prescribed act done by CASA or an authorised person; and
 - (b) there is no provision of the Act or these Regulations expressly authorising CASA or an authorised person to do the act;the provision mentioned in paragraph (a) is taken to authorise CASA or an authorised person, as the case may be, to do the act.
- (2) For the purposes of this regulation, CASA or an authorised person is taken to do a prescribed act if CASA or the authorised person issues, gives or grants a direction, instruction, notification, exemption, permission, approval or authority, or does any other act or thing.

2C How to read CASR

- (1) CASR is to be read with, and as if it formed part of, these regulations.
- (2) However, if there is any inconsistency between these regulations and CASR, CASR prevails to the extent of the inconsistency.

3 Application of Regulations

- (1) Subject to these Regulations, these Regulations apply to and in relation to:
 - (a) international air navigation within Australian territory;
 - (b) air navigation in relation to trade and commerce with other countries and among the States;
 - (c) air navigation within the Territories;
 - (d) air navigation to or from the Territories;
 - (e) air navigation in which a Commonwealth aircraft is engaged;
 - (f) air navigation in controlled air space that is of a kind not specified in paragraph (a), (b), (c), (d) or (e) but directly affects, or may endanger, the safety of persons or aircraft engaged in:
 - (i) air navigation of a kind specified in paragraph (a), (b), (d) or (e); or
 - (ii) air navigation in which a military aircraft is engaged; and
 - (g) all air navigation within Australian territory of a kind not specified in paragraph (a), (b), (c), (d) or (e).

- (2) Except where otherwise prescribed, the provisions of these Regulations shall apply to and in relation to Australian aircraft engaged in air navigation outside Australian territory.
- (3) When an Australian aircraft is flying over the high seas, the provisions of Annex 2 to the Convention shall apply to and in relation to that aircraft and that flight in substitution for the corresponding provisions of these Regulations relating to the flight and manoeuvre of aircraft.
- (4) CASA shall notify in Aeronautical Information Publications any differences between the provisions of these Regulations relating to the flight and manoeuvre of aircraft and the provisions of Annex 2 to the Convention.
- (5) Subject to these Regulations, these Regulations do not apply to or in relation to state aircraft or to military aerodromes.
- (6) Notwithstanding the provisions of subregulation (5), the provisions of these Regulations relating to flight and manoeuvre of aircraft and the licensing of personnel apply to and in relation to a flight by an Australian military aircraft where the aircraft is flown by a person other than a member of the Defence Force.

PART 2 ADMINISTRATION AND ORGANISATION

4 CASA

- (1) CASA shall, subject to the directions of the Minister, be charged with the administration of these Regulations, and shall exercise and perform the powers and functions conferred on CASA by these Regulations.
- (2) CASA shall maintain close liaison with the Department of Defence in matters of common interest.

5 Civil Aviation Orders

- (1) Wherever CASA is empowered or required under these Regulations to issue any direction, instruction or notification or to give any permission, approval or authority, CASA may, unless the contrary intention appears in the regulation conferring the power or function or imposing the obligation or duty, issue the direction or notification or give the permission, approval or authority in Civil Aviation Orders or otherwise in writing.
- (2) Expressions used in Civil Aviation Orders shall, unless the contrary intention appears, have the same meanings as in these Regulations.
- (3) If a direction, instruction or notification relating to a person is issued in Civil Aviation Orders, the direction, instruction or notification, as the case may be, is taken to have been served on the person on the date on which the making of the Order is notified in the *Gazette*.

5A Certain directions etc. to be disallowable instruments

- (1) If:
 - (a) CASA has issued a Civil Aviation Order that is not an Airworthiness Directive, whether before or after 16 June 1994; and
 - (b) a prescribed direction or exemption is issued, given or granted on or after that day; and
 - (c) the prescribed direction or exemption has the effect of repealing, amending, or otherwise affecting the operation of, anything in the Order;

the prescribed direction or exemption is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

- (2) In this regulation:

prescribed direction or exemption means a direction, instruction, notification, exemption, permission, approval or authority (however described or commonly called) issued, given or granted under these Regulations, but does not include anything in:

 - (a) a Civil Aviation Order; or
 - (b) an airworthiness directive; or

- (c) an instrument that is declared under any other provision of these Regulations to be a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

6 Authorised persons

- (1) CASA may, in writing:
- (a) appoint a person to be an authorised person for the purposes of a provision of these Regulations in which the expression “authorised person” occurs; or
 - (b) appoint persons included in a class of person to be authorised persons for the purposes of a provision of these Regulations in which the expression “authorised person” occurs.
- (2) An appointment under subregulation (1) may be made subject to such conditions as are specified in the instrument of appointment.

6A Identity cards

- (1) CASA must issue an identity card to an authorised person:
- (a) appointed under regulation 6 for the purposes of any 1 or more of the following provisions:
 - (i) subregulation 30 (4);
 - (ii) subregulation 33 (2);
 - (iii) regulation 43A;
 - (iv) regulation 50D;
 - (v) regulation 53;
 - (viii) regulation 227;
 - (ix) regulation 290;
 - (x) regulation 302;
 - (xi) regulation 310B; or
 - (b) acting under regulation 305.
- (2) An identity card must:
- (a) bear a recent photograph of the person; and
 - (b) identify whichever of the provisions referred to in subregulation (1) is relevant; and
 - (c) be in a form approved, in writing, by CASA.
- (3) If a person issued with an identity card stops being an authorised person for the purposes of all or any provision identified in it, the person must return the card to CASA within 7 days of the person stopping being an authorised person.
- Penalty: 1 penalty unit.
- (3A) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3B) It is a defence to a prosecution under subregulation (3) if the defendant returned the identity card to CASA as soon as practicable.

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

- (4) If a person returns an identity card because he or she has stopped being an authorised person for the purposes of only some of the provisions identified in it, CASA must, as soon as practicable, issue to the person a new identity card under subregulation (1) identifying the provisions for the purposes of which the person is still appointed as an authorised person.

7 Delegation by CASA

- (1) The Director may, in writing, delegate to a person all or any of CASA's powers and functions under CAR.
- (2) A delegation may be made subject to conditions that are necessary in the interests of the safety of air navigation.
- (3) A delegate is subject to any written direction of the Director in the exercise of a power, or the performance of a function, delegated under subregulation (1).

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NOTE

Pages 39 to 50 have been omitted following the repeal of Part 3

PART 4 AIRWORTHINESS REQUIREMENTS**Division 1 Design standards****21 Design standards for aircraft**

- (1) CASA may issue a design standard for an aircraft for which no appropriate design standard is in force.
- (2) However, CASA must issue a design standard for an aircraft for which no appropriate design standard is in force if a person applies under regulation 35 for approval of the design of a modification or repair of the aircraft.
- (3) A design standard must state the specifications with which CASA considers the aircraft should comply to ensure that it is capable of being flown safely in normal operations in accordance with these regulations.

21A Design standards for aircraft components

- (1) CASA may issue a design standard for an aircraft component for which no appropriate design standard is in force.
- (2) However, CASA must issue a design standard for an aircraft component for which no appropriate design standard is in force if:
 - (a) the person applies under regulation 35 for approval of the design of a modification or repair of a component; or
 - (b) a person applies under regulation 36 for approval of a component.
- (3) A design standard must state the specifications with which CASA considers the component should comply to ensure that the aircraft fitted with the component is capable of being flown safely in normal operations in accordance with these regulations.

Division 2 Foreign Operators**29 Damage etc. to aircraft of a Contracting State**

- (1) Where an aircraft possessing the nationality of a Contracting State is in Australian territory and is found to have suffered major damage or to have developed a major defect, CASA may direct that the aircraft shall not fly.
- (2) Where CASA gives a direction under this regulation, CASA shall furnish to the appropriate authority of the Contracting State a notification of the action taken by CASA and a report of the damage or defect, as the case may be.
- (3) CASA may, unless CASA considers that it would be detrimental to the safety of air navigation to do so, revoke a direction given under this regulation if the appropriate authority of the Contracting State notifies CASA that the appropriate authority:
 - (a) has revoked any suspension of the certificate of airworthiness of the aircraft to which the direction relates that the appropriate authority had imposed;
 - (b) considers that the damage or defect by reason of which the direction was given is not of such a nature as to prevent the aircraft from fulfilling the minimum requirements of safety adopted in pursuance of the Convention; or
 - (c) considers that, in the circumstances of the case, the aircraft to which the direction relates should be permitted to fly without passengers to a place at which the necessary repairs or modifications can be made.
- (4) In revoking a direction under this regulation, CASA may give a further direction imposing such conditions on the operation of the aircraft as are notified to CASA by the appropriate authority referred to in subregulation (3).
- (5) A direction given under this regulation does not have effect in relation to a person until it has been served:
 - (a) on the person; or
 - (b) if the direction cannot be served on the person—by affixing the direction to the aircraft to which it relates.
- (6) A person must not fly an aircraft in contravention of a direction, or any condition imposed by a direction, given under this regulation.
Penalty: 50 penalty units.
- (7) An offence against subregulation (6) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

Division 3 **Certificates of Approval, Aircraft Maintenance Engineer Licences, Airworthiness Authorities and Aircraft Welding Authorities**

29A **Interpretation**

- (1) In this Division:
- aircraft welding examination** means a welding examination:
- (a) based on examination materials published by CASA in a document called “Aircraft Welding Examinations”, as in force from time to time; and
 - (b) conducted by CASA or an authorised person;
- welding training** means practical and theoretical training that:
- (a) is based on Australian Standard AS 1796 as in force from time to time; and
 - (b) is conducted by an organisation that carries out training in welding.
- (2) For the purposes of this Division, the types of manual welding are as follows:
- (a) type 1—gas welding;
 - (b) type 2—braze welding;
 - (c) type 3—manual metal arc welding;
 - (d) type 4—gas tungsten arc welding;
 - (e) type 5—gas metal arc welding;
 - (f) type 6—plasma arc welding.
- (3) For the purposes of this Division, the parent metal groups are as follows:
- (a) group 1—aluminium alloys;
 - (b) group 2—magnesium alloys;
 - (c) group 3—carbon steel and low alloy steels;
 - (d) group 4—corrosion and heat resisting steels;
 - (e) group 5—nickel alloys;
 - (f) group 6—copper-based alloys;
 - (g) group 7—titanium alloys.

30 **Certificates of approval**

- (1) A person engaged, or intending to engage, in any stage of design, , distribution or maintenance of aircraft, aircraft components or aircraft materials, or in the training of candidates for, or in the conducting of, the examinations referred to in paragraph 31 (4) (e) may apply to CASA for a certificate of approval in respect of those activities.
- (2) An application must be in writing and must:
- (a) set out the following:
 - (i) a statement of the activities to be covered by the certificate;

- (ii) the address of the main place (if any) at which the applicant proposes to carry out those activities;
 - (iii) the number of appropriately qualified or experienced persons employed by the applicant who will be involved in carrying out those activities; and
 - (b) have with it evidence of:
 - (i) the relevant qualifications and experience of the applicant and the applicant's employees; and
 - (ii) the facilities and equipment available to the applicant for the carrying out of the activities; and
 - (iii) the arrangements made to ensure the applicant has, and will continue to receive, information necessary for the carrying out of those activities; and
 - (iv) a system of quality control that satisfies the requirements of subregulation (2D); and
 - (c) if maintenance of class A aircraft is an activity to be covered by the certificate—have with it a copy of the procedures manual, in which the system of quality control procedures must be set out, that the applicant proposes to use if the certificate of approval is granted.
- (2A) CASA must grant the applicant a certificate of approval covering the activities to which the application relates if CASA is satisfied that the applicant is able to carry out the activities in a satisfactory manner.
- (2B) In deciding whether it is satisfied as mentioned in subregulation (2A), CASA must have regard to:
- (a) the relevant qualifications and experience of the applicant and the applicant's employees; and
 - (b) the facilities and equipment available to the applicant for the carrying out of those activities; and
 - (c) the arrangements made to ensure the applicant has, and will continue to receive, the information necessary for the carrying out of those activities; and
 - (d) the applicant's system of quality control; and
 - (e) if the applicant is required by paragraph (2)(c) to have a procedures manual—the applicant's procedures manual.
- (2C) A certificate of approval is subject to:
- (a) a condition that each activity the certificate covers must only be carried out at a place where the facilities and equipment necessary for the proper carrying out of the activity are available to the holder of the certificate;
 - (b) a condition that the activities the certificate covers must be carried out in accordance with a system of quality control that satisfies the requirements of subregulation (2D); and
 - (c) if the certificate covers some or all of the following activities:
 - (i) the design of aircraft;
 - (ii) the design of aircraft components;

- (iii) the design of aircraft materials;
 - (vii) the maintenance of aircraft;
 - (viii) the maintenance of aircraft components;
 - (ix) the maintenance of aircraft materials;
 - (x) the training of candidates for the examinations referred to in paragraph 31 (4) (e);
 - (xi) the conducting of the examinations referred to in paragraph 31 (4) (e);
- a condition that each of those activities that is covered by the certificate must be carried out under the control of a person appointed by the applicant to control the activities; and
- (d) a condition that the holder of the certificate of approval must ensure that each person employed by, or working under an arrangement with, the holder receives adequate training in:
 - (i) the work performed by the person for the purposes of the activities covered by the certificate; and
 - (ii) the use of any equipment used in connection with that work.
- (2D) A system of quality control must be in writing and must contain the following:
- (a) the procedures to be followed in connection with the carrying out of the activities covered by the certificate that, in particular, includes procedures for:
 - (i) the control of the work carried out under the certificate; and
 - (ii) the maintenance, control and calibration of equipment; and
 - (iii) the control of stores;
 - (b) a statement:
 - (i) that sets out the places at which the activities covered by the certificate are, or will be, carried out and which activities are, or will be, carried out at each place; and
 - (ii) that identifies any mobile facilities available to the certificate of approval holder for the carrying out of the activities covered by the certificate and which activities are, or will be, carried out using each mobile facility;

- (c) in relation to each activity covered by the certificate that is required, by paragraph (2C) (c), to be carried out under the control of a person—the name of the position occupied by the person who controls the carrying out of the activity;
- (d) a description of the applicant's organisational structure, the responsibilities of employees within the structure and the procedures to be followed by the employees in undertaking the activities covered by the certificate;
- (e) a description of the resources for implementing quality management;
- (f) a description of the audit system applying to the system of quality control;
- (g) if the quality control system is set out in a procedures manual required under paragraph (2) (c)—a statement of the procedures to be followed in relation to the amendment of the procedures manual.

[*Note* Australian Standards AS3900 to AS3904 provide guidance for the content of a system of quality control.]

- (3) CASA may, for the purpose of ensuring the safety of air navigation, include in a certificate of approval granted under this regulation an endorsement that the certificate is granted subject to a condition set out in the endorsement, in a document issued with the certificate of approval or in a specified Part or Section of Civil Aviation Orders.
- (3A) A person must not contravene a condition to which a certificate of approval is subject.
Penalty: 25 penalty units.
- (3B) An offence against subregulation (3A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3C) It is a defence to a prosecution under subregulation (3A) if the defendant had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (3C) (see subsection 13.3 (3) of the *Criminal Code*).
- (4) An authorised person may, at any time, for the purpose of ascertaining whether the activities to which a certificate of approval relates are being carried on in a satisfactory manner:
 - (a) inspect any aircraft, aircraft component or aircraft material;
 - (b) inspect any process or systems carried on by, any records maintained by or any documents in the possession of, the holder of the certificate of approval in connection with the activities to which the certificate of approval relates;
 - (c) conduct any tests that the authorised person considers necessary; and
 - (d) require the holder of the certificate of approval to furnish to the authorised person such evidence as the authorised person requires:

- (i) of the qualifications and competence of the holder or of the qualifications and competence of the employees of the holder; or
 - (ii) of the facilities at the disposal of the holder.
- (4A) The holder of a certificate of approval must give to an authorised person the evidence required under paragraph (4) (d).
Penalty: 5 penalty units.
- (4B) An offence against subregulation (4A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) An authorised person must produce his or her identity card for inspection while acting as an authorised person if asked to do so by:
- (a) the holder of the certificate of approval; or
 - (b) a person:
 - (i) who has control over any subject matter or thing specified in subregulation (4); or
 - (ii) who apparently has control over any subject matter or thing specified in subregulation (4).
- (6) Where an authorised person:
- (a) is acting as an authorised person; and
 - (b) under subregulation (4), seeks to carry out an inspection, conduct a test or require evidence to be furnished or is carrying out an inspection, conducting a test or requiring evidence to be furnished; and
 - (c) fails to produce his or her identity card for inspection when asked to do so;
- that person:
- (d) is not authorised to carry out the inspection, conduct the test or require evidence to be furnished; and
 - (e) if that person is carrying out one of those activities, must cease that activity immediately.

30A Changes to certificates of approval

- (1) The holder of a certificate of approval may, in writing, request CASA to approve a proposed change to any of the particulars specified in the certificate, including the activities covered by the certificate.
- (2) The request must have with it a copy of the proposed change.
- (3) CASA must approve the change if CASA is satisfied that, if the certificate of approval is changed in the manner proposed, the holder of the certificate will carry out the activities covered by the certificate in a satisfactory manner.
- (4) In deciding whether it is satisfied as mentioned in subregulation (3), CASA must have regard to the matters referred to in subregulation 30 (2B).

- (5) If CASA approves the change, the approval has effect from when notice of the approval is given to the person who requested approval of the change.
- (6) A purported change to a certificate of approval has no effect unless it has been approved under subregulation (3) and that approval is in force.

30B Notice of events to be given

- (1) Subject to subregulation (2), CASA may, by notice in writing given to the holder of a certificate of approval, require the holder to notify CASA of the happening of an event specified in the notice within a specified period.
- (2) Events specified in the notice must be events that CASA thinks might adversely affect the carrying out of the activities covered by the certificate of approval.
- (3) The holder of the certificate of approval must comply with the notice.
Penalty: 5 penalty units.
- (4) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

31 Aircraft maintenance engineer licences

- (1) A qualified person may apply to CASA for the issue of an aircraft maintenance engineer licence in one or more of the following categories:
 - (a) airframes;
 - (b) engines;
 - (c) radio;
 - (d) electrical;
 - (e) instruments.
- (1A) CASA may issue to the person a licence in the category specified in the application.
- (1B) When issuing a licence, CASA must endorse it with the category in which the licence is issued.
- (2) CASA may, when issuing an aircraft maintenance engineer licence or at any time while such a licence is in force, enter an endorsement on the licence specifying the limits of the work to which the licence relates.
- (2A) A person must not carry out work that exceeds the limits of the work specified in an endorsement on his or her licence.
Penalty: 25 penalty units.
- (2B) An offence against subregulation (2A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(3) CASA may, for the purpose of ensuring the safety of air navigation, include in an aircraft maintenance engineer licence an endorsement that the licence is issued subject to a condition set out in the endorsement or in a specified Part or Section of Civil Aviation Orders.

(3A) A person must not contravene a condition subject to which his or her licence is issued.

Penalty: 25 penalty units.

(3B) An offence against subregulation (3A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(3C) It is a defence to a prosecution under subregulation (3A) if the defendant had a reasonable excuse.

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

(4) In this regulation, **qualified person** means a person who:

- (a) has attained the age of 21 years; and
- (b) satisfies CASA that he or she possesses such knowledge as CASA requires of:
 - (i) the principles of flight of aircraft;
 - (ii) the assembly, functioning and principles of construction of, and the methods and procedures for the maintenance of, those parts of an aircraft that CASA considers relevant having regard to the licence sought; and
 - (iii) these Regulations and the Civil Aviation Orders; and
- (c) satisfies CASA that he or she has had such practical experience of the duties performed by a holder of the licence sought as CASA requires and directs in Civil Aviation Orders; and
- (d) satisfies CASA that he or she is not suffering from any disability likely to affect his technical skill or judgment; and
- (da) satisfies CASA that he or she possesses sufficient knowledge of the English language to carry out safely the duties required to be performed by a holder of the licence; and
- (e) has passed such examinations as CASA requires to be passed by an applicant for the licence sought.

- (5) Any requirement formulated by CASA for the purposes of subregulation (4) shall be not less than the corresponding minimum requirement adopted in pursuance of the Convention.
- (6) Where a person satisfies CASA that the person:
- (a) is the holder of a licence equivalent to the licence sought issued by a competent authority in, and in force in accordance with the law of, a country other than Australia;
 - (b) has complied with the minimum conditions required under the Convention and with such other requirements as CASA specifies; and
 - (c) does not suffer from any disability likely to affect his or her technical skill or judgment;
- CASA may, for the purposes of this regulation, treat the person as if he or she were a qualified person.

31A CASA may specify activities relating to categories

In Civil Aviation Orders, CASA may specify:

- (a) the activities; and
- (b) the parts of an aircraft or the aircraft components; covered by a category referred to in subregulation 31 (1).

31B Classification of a category into ratings

In Civil Aviation Orders, CASA may:

- (a) classify a category referred to in subregulation 31 (1) into ratings; and
- (b) specify:
 - (i) the activities; and
 - (ii) the type or category of aircraft, the parts of an aircraft or the aircraft components; covered by a rating.

31C Endorsement of a rating on an aircraft maintenance engineer licence

When issuing an aircraft maintenance engineer licence to an applicant, CASA may endorse it with a rating referred to in regulation 31B if the applicant has:

- (a) passed the examinations; and
- (b) produced the evidence of his or her qualifications and practical experience;

that are applicable to the rating, and that CASA directs in Civil Aviation Orders or otherwise in writing.

31D Changes to an aircraft maintenance engineer licence

- (1) The holder of an aircraft maintenance engineer licence may, in writing, request CASA to approve a proposed change to any of the particulars specified in the licence, including the category or rating endorsed on the licence.
- (2) The request must provide details of the proposed change.
- (3) Subject to regulation 32B, CASA may approve the change by endorsing the change on the licence.
- (4) If CASA approves the change, the approval takes effect from when the change is endorsed on the licence.

32 Period of operation of certificates and licences

CASA may specify in a certificate of approval or in an aircraft maintenance engineer licence the period during which the certificate or the licence, as the case may be, is to remain in force.

32A Renewal of an aircraft maintenance engineer licence

- (1) If a period is specified in an aircraft maintenance engineer licence under regulation 32, the holder of the licence may, before the licence expires, apply to CASA for renewal of the licence.
- (2) An applicant must return the licence to CASA.
- (3) Subject to regulation 32B, CASA may renew the licence by endorsing on the licence the period during which the renewal has effect.

32B Requirements for renewal or change to an aircraft maintenance engineer licence

An applicant for renewal of an aircraft maintenance engineer licence or approval of a change to a licence must, before the licence is renewed or the change to the licence is approved:

- (a) pass the examinations; and
- (b) produce the evidence of his or her practical experience and qualifications;

that CASA directs in Civil Aviation Orders or otherwise in writing.

33 Testing of competency of holder of licence or authority

- (1) CASA may, at any time, require the holder of an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority to undergo an examination designed to test his or her competency as such a holder.

- (2) An authorised person may, at any time, inspect an aircraft or aircraft component for the purpose of ascertaining the competence and diligence of the holder of an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority.

33A Notice of decisions

- (1) This regulation applies where a person:
 - (a) applies for a certificate of approval or an aircraft maintenance engineer licence; or
 - (b) requests approval of a proposed change to a certificate of approval.
- (2) CASA must, in writing, notify the person of its decision in relation to the application or request.
- (3) If CASA decides not to grant the certificate or licence, or not to approve the change, CASA must include in the notice a statement of the reasons for the decision.

33B Airworthiness authorities

- (1) CASA may, in writing, and in accordance with the Civil Aviation Orders, issue authorities of the following kinds:
 - (a) authorities to carry out maintenance on aircraft;
 - (c) authorities to conduct examinations required to be passed for the issue of aircraft maintenance engineer licences;
 - (d) authorities to conduct non-destructive testing of aircraft and aircraft components;
 - (e) authorities to weigh aircraft and determine the centre of gravity of each aircraft for the purpose of determining requirements to control the centre of gravity during operation.
- (2) An airworthiness authority may be issued subject to conditions specified in the airworthiness authority, in Civil Aviation Orders or in both.
- (3) If an airworthiness authority is issued subject to a condition in Civil Aviation Orders CASA must, in writing, notify the holder of the authority of the relevant Part or section of the Civil Aviation Orders in which the condition is specified.

- (4) A person must not contravene a condition to which an airworthiness authority is subject.

Penalty: 50 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) It is a defence to a prosecution under subregulation (4) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (6) (see subsection 13.3 (3) of the *Criminal Code*).

33C Application for aircraft welding authority

- (1) A person may apply to CASA for an aircraft welding authority to carry out manual welding of a type, and on a parent metal group, mentioned in regulation 29A.
- (2) An application must identify the type of manual welding and the parent metal group to which the application relates.

33D Grant of aircraft welding authority

- (1) CASA may grant an application for an aircraft welding authority if, and only if, satisfied that:
- (a) the applicant:
 - (i) has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation; and
 - (ii) has successfully completed welding training in the type of manual welding on the parent metal group to which the application relates; or
 - (b) the applicant holds a current qualification, issued by the Defence Force or a recognised authority, authorising the applicant to carry out manual welding for aeronautical purposes.
- (2) Subject to this regulation, if an application is made for more than 1 type of manual welding and parent metal group, CASA may grant the application in respect of some of the types of manual welding and parent metal groups and refuse it in respect of others.
- (3) CASA must not grant an application if satisfied, on reasonable grounds, that the applicant has knowingly or recklessly made a statement that is false or misleading in a material particular in relation to the application.
- (5) CASA must not grant an aircraft welding authority except under this regulation.
- (6) If CASA grants an aircraft welding authority, it must:
- (a) note the relevant type of manual welding and parent metal group on the authority; and

(b) specify in the authority a period not longer than 2 years for which the authority is to remain in force.

(7) In this regulation:

recognised authority means an authority declared to be a recognised authority under regulation 33E.

33E Recognised authorities

- (1) For the purposes of regulation 33D, CASA may, in writing, declare an authority of a foreign country which issues qualifications for aeronautical purposes to be a recognised authority.
- (2) A declaration must be published in the *Gazette* within 21 days after it is made.

33F Duration of aircraft welding authority

- (1) Unless sooner suspended or cancelled, an aircraft welding authority remains in force:
 - (a) for the period specified in it; or
 - (b) if it has been renewed—until the end of the last period of renewal.
- (2) If an aircraft welding authority is cancelled, its holder must return it to CASA within 7 days after the cancellation.
Penalty: 5 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.
Note For **strict liability**, see section 6.1 of the *Criminal Code*.
- (4) It is a defence to a prosecution under subregulation (2) if the defendant returned the aircraft welding authority to CASA as soon as practicable.
Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

33G Renewal of aircraft welding authority

- (1) The holder of an aircraft welding authority may apply to CASA for renewal of the authority within 3 months before the authority stops being in force.
- (2) An application must have with it the aircraft welding authority.
- (3) CASA may renew an aircraft welding authority for a period not longer than 2 years if, and only if, satisfied that the applicant has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation.
- (4) CASA must not grant an application for renewal if satisfied, on reasonable grounds, that the applicant has knowingly or recklessly made a false or misleading statement in relation to the application.

- (6) CASA must not renew an aircraft welding authority except under this regulation.
- (7) If CASA renews an aircraft welding authority:
 - (a) it must note on the authority the period of the renewal; and
 - (b) return the authority to the holder as soon as practicable after the renewal.
- (8) If an application is not decided before the aircraft welding authority to which it relates would, but for this subregulation, stop being in force, the authority is taken to be in force until the day the application is decided.

33H Changes to aircraft welding authority

- (1) The holder of an aircraft welding authority may request CASA to approve a proposed change to any of the particulars set out in the authority.
- (2) A request must:
 - (a) be in the approved form; and
 - (b) have with it the aircraft welding authority.
- (3) Subject to subregulation (4), CASA may approve the change if satisfied that the change will not have an adverse effect on the safety of air navigation.
- (4) If the change involves adding a type of manual welding or parent metal group, CASA may approve the change if, and only if, satisfied that the holder:
 - (a) has passed the aircraft welding examinations that CASA considers necessary in the interests of the safety of air navigation; and
 - (b) has successfully completed welding training in the type of manual welding on the parent metal group to which the request relates.
- (5) CASA must not approve a request for a change if satisfied, on reasonable grounds, that the holder has knowingly or recklessly made a false or misleading statement in relation to the request.
- (7) CASA must not approve a change except under this regulation.
- (8) If CASA approves a change to an aircraft welding authority, it must note the change on the authority.
- (9) CASA must return an aircraft welding authority to its holder as soon as practicable after a request to approve a change is decided.
- (10) A change:
 - (a) has no effect unless approved; and
 - (b) takes effect on the date of approval.

331 Conditions of aircraft welding authority

(1) An aircraft welding authority is subject to any conditions that CASA considers necessary to impose in the interests of the safety of air navigation.

(2) A condition must be set out in the aircraft welding authority.

(3) The holder of an aircraft welding authority must not contravene a condition set out in the authority.

Penalty: 50 penalty units.

(4) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(5) It is a defence to a prosecution under subregulation (3) if the defendant had a reasonable excuse.

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

Division 4 *Miscellaneous*

34 **Systems of certification of completion of activities other than maintenance**

- (1) CASA may give a direction to the holder of a certificate of approval covering activities, other than the maintenance of aircraft, aircraft components or aircraft materials, requiring the holder to submit to CASA a proposed system of certification of the completion of stages of the activities to which the certificate of approval relates.
- (2) Where a person submits a proposed system of certification under subregulation (1), CASA may approve the proposed system, with or without modifications, and direct the person to institute the system as so approved.
- (3) CASA may give a direction to a person referred to in subregulation (1) requiring him or her, in carrying out any activities to which the certificate of approval relates, to institute such system of certification of the completion of stages of those activities as CASA specifies in the direction.
- (3A) A person must not contravene a direction under subregulation (1), (2) or (3).
Penalty: 25 penalty units.
- (3B) An offence against subregulation (3A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3C) It is a defence to a prosecution under subregulation (3A) if the defendant had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (3C) (see subsection 13.3 (3) of the *Criminal Code*).
- (4) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.
- (5) A person to whom a direction under this regulation has been given shall not fail:
 - (a) to comply with the requirements of a system of certification instituted by that person in accordance with the direction, in so far as those requirements apply in relation to that person; or
 - (b) to take all steps reasonably required to ensure that persons in his or her employ or working under an arrangement with him or her comply with the requirements of a system instituted by him or her in accordance with the direction in so far as those requirements apply in relation to them.

Penalty: 50 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

35

Approval of design of modification or repair

- (1) A person may apply to CASA or an authorised person for approval of the design of a modification or repair of:
- an aircraft or aircraft included in a type of aircraft; or
 - an aircraft component or aircraft components included in a type of aircraft component.

- (2) Where an applicant under subregulation (1):
- furnishes to CASA or the authorised person such evidence relating to the design to which the application relates (including evidence of the effect of the design on the safety of an aircraft) as CASA or the authorised person requires; and
 - satisfies CASA or the authorised person that the design conforms with any relevant design standard in respect of the type of aircraft or aircraft component to which the application relates;

CASA or the authorised person shall give approval to the design.

- (3) Where CASA or an authorised person, in considering an application for approval of a design of a modification or repair under subregulation (1), is not satisfied that the design will not affect the safety of an aircraft, CASA or the authorised person may, if the applicant so requests, authorise:
- the making of the modification or repair to a particular aircraft; or
 - the making of the modification or repair to a particular aircraft component and the fitting of that aircraft component to a particular aircraft;

as the case may be, with a view to an application being made under regulation 21.192 of CASR for permission to test the aircraft in flight to discover whether or not the making of the modification or repair has adversely affected the safety of the aircraft.

- (4) An authorisation under subregulation (3) shall be in writing and shall include a statement that the authorisation is given for the purpose of testing the aircraft to which the modification or repair is to be made or to which the aircraft component concerned is to be fitted, as the case may be.
- (5) For the purpose of carrying out maintenance in accordance with an authority given under subregulation (3), the design of the modification or repair concerned shall be deemed to have been approved under subregulation (2).
- (6) Where:
- the results of a test referred to in subregulation (3) are furnished to CASA or to an authorised person; and

(b) having regard to those results, CASA or the authorised person is satisfied that the design concerned will not adversely affect the safety of an aircraft;

CASA or the authorised person, as the case may be, shall give approval to the design .

(7) CASA or an authorised person may, for the purpose of ensuring the safety of air navigation, include in an approval given under this regulation a requirement that a specified thing to be done in accordance with the design is to be done by a specified person or by a person included in a specified class of persons, being a person permitted by regulation 42ZC to carry out maintenance on an Australian aircraft or an employee of the person.

(7A) A person must not contravene a requirement included in an approval.
Penalty: 50 penalty units.

(8) An offence against subregulation (7A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(9) It is a defence to a prosecution under subregulation (7A) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3 (3) of the *Criminal Code*).

36 Approval of aircraft components for use as replacements

(1) A person may apply to CASA or an authorised person for approval of an aircraft component, or of aircraft components included in a type of aircraft component, as a replacement for another aircraft component or aircraft components included in another type of aircraft component.

(2) Where an applicant under subregulation (1):

(a) furnishes to CASA or the authorised person such evidence relating to the suitability of an aircraft component to which the application relates for use as a replacement as set out in the application as CASA or the authorised person requires; and

(b) satisfies CASA or the authorised person that the design of any such aircraft component conforms with any design standard in force under regulation 21A in respect of any aircraft component for which the first-mentioned aircraft component is intended to be a replacement;

CASA or the authorised person shall approve the aircraft component, or aircraft components included in a type of aircraft components, to which the application relates for use as a replacement as set out in the application.

- (3) Where CASA or an authorised person, in considering an application under subregulation (1) for approval of the use of an aircraft component as a replacement as set out in the application is not satisfied that that use will not affect the safety of an aircraft, CASA or the authorised person may, if the applicant so requests, authorise the fitting to a particular aircraft of an aircraft component as a replacement as set out in the application with a view to an application being made under regulation 21.192 of CASR for permission to test the aircraft in flight to discover whether or not the use of that aircraft component has adversely affected the safety of the aircraft.
- (4) An authorisation under subregulation (3) shall be in writing and shall include a statement that the authorisation is given for the purpose of testing the aircraft to which the aircraft component concerned is to be fitted.
- (5) For the purpose of carrying out maintenance in accordance with an authority given under subregulation (3), the use of the aircraft component concerned as a replacement shall be deemed to have been approved under subregulation (2).
- (6) Where:
 - (a) the results of a test referred to in subregulation (3) are furnished to CASA or to an authorised person; and
 - (b) having regard to those results, CASA or the authorised person is satisfied that the replacement concerned will not adversely affect the safety of an aircraft;

CASA or the authorised person, as the case may be, shall approve the aircraft component, or aircraft components included in the type of aircraft components, to which the application relates for use as a replacement as set out in the application.

36A Use of aircraft material in the maintenance, servicing and operation of Australian aircraft

- (1) This regulation applies to a person who is the holder of the certificate of registration for, or the operator or pilot in command of, an Australian aircraft where the aircraft's flight manual or approved maintenance data, or a direction under subregulation (2), requires the use of aircraft material of an identified specification for a particular purpose connected with the maintenance, servicing or operation of the aircraft.
- (2) CASA may, for the purposes of this regulation, give written directions requiring the use of aircraft materials of identified specifications for particular purposes connected with the maintenance, servicing or operation of Australian aircraft.

- (3) The person must not use, or permit the use of, aircraft material for that purpose if the aircraft material does not conform to the specification.
Penalty: 50 penalty units.
- (3A) The person must not use, or permit the use of, aircraft material for that purpose if CASA or an authorised person has not approved the use of the aircraft material for that purpose.
Penalty: 50 penalty units.
- (3B) An offence against subregulation (3) or (3A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) If the person is charged with an offence against subregulation (3) of using, or permitting the use of, a substance that does not conform to the specification, it is a defence if the person proves that:
- (a) the substance was supplied to the person by another person who represented the substance as being an aircraft material conforming to the specification; and
 - (b) the person reasonably relied on that representation.

37 Permissible unserviceabilities

- (1) CASA may, for the purposes of these Regulations, approve a defect in, or damage to, an Australian aircraft, or any aircraft included in a class of aircraft, as a permissible unserviceability in relation to the aircraft or to Australian aircraft included in the class of aircraft, as the case may be.
- (2) CASA may, for the purpose of ensuring the safety of air navigation, direct that the use of an Australian aircraft with a permissible unserviceability is subject to such conditions as are set out in the direction.
- (2A) A person must comply with a condition set out in a direction.
Penalty: 50 penalty units.
- (2B) An offence against subregulation (2A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) A direction given under subregulation (2) does not have effect in relation to a person until it has been served on the person.

PART 4A MAINTENANCE***Division 1 Maintenance Directions by CASA*****38 Maintenance directions**

- (1) CASA may give directions relating to the maintenance of Australian aircraft for the purpose of ensuring the safety of air navigation.
- (2) A direction is not binding on a person unless it has been served on the person.
- (3) A person must not contravene a direction that is binding on the person.
Penalty: 50 penalty units.
- (4) If a direction relating to an aircraft is binding on the holder of the certificate of registration for the aircraft, the holder must take reasonable steps to ensure the direction is brought to the attention of any person who is likely to fly, or issue a maintenance release for, the aircraft.
Penalty: 50 penalty units.
- (5) An offence against subregulation (3) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

Division 2 **Maintenance for which Holder of Certificate of Registration Responsible**

Subdivision 1 **Class A Aircraft**

39 **Maintenance required by approved system of maintenance**

- (1) The holder of the certificate of registration for a class A aircraft must ensure that all maintenance required to be carried out on the aircraft (including any aircraft components from time to time included in or fitted to the aircraft) by the aircraft's approved system of maintenance is carried out when required by that system.

Penalty: 50 penalty units.

- (2) A person must not use a class A aircraft in an operation if there is not an approved system of maintenance for the aircraft that includes provision for the maintenance of all aircraft components from time to time included in, or fitted to, the aircraft.

Penalty: 50 penalty units.

Note A system of maintenance is approved under regulation 42M.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

40 **Defective or inappropriate systems of maintenance**

If the approved system of maintenance for a class A aircraft is:

- (a) no longer appropriate; or
(b) defective;

within 7 days of becoming aware of the inappropriate aspect or the defect, the holder of the certificate of registration for the aircraft must make a request under regulation 42P for CASA or an authorised person to approve changes to the system to ensure that it is appropriate and not defective.

Penalty: 25 penalty units.

Subdivision 2 Class B Aircraft

41 Maintenance schedule and maintenance instructions

- (1) The holder of the certificate of registration for a class B aircraft must ensure that all maintenance required to be carried out on the aircraft (including any aircraft components from time to time included in or fitted to the aircraft) by the aircraft's maintenance schedule is carried out when required by that schedule.

Penalty: 50 penalty units.

- (2) A person must not use a class B aircraft in an operation if there is not a maintenance schedule for the aircraft that includes provision for the maintenance of all aircraft components from time to time included in, or fitted to, the aircraft.

Penalty: 50 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42 Defective or inappropriate maintenance schedule

If the maintenance schedule for a class B aircraft is defective or no longer appropriate, the holder of the certificate of registration for the aircraft, within 7 days after becoming aware of the defect, or that the schedule is inappropriate, must report the situation to CASA and take one of the following actions to ensure that the aircraft has a maintenance schedule that is appropriate and not defective:

- (a) if the aircraft's maintenance schedule is the manufacturer's maintenance schedule:
- (i) elect to use the CASA maintenance schedule as the aircraft's maintenance schedule; or
 - (ii) under regulation 42J, request CASA or an authorised person to approve a system of maintenance for the aircraft;
- (b) if the aircraft's maintenance schedule is the CASA maintenance schedule:
- (i) elect to use the manufacturer's maintenance schedule as the maintenance schedule for the aircraft; or
 - (ii) under regulation 42J, request CASA or an authorised person to approve a system of maintenance for the aircraft;
- (c) if the aircraft's maintenance schedule is an approved system of maintenance:
- (i) under regulation 42P, request CASA to approve a proposed change to the system; or
 - (ii) elect to use the manufacturer's maintenance schedule as the maintenance schedule for the aircraft; or

- (iii) elect to use the CASA maintenance schedule as the maintenance schedule for the aircraft.

Penalty: 25 penalty units.

42A Maintenance schedule: manufacturer's maintenance schedule

- (1) Subject to subregulations (2), (3), (4) and (5), if:
 - (a) the holder of the certificate of registration for a class B aircraft has elected to use a manufacturer's maintenance schedule for the aircraft's maintenance; and
 - (b) the election is in force; and
 - (c) use of the manufacturer's maintenance schedule for the aircraft's maintenance is not prohibited by a declaration under subregulation (6);

the aircraft's maintenance schedule is the manufacturer's maintenance schedule as in force from time to time.

- (2) If CASA thinks that a manufacturer's maintenance schedule should not, alone, be used as an aircraft's maintenance schedule because the manufacturer's maintenance schedule is deficient in a particular respect, the following provisions have effect:
 - (a) CASA may, for the purpose of remedying the deficiency, do either or both of the following:
 - (i) give directions under subregulation 38 (1) to be complied with in relation to aircraft in addition to the requirements of the manufacturer's maintenance schedule;
 - (ii) give directions under subregulation 38 (1) requiring the holders of certificates of registration for aircraft to prepare documents to be complied with in relation to aircraft in addition to the requirements of the manufacturer's maintenance schedule;
 - (b) if an election to use the manufacturer's maintenance schedule as an aircraft's maintenance schedule is in force:
 - (i) any directions under subparagraph (a) (i) in force in relation to the manufacturer's maintenance schedule are to be taken to form part of the aircraft's maintenance schedule and the election has effect accordingly; and
 - (ii) any documents prepared because of a direction under subparagraph (a) (ii) in force in relation to the manufacturer's maintenance schedule are to be taken to form part of the aircraft's maintenance schedule and the election has effect accordingly.

- (3) If:
- (a) a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance; and
 - (b) either:
 - (i) the aircraft has been modified or repaired; or
 - (ii) an aircraft component included in, or fitted to, the aircraft has been modified or repaired;
- all instructions for the continued airworthiness of the aircraft, or of the component, as the case requires, issued by the designer of the modification or repair are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.
- (4) If a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance, all instructions issued by the manufacturers of aircraft components permanently, or from time to time, included in, or fitted to, the aircraft, being instructions for the continued airworthiness of the components, are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.
- (5) If:
- (a) a person has elected to use a manufacturer's maintenance schedule for an aircraft's maintenance; and
 - (b) the manufacturer's maintenance schedule does not include provisions equivalent to the sections of the CASA maintenance schedule that deal with the maintenance of electrical, instrument and radio systems;
- those sections of the CASA maintenance schedule are to be taken to form part of the manufacturer's maintenance schedule and the election has effect accordingly.
- (6) CASA may, for the purpose of ensuring the safety of air navigation, declare in writing that a manufacturer's maintenance schedule that CASA thinks is inadequate must not be used as an aircraft's maintenance schedule.

42B**Maintenance schedule: CASA maintenance schedule**

- (1) Subject to subregulation (2), if:
- (a) the holder of the certificate of registration for a class B aircraft that is an aeroplane has elected to use the CASA maintenance schedule for the aircraft's maintenance; and
 - (b) the election is in force;
- the aircraft's maintenance schedule is the CASA maintenance schedule.

- (2) If:
- (a) a person has elected to use the CASA maintenance schedule for an aircraft's maintenance; and
 - (b) a turbine engine is included in the aircraft;
- all instructions issued by the manufacturer of the engine for the continued airworthiness of the engine are to be taken to form part of the CASA maintenance schedule and the election has effect accordingly.

42C Maintenance schedule: approved system of maintenance

If:

- (a) CASA or an authorised person has approved a system of maintenance for a class B aircraft under regulation 42M; and
- (b) the approval is in force;

the aircraft's maintenance schedule is the approved system of maintenance.

42CA Maintenance schedule—primary, intermediate, restricted or limited category aircraft

- (1) The maintenance schedule for a class B aircraft certificated under subpart 21.B or 21.H of Part 21 of CASR in the primary, intermediate, restricted or limited category (except an aircraft mentioned in subparagraph 21.189 (1) (a) (ii) of CASR) is the approved maintenance schedule developed in consultation with CASA during the certification process.
- (2) The maintenance schedule for an aircraft mentioned in subparagraph 21.189 (1) (a) (ii) of CASR is the approved maintenance schedule developed, in consultation with CASA, by the applicant for the special certificate of airworthiness for the aircraft under regulation 21.189 of CASR.
- (3) For this regulation, an aircraft is certificated in a particular category if it was manufactured in accordance with a type certificate in the category, or if a certificate of airworthiness in the category is in force for the aircraft.

42CB Maintenance—experimental aircraft

The holder of the certificate of registration for a class B aircraft that is an experimental aircraft must maintain the aircraft in accordance with any conditions to which the certificate is subject under regulation 21.195A of CASR.

42D Can there be more than one maintenance schedule?

If, apart from this subregulation, there would be more than one maintenance schedule for an aircraft, the maintenance schedule for the aircraft is:

- (a) if:
 - (i) CASA has approved a system of maintenance for the aircraft under regulation 42M; and
 - (ii) the system was submitted for approval because of a direction given by CASA; and
 - (iii) the approval is still in force;
that approved system of maintenance; and
- (b) in any other case—the maintenance schedule that the holder of the certificate of registration for the aircraft has most recently elected to use, or that CASA has most recently approved, as the case may be.

42E Elections

- (1) An election made for the purposes of subregulation 42A (1) or 42B (1) must be made by completing the appropriate approved form and giving it to CASA.
- (2) An election stops being in force if the person who made it revokes it by written notice given to CASA.

42F Effect of change of holder of certificate of registration

If there is a change of holder of the certificate of registration for a class B aircraft, an election under subregulation 42A (1) or 42B (1) that was in force immediately before the change has effect (including for the purposes of subregulation 42E (2)) after the change as if it had been made by the new holder.

Subdivision 3 *Miscellaneous***42G Flight control system: additional requirements**

- (1) This regulation sets out the additional requirements to be complied with if any part of the flight control system of an Australian aircraft is assembled, adjusted, repaired, modified or replaced in the course of carrying out maintenance on the aircraft.
- (2) Subject to subregulation (4), the system must:
 - (a) be inspected by the person who carried out the assembly, adjustment, repair, modification or replacement; and
 - (b) be independently inspected by another person who is an appropriate person within the meaning of subregulation (5).
- (3) A person carrying out an inspection must:
 - (a) check that the assembly, adjustment, repair, modification or replacement was carried out in accordance with the aircraft's approved maintenance data; and
 - (b) check that the system functions correctly.
- (4) In spite of subregulation (2), if:
 - (a) optional dual controls were connected or disconnected without using tools; and
 - (b) no other part of the flight control system was assembled, adjusted, repaired, modified or replaced;the system does not have to be independently inspected.
- (5) For the purposes of this regulation, a person is an appropriate person if:
 - (a) the person holds an aircraft maintenance engineer licence or an airworthiness authority covering maintenance of a type that includes the inspection; or
 - (b) the person is the holder of a pilot licence (not being a student pilot licence) that is valid for the aircraft; or
 - (c) the person is the holder of a flight engineer licence that is valid for the aircraft; or
 - (d) the person is authorised by CASA or an authorised person under subregulation (6) to carry out the inspection and the inspection is carried out in accordance with any conditions subject to which the authorisation was given; or
 - (e) in relation to an independent inspection performed overseas—the person is a person referred to in paragraph 42ZN (a).
- (6) CASA or an authorised person may, in writing, authorise a person for the purposes of paragraph (5) (d).

- (7) An authorisation is subject to any conditions that:
- (a) CASA or the authorised person, as the case may be, considers are necessary in the interests of the safety of air navigation; and
 - (b) are included in the authorisation.

42H Exemptions and variations

This Division has effect subject to Division 7 (“Exemptions from, and variations of, requirements”).

Division 3 **Approved Systems of Maintenance****42J** **System of maintenance: request for approval**

- (1) The holder of the certificate of registration for an Australian aircraft may, in writing, request CASA or an authorised person to approve a system of maintenance for the aircraft.
- (2) The request must be accompanied by a copy of the system.

42K **System of maintenance: submission to CASA**

CASA may, under regulation 38, direct the holder of the certificate of registration for a class B aircraft:

- (a) to develop a system of maintenance for the aircraft; and
- (b) to submit the proposed system to CASA for approval.

42L **System of maintenance: matters to be included**

A system of maintenance for an aircraft must include:

- (a) a schedule that:
 - (i) sets out the regular maintenance inspections, tests and checks to be carried out on the aircraft; and
 - (ii) sets out when those maintenance inspections, tests and checks are to be carried out; and
 - (iii) nominates one of the maintenance inspections referred to in subparagraph (i) as the inspection to be carried out for the purposes of determining whether a maintenance release should be issued for the aircraft; and
- (b) a schedule that sets out the inspection to be carried out on the aircraft if it has been struck by lightning and when that inspection is to be carried out; and
- (c) a schedule that sets out the inspection to be carried out on the aircraft if abnormal flight or ground loads have been imposed on the aircraft; and
- (d) a schedule that sets out the time-lifed aircraft components included in the aircraft and when each of those components is to be retired, overhauled or removed; and
- (e) a schedule that sets out the procedures to be followed in carrying out the inspections, tests and checks required by the system of maintenance;
- (f) if permissible unserviceabilities have been approved for the aircraft under subregulation 37 (1) in the form of a minimum equipment list—that list; and
- (g) a statement that sets out:
 - (i) the name of the holder of the certificate of registration for the aircraft; and
 - (ii) the type, model and registration mark of the aircraft.

42M System of maintenance: approval

- (1) If:
- (a) CASA or an authorised person receives a request for approval of a system of maintenance; and
 - (b) CASA or the authorised person is satisfied that:
 - (i) the system includes the matters set out in regulation 42L; and
 - (ii) the system adequately provides for the continued airworthiness of the aircraft;
- CASA or the authorised person must approve the system.
- (2) If, because of a direction of a kind referred to in regulation 42K, the holder of the certificate of registration for an aircraft submits a system of maintenance to CASA, the following provisions have effect:
- (a) if CASA is satisfied that:
 - (i) the system includes the matters set out in regulation 42L; and
 - (ii) the system satisfies the requirements of the direction; and
 - (iii) the system adequately provides for the continued airworthiness of the aircraft;CASA must approve the system;
 - (b) if CASA is not satisfied as mentioned in paragraph (a), CASA may:
 - (i) modify the system so that CASA is so satisfied and approve the modified system; or
 - (ii) refuse to approve the system.
- (3) In deciding whether a system of maintenance adequately provides for the continued airworthiness of an aircraft, CASA or the authorised person must have regard to:
- (a) if the system of maintenance relates to a class A aircraft—the manufacturer's maintenance schedule and any inspection programs or documents issued by the manufacturer; and
 - (b) if the system of maintenance relates to a class B aircraft—the manufacturer's maintenance schedule and the CASA maintenance schedule.
- (4) CASA or the authorised person must, in writing, notify the holder of the certificate of registration for the aircraft concerned of CASA's, or the authorised person's, decision in relation to the system submitted.
- (5) If CASA or the authorised person decides:
- (a) not to approve the system of maintenance; or
 - (b) to modify the system of maintenance;
- CASA or the authorised person must include in the notice required by subregulation (4) a statement of the reasons for that decision.

42N When approval is effective

- (1) If CASA or an authorised person approves a system of maintenance, the approval has effect from when notice of the approval is given to the holder of the certificate of registration for the aircraft concerned.
- (2) An approval of a system of maintenance approved because of a request under regulation 42J stops being in force if:
 - (a) CASA revokes the approval by written notice given to the holder of the certificate of registration for the aircraft concerned; or
 - (b) the holder of the certificate of registration for the aircraft concerned gives CASA or an authorised person written notice that the holder no longer wants the approved system to apply to the aircraft.
- (3) An approval of a system of maintenance submitted because of a direction of a kind referred to in regulation 42K stops being in force if CASA revokes the approval by written notice given to the holder of the certificate of registration for the aircraft concerned.
- (4) CASA must not revoke an approval of a system of maintenance unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

42P Request for approval of changes

- (1) The holder of the certificate of registration for an aircraft for which there is an approved system of maintenance may, in writing, request CASA or an authorised person to approve a proposed change to the system.
- (2) The request must be accompanied by a copy of the proposed change.

42Q CASA may direct changes

CASA may, under regulation 38, direct the holder of the certificate of registration for an aircraft for which there is an approved system of maintenance:

- (a) to make:
 - (i) a specified change to the system; or
 - (ii) a change to the system that will correct a specified deficiency in the system; and
- (b) to submit the proposed change to CASA or an authorised person for approval.

42R Approval of changes

- (1) If:
- (a) CASA or an authorised person receives a request for approval of a change to an approved system of maintenance; and
 - (b) CASA or the authorised person is satisfied that the system, as proposed to be changed, would:
 - (i) include the matters set out in regulation 42L; and
 - (ii) adequately provide for the continued airworthiness of the aircraft;
- CASA or the authorised person must approve the change.
- (2) If, because of a direction of a kind referred to in regulation 42Q, the holder of the certificate of registration for an aircraft submits a proposed change to an approved system of maintenance to CASA, the following provisions have effect:
- (a) if CASA is satisfied:
 - (i) if the direction was for a specified change to be made—the change has been made; and
 - (ii) if the direction was for a change to correct a specified deficiency in the system—the deficiency would be corrected by the change; and
 - (iii) that the system, as proposed to be amended, would:
 - (A) include the matters set out in regulation 42L; and
 - (B) adequately provide for the continued airworthiness of the aircraft;
- CASA must approve the change;
- (b) if CASA is not satisfied as mentioned in paragraph (a), CASA may:
 - (i) modify the change so that CASA is so satisfied and approve the modified change; or
 - (ii) refuse to approve the change.
- (3) In deciding whether a system of maintenance as proposed to be changed would adequately provide for the continued airworthiness of an aircraft, CASA or the authorised person must have regard to:
- (a) if the system of maintenance relates to a class A aircraft—the manufacturer's maintenance schedule and any inspection programs or documents issued by the manufacturer; and
 - (b) if the system of maintenance relates to a class B aircraft—the manufacturer's maintenance schedule and the CASA maintenance schedule.
- (4) CASA or the authorised person must, in writing, notify the holder of the certificate of registration for the aircraft concerned of CASA's, or the authorised person's, decision in relation to the change submitted.

(5) If CASA or the authorised person decides:

- (a) not to approve the change; or
- (b) to modify the change;

CASA or the authorised person must include in the notice required by subregulation (4) a statement of the reasons for that decision.

42S When approval of a change is effective

If CASA or an authorised person approves a change to an approved system of maintenance, the approval has effect from when notice of the approval is given to the holder of the certificate of registration for the aircraft concerned.

42T All changes must be approved

A purported change to an approved system of maintenance has no effect unless it has been approved under regulation 42R and that approval is in force.

Division 4 How Maintenance is to be Carried Out**42U Modifications and repairs: approved designs**

- (1) A person may modify or repair an Australian aircraft only if:
- (a) the design of the modification or repair:
 - (i) has been approved under regulation 35; or
 - (ii) has been specified by CASA in, or by means of, an airworthiness directive or a direction under regulation 44; or
 - (iii) is specified in the aircraft's approved maintenance data; and
 - (b) the modification or repair is in accordance with that design.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42V Maintenance: approved maintenance data

- (1) A person carrying out maintenance on an Australian aircraft must ensure that the maintenance is carried out in accordance with the applicable provisions of the aircraft's approved maintenance data.

Penalty: 50 penalty units.

[*Note* Regulation 2A sets out what is approved maintenance data for an aircraft.]

- (2) Subregulation (1) has effect subject to the requirements of Division 5 ("Who may carry out maintenance").

- (3) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

**42W Installation and use of aircraft components in maintenance—
Australian aircraft in Australian territory**

- (1) This regulation sets out requirements to be complied with in relation to the installation and use of aircraft components in carrying out maintenance on an Australian aircraft in Australian territory.

- (2) Subject to subregulation (3), a person may replace an aircraft component in the aircraft with another aircraft component only if:

- (a) the replacement component is serviceable; and
- (b) the replacement component:
 - (i) is identical with the replaced component; or
 - (ii) has been approved under regulation 36 as a replacement for the replaced component; or
 - (iii) is approved for use as a replacement for the replaced component:
 - (A) by the manufacturer of the aircraft or the replaced component; or

- (AA) in an Australian Parts Manufacturer Approval issued under regulation 21.303 of CASR; or
- (B) in a Parts Manufacturers Approval issued by the Federal Aviation Administration of the United States of America; and
- (c) if the replacement component has been removed or salvaged from another aircraft and has not had maintenance carried out on it—the replacement component is not damaged and complies with its manufacturer's specifications.

Penalty: 50 penalty units.

- (3) A person may replace an aircraft component in the aircraft with another aircraft component that does not satisfy the requirements of paragraphs (2) (a) and (c) if inclusion of the replacement component in the aircraft amounts to a permissible unserviceability in the aircraft.

[Note Regulation 37 sets out requirements relating to permissible unserviceabilities.]

- (4) Subject to regulations 42Y and 42Z, a person must not install an aircraft component in an aircraft if each of the following requirements is not satisfied:
 - (a) completion of the component, and of any other component that it incorporates, was certified:
 - (i) in accordance with regulation 34; or
 - (ii) if the component was not manufactured in Australia — in a way acceptable to CASA;
 - (b) if the component, or another aircraft component that is incorporated in it, has had maintenance carried out on it— completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN;
 - (c) if the component, or another aircraft component that is incorporated in it, has been modified or repaired— the modification or repair was carried out in accordance with a design that:
 - (i) was approved under regulation 35; or
 - (ii) was specified by CASA in, or by means of, an airworthiness directive or a direction under regulation 44 or subregulation 21.176 (2) of CASR; or
 - (iii) was specified in the component's, or the incorporated component's, approved maintenance data; or
 - (iv) if the modification or repair was carried out outside Australian territory — was approved or specified in a manner that is acceptable to CASA having regard to the safety of air navigation;
 - (d) if subregulation (5) applies to the component, and the component was supplied by another person — the supplier of the component supplied an authorised release certificate with it and for it;

- (e) if the component includes a component to which subregulation (5) applies, and the included component was supplied by another person — the supplier of the included component supplied an authorised release certificate with it and for it.

Penalty: 50 penalty units.

Note **Authorised release certificate** means a certificate that complies with regulation 42WA — see the Dictionary.

- (5) This subregulation applies to:
- (a) an aircraft component manufactured to approved data by a manufacturer that holds an approval from CASA or an NAA to do so; or
 - (b) an aircraft component that has had maintenance carried out on it.
- (6) An offence against subregulation (2) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

42WA Requirements for authorised release certificate

- (1) The requirements for an authorised release certificate for an aircraft component are the following:
- (a) it has a unique identifying number;
 - (b) it is issued by, or with the authority or approval of:
 - (i) if maintenance has been carried out on the relevant component — the NAA of the country in which the most recent maintenance was carried out; or
 - (ii) if no maintenance has been carried out on the component — the NAA of the country in which it was manufactured;
 - (c) it specifies the NAA that issued it or that authorised its issue;
 - (d) it contains at least the following information about the component (or, if it applies to 2 or more components, about each of them):
 - (i) the full name and business address of the supplier of the component;
 - (ii) enough information to identify the contract, work order or invoice related to the supply of the component;
 - (iii) the component's name or description, and part number;
 - (iv) the types or models of aircraft, propeller or engine on which the component can be installed (if known to the body issuing the certificate);
 - (v) the serial number or batch number of the component;
 - (vi) the component's status (that is, whether it is manufactured or newly overhauled, or has been inspected, modified or repaired, or is a prototype) and a statement of any limitations that apply to it;
 - (e) if the certificate applies to 2 or more components, it gives an identifying number for each;

- (f) if the certificate applies to 2 or more components that have the same part number, it states how many of them the certificate applies to;
 - (g) it quotes or identifies the authorisation under which it is issued;
 - (h) the person who signed it is a proper person to do so, in accordance with subregulation (2), (3) or (4).
- (2) A person is a proper person to sign an authorised release certificate for a component on which maintenance has been carried out in Australia if:
- (a) he or she is permitted by regulation 42ZC to carry out the maintenance; and
 - (b) he or she is employed by, or is working under an arrangement with, the person who carried out the most recent such maintenance.
- (3) A person is a proper person to sign an authorised release certificate for a component on which maintenance has been carried out in a country other than Australia if:
- (a) he or she is permitted to carry out the maintenance by the NAA of the country in which that maintenance was carried out; and
 - (b) he or she carried out the most recent such maintenance, or is employed by, or works under an arrangement with, the person who did so.
- (4) A person is a proper person to sign an authorised release certificate for a component on which no maintenance has been carried out if he or she is the manufacturer of the component, or is employed by, or works under an arrangement with, its manufacturer.

Note A document that complies with regulation 42WA is an authorised release certificate. Appendix 1 to Civil Aviation Order 100.16 gives a list of documents issued in foreign countries that, if completed correctly, will be authorised release certificates. Civil Aviation Advisory Publication 42W-1 sets out documents necessary for the supply of components, parts and material. Also, Civil Aviation Advisory Publication 42W-2 explains how to prepare a certificate. Both the Order and the Advisory Publications are available on CASA's website.

42X Use of aircraft materials in maintenance—Australian aircraft in Australian territory

- (1) A person may use an aircraft material in an aircraft only if the person satisfies CASA or an authorised person that the material is suitable for use in the maintenance of the aircraft or the following requirements are satisfied:
- (a) if:
 - (i) the material was supplied to the person by another person; and
 - (ii) the material is not a fuel or lubricant; the material was supplied by the other person with a document that satisfies the requirements of subregulation (2);
 - (b) if the material has had maintenance carried out on it — completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN.

Penalty: 50 penalty units.

- (2) A document accompanying the supply of an aircraft material must:
- (a) contain:
 - (i) a statement that identifies the material and that includes (if applicable) the specification of the material; and
 - (ii) if maintenance has been carried out on the material—details of the maintenance carried out and the data used in carrying out the maintenance; and
 - (b) have been issued by, or with the authority or approval of:
 - (i) if maintenance has been carried out on the material—the aviation authority of the country in which the most recent maintenance was carried out; or
 - (ii) if no maintenance has been carried out on the material—the aviation authority of the country in which the material was manufactured; and
 - (c) be signed by:
 - (i) if maintenance has been carried out on the material in Australia—a person who is permitted by regulation 42ZC to carry out the maintenance and who is employed by, or is working under an arrangement with, the person who carried out the most recent maintenance; or
 - (ii) if maintenance has been carried out on the material in a country other than Australia—a person who is permitted to carry out the maintenance by the aviation authority of the country in which that maintenance was carried out and who is, is employed by, or is working under an arrangement with, the person who carried out the most recent maintenance; or

- (iii) if no maintenance has been carried out on the material—a person who is, is employed by, or is working under an arrangement with, the person who manufactured the material; and
 - (d) set out the date on which the person signed the document.
- (3) An offence against subregulation (1) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

42Y Time-lifed aircraft components—exemption from supply under cover of document requirements

If a person satisfies CASA or an authorised person that there is a complete record of the airworthiness history of a time-lifed aircraft component, the person may install the component in an aircraft even though the requirements of paragraphs 42W (4) (a) and (b) are not satisfied.

42Z Removable items of radiocommunications equipment in VFR aircraft—exemption from certification requirements

- (1) This regulation applies to an aircraft:
 - (a) that has a flight manual; and
 - (b) that is not, in that manual, approved for use in IFR flight.
- (2) Subject to subregulation (3), if:
 - (a) a removable item of radiocommunications equipment is installed in an aircraft; and
 - (b) that item is removed from the aircraft;
 a person may re-install that item, or install another item of the same type, in the aircraft even though the requirements of paragraphs 42W (4) (c) and (d) are not satisfied.
- (3) If the person is not the holder of the certificate of registration for the aircraft, subregulation (2) does not apply unless the holder has approved the installation of the equipment.

42ZA Use of aircraft components, aircraft materials etc. in maintenance—Australian aircraft outside Australian territory

- (1) This regulation applies to the holder of the certificate of registration for, or the operator or pilot in command of, an Australian aircraft while the aircraft is outside Australian territory.

- (2) A person to whom this regulation applies must not use, or permit the use of, an aircraft component, aircraft material or other thing in connection with the maintenance of the aircraft if:
- (a) use of the component, material or thing would be an offence against these Regulations if the aircraft were in Australian territory; and
 - (b) CASA has not approved the use.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42ZB Exemptions and variations

This Division has effect subject to Division 7 (“Exemptions from, and variations of, requirements”).

Division 5 **Who May Carry Out Maintenance**

42ZC **Maintenance on Australian aircraft in Australian territory**

- (1) The holder of the certificate of registration for, the operator of, and the pilot in command of, an Australian aircraft must not authorise or permit any maintenance to be carried out on the aircraft in Australian territory by a person if the person is not permitted by this regulation to carry out the maintenance.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subject to subregulation (5), a person may carry out maintenance on a class A aircraft in Australian territory if:

(a) the person

- (i) holds an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority covering the maintenance; and

(ii) either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(b) the following requirements are satisfied:

(i) the person is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; and

(ii) the maintenance is carried out under the supervision of a person who holds an aircraft maintenance engineer licence covering the maintenance and who either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(c) the person is a pilot of the aircraft and is authorised to carry out the maintenance by the aircraft's approved system of maintenance; or

(d) the person is authorised by CASA under subregulation (6), or an authorised person under subregulation (7), to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation was given.

- (4) Subject to subregulation (5), a person may carry out maintenance on a class B aircraft in Australian territory if:
- (a) the person:
 - (i) holds an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority covering the maintenance; and
 - (ii) either:
 - (A) holds a certificate of approval covering the maintenance; or
 - (B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or
 - (b) except where the maintenance is specified in Schedule 7, the person:
 - (i) holds an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority covering the maintenance; and
 - (ii) either:
 - (A) is not an employee; or
 - (B) is employed by another person who holds an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority; or
 - (c) the person carries out the maintenance under the supervision of a person who:
 - (i) holds an aircraft maintenance engineer licence covering the maintenance; and
 - (ii) is permitted by paragraph (a) or (b) to carry out the maintenance; or
 - (d) the person is the holder of a pilot licence (not being a student pilot licence) that is valid for the aircraft and the maintenance is specified in Schedule 8; or
 - (e) the person is authorised by CASA under subregulation (6) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation was given.
- (5) In spite of subregulations (3) and (4), a person may carry out maintenance on an aircraft component, or an aircraft material, if:
- (a) the person is employed by, or working under an arrangement with, the holder of a certificate of approval that covers the maintenance; and

- (b) in the case of maintenance that is either:
 - (i) an inspection using a non-destructive testing method; or
 - (ii) manual welding;
 the person is authorised by CASA under subregulation (6) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.
- (6) CASA may, in writing, authorise a person for the purposes of paragraph (3) (d), (4) (e) or subregulation (5).
- (7) An authorised person may, in writing, authorise a person for the purposes of paragraph (3) (d).
- (8) An authorisation is subject to any conditions that:
 - (a) CASA or the authorised person, as the case may be, considers are necessary in the interests of the safety of air navigation; and
 - (b) are included in the authorisation.
- (9) For the purposes of this regulation, an aircraft maintenance engineer licence covers the maintenance if the licence:
 - (a) is issued in the category; and
 - (b) is endorsed with a rating;
 that covers the maintenance.
- (10) For the purposes of this regulation, an aircraft welding authority covers maintenance of a particular kind if the authority is issued for the type of manual welding and the parent metal group that is appropriate to that kind of maintenance.

42ZD Maintenance on Australian aircraft outside Australian territory

- (1) The holder of the certificate of registration for, or the operator or pilot in command of, an Australian aircraft must not authorise or permit any maintenance to be carried out on the aircraft outside Australian territory by a person if the person is not permitted by this regulation to carry out maintenance.
Penalty: 25 penalty units.
- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) A person may carry out maintenance on an Australian aircraft outside Australian territory if:
 - (a) the person would be permitted by regulation 42ZC to carry out the maintenance if the aircraft were in Australian territory; or
 - (b) if the aircraft is in a Contracting State—the person would be permitted under the law of the Contracting State to carry out the maintenance if the aircraft were registered in the Contracting State; or

- (c) the person is authorised by CASA under subregulation (3) to carry out the maintenance and the maintenance is carried out in accordance with any conditions subject to which the authorisation is given.
- (3) CASA may, in writing, authorise a person for the purposes of paragraph (2) (c).
- (4) An authorisation is subject to any conditions that:
 - (a) CASA considers are necessary in the interests of the safety of air navigation; and
 - (b) are included in the authorisation.

Division 6 **Certification of Completion of Maintenance****Subdivision 1** **Maintenance in Australian territory****42ZE** **Certification of completion of maintenance on aircraft in Australian territory**

- (1) A person who carries out maintenance on an Australian aircraft in Australian territory must ensure that completion of the maintenance is certified in accordance with:
- (a) if the person has an approved system of certification of completion of maintenance—that system; or
 - (b) if paragraph (a) does not apply—the CASA system of certification of completion of maintenance.

Penalty: 50 penalty units.

- (2) For the purposes of this regulation, maintenance performed by employees of an employer who is the holder of a certificate of approval, an aircraft maintenance engineer licence or an airworthiness authority is to be taken to be carried out by the employer and not by the employees.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

42ZF **Request for approval of system of certification**

- (1) A person who is, or who may be, required by regulation 42ZE to ensure completion of maintenance is certified may, in writing, request CASA to approve a system of certification of completion of maintenance.
- (2) The request must be accompanied by a copy of the system.

42ZG **Approval of system of certification**

- (1) If:
- (a) CASA receives a request for approval of a system of certification of completion of maintenance; and
 - (b) CASA is satisfied that, having regard to the CASA system of certification of completion of maintenance, the system adequately provides for certification of the completion of the maintenance;
- CASA must approve the system.
- (2) CASA must, in writing, notify the person who requested approval of the system of certification of CASA's decision in relation to the system.
- (3) If CASA decides not to approve the system of certification CASA must include in the notice a statement of the reasons for that decision.

42ZH When approval is effective

- (1) If CASA approves a system of certification of completion of maintenance, the approval has effect from when notice of the decision is given to the person who requested approval of the system.
- (2) The approval stops being in force if:
 - (a) it is revoked by CASA by written notice given to the person who requested approval of the system; or
 - (b) the person who requested approval of the system gives CASA written notice that the person no longer wants to use the system.
- (3) CASA must not revoke an approval of a system of certification of completion of maintenance unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

42ZJ Changes to an approved system of certification

- (1) A person who has an approved system of certification of completion of maintenance may, in writing, request CASA or an authorised person to approve a proposed change to the system.
- (2) The request must be accompanied by a copy of the proposed change.
- (3) If an approved system of certification of completion of maintenance is:
 - (a) no longer appropriate; or
 - (b) defective;within 7 days of becoming aware of the inappropriate aspect or the defect, the person who has the approved system of certification of completion of maintenance must make a request under subregulation (1) for CASA or an authorised person to approve a proposed change to the system to ensure that it is appropriate and not defective.
Penalty: 25 penalty units.
- (4) CASA may, under regulation 38, direct a person who has an approved system of certification of completion of maintenance:
 - (a) to make:
 - (i) a specified change to the system; or
 - (ii) a change to the system that will correct a specified deficiency in the system; and
 - (b) to submit the proposed change to CASA or an authorised person for approval.

42ZK Approval of changes

- (1) If:
 - (a) CASA or an authorised person receives a request for approval of a change to an approved system of certification of completion of maintenance; and

(b) CASA or the authorised person is satisfied that, having regard to the CASA system of certification of completion of maintenance, the system, as proposed to be changed, would adequately provide for certification of the completion of the maintenance;

CASA or the authorised person must approve the change.

- (2) CASA or the authorised person must, in writing, notify the person who requested approval of the change of CASA's or the authorised person's decision in relation to the request.
- (3) If CASA or the authorised person decides not to approve the proposed change, CASA or the authorised person must include in the notice a statement of the reasons for that decision.

42ZL When approval of a change is effective

If CASA or an authorised person approves a change to a system of certification of completion of maintenance, the approval has effect from when notice of the approval is given to the person who requested approval of the change.

42ZM All changes must be approved

A purported change to an approved system of certification of completion of maintenance has no effect unless it has been approved under subregulation 42ZK (1) and that approval is in force.

*Subdivision 2 Maintenance Outside Australian Territory***42ZN Certification of maintenance outside Australian territory**

- (1) The holder of the certificate of registration for an Australian aircraft on which maintenance has been carried out outside Australian territory must not fly the aircraft, and must ensure the aircraft is not flown, if each of the following requirement is not satisfied:
- (a) the completion of the maintenance has been certified by:
 - (i) a person who would have been permitted by regulation 42ZC to carry out the maintenance if the aircraft had been in Australia; or
 - (ii) if the maintenance was carried out in a Contracting State—a person who would be permitted under the law of the Contracting State to certify the completion of the maintenance if the aircraft were registered in the Contracting State; or
 - (iii) a person who is authorised by CASA to certify the completion of the maintenance;
 - (b) the certification is made in a manner that is acceptable to CASA having regard to the safety of air navigation.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Subdivision 3 *Miscellaneous***42ZP** **Certification not to be made**

- (1) A person must not certify the completion of maintenance carried out on an aircraft, aircraft component or aircraft material if the maintenance was not carried out in accordance with the approved maintenance data for the aircraft, aircraft component or aircraft material.

Penalty: 50 penalty units.

[*Note* Regulation 2A sets out what is approved maintenance data for an aircraft.]

- (2) This regulation has effect in spite of any provision in an approved system of certification of completion of maintenance.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

Division 7 Exemptions From, and Variations of, Requirements**42ZQ Requirements to which Division applies**

- (1) This Division applies to requirements that are specified in a prescribed regulation or in a related document.
- (2) In this regulation:
 - prescribed regulation* means regulation 36A, 39, 41, 42G, 42U, 42V, 42W, 42X, 42Y, 42Z or 42ZA;
 - related document* means a document that is:
 - (b) a direction issued by CASA under regulation 38 or 44, or a direction in force under subregulation 202.003 (3) of CASR; or
 - (c) a document or design that:
 - (i) was approved under regulation 35; or
 - (ii) forms part of a certificate of type approval; or
 - (d) issued by the manufacturer of an aircraft component or aircraft material; or
 - (e) issued by the designer of a modification of an aircraft or aircraft component;that relates to:
 - (f) what maintenance is to be carried out on an aircraft; or
 - (g) when maintenance is to be carried out on an aircraft; or
 - (h) how maintenance is to be carried out on an aircraft.

42ZR Application for exemption from, or variation of, requirements

- (1) The holder of the certificate of registration for an Australian aircraft may apply, in writing, to CASA or an authorised person for:
 - (a) an exemption, in relation to the aircraft, from a requirement to which this Division applies; or
 - (b) a variation, in relation to the aircraft, of a requirement to which this Division applies.
- (2) The application must set out:
 - (a) particulars of the exemption or variation sought; and
 - (b) the reasons for seeking the exemption or variation.
- (3) In the application, the applicant must also state whether the exemption or variation is to apply to any person who might otherwise be bound to comply with the requirement or only to a specified person or specified persons.
- (4) CASA or the authorised person may require the applicant to provide an explanation of the effect of the exemption or variation on the safety of air navigation.

42ZS Granting of exemptions and approval of variations

- (1) CASA or an authorised person must grant the exemption or approve the variation if CASA or the authorised person is satisfied that granting the exemption or approving the variation would not adversely affect the safety of air navigation.
- (2) If CASA or the authorised person grants the exemption, or approves the variation, the grant or approval may be made or given subject to such conditions as CASA or the authorised person thinks necessary in the interests of the safety of air navigation.
- (3) CASA or the authorised person must, in writing, notify the applicant of CASA's, or the authorised person's, decision in relation to the application.
- (4) If CASA or the authorised person grants the exemption, or approves the variation, CASA or the authorised person must identify in the exemption or approval:
 - (a) in the case of an exemption:
 - (i) the aircraft to which the exemption relates; and
 - (ii) the person or persons to whom the exemption applies; and
 - (iii) the conditions (if any) subject to which the exemption is granted; or
 - (b) in the case of an approval of a variation:
 - (i) the aircraft to which the variation relates; and
 - (ii) the person or persons to whom the variation applies; and
 - (iii) the conditions (if any) subject to which the variation is granted.
- (5) If CASA or the authorised person decides not to grant the exemption, or approve the variation, CASA or the authorised person must include in the notice a statement of the reasons for that decision.

42ZT When grant or approval is effective

- (1) If CASA or an authorised person grants an exemption, or approves a variation, the grant or approval has effect from when notice of the grant or approval is given to the applicant.
- (2) The exemption or variation stops being in force if:
 - (a) it is expressed to have effect for a limited period and that period ends; or
 - (b) it is revoked by CASA by written notice given to the holder of the certificate of registration for the aircraft concerned; or
 - (c) the holder of the certificate of registration for the aircraft concerned gives CASA or the authorised person written notice that the holder no longer wants the exemption or variation to apply in relation to the aircraft.

- (3) CASA must not revoke an exemption or a variation unless CASA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

42ZU Effect of grant of exemption or approval of variation

- (1) If:
 - (a) CASA or an authorised person has granted an exemption from a requirement to which this Division applies; and
 - (b) that exemption is in force;then, subject to any conditions imposed under subregulation 42ZS (2), a person identified in the approval under subparagraph 42ZS (4) (a) (ii) is exempt from compliance with the requirement in relation to the aircraft concerned.
- (2) If:
 - (a) CASA or an authorised person has approved a variation of a requirement to which this Division applies; and
 - (b) that approval is in force;then, subject to any conditions imposed under subregulation 42ZS (2), the requirement has effect, in relation to a person identified in the approval under subparagraph 42ZS (4) (b) (ii) and the aircraft concerned, as if the requirement were varied in the manner approved.

Division 8 **Maintenance Control Manual and Maintenance Controller****42ZV** **Maintenance controllers**

- (1) The operator of a class A aircraft must appoint a person to be the maintenance controller for the aircraft.

Penalty: 50 penalty units.

- (2) The same person may be appointed as the maintenance controller for more than 1 class A aircraft.

- (3) A person appointed as the maintenance controller for a class A aircraft must not undertake duties as the maintenance controller if each of the following requirements is not satisfied:

- (a) the appointment is approved under regulation 42ZW;
- (b) the approval is not suspended or cancelled under regulation 42ZX.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42ZW **Approval of maintenance controllers**

- (1) The operator of a class A aircraft may ask CASA to approve a person's appointment as the maintenance controller for the aircraft.

- (2) CASA must, on receiving a request for approval of a person's appointment, approve the appointment if it is reasonably satisfied that the person:

- (a) meets the requirements of Part 1 of Schedule 9; and
- (b) can properly perform the functions set out in Part 2 of Schedule 9.

[*Note* A decision not to approve the appointment of a person to be a maintenance controller is reviewable by the Administrative Appeals Tribunal under regulation 297A.]

- (3) CASA may approve an appointment subject to any condition that is necessary in the interests of the safety of air navigation.

[*Note* A decision to approve the appointment of a person to be a maintenance controller subject to conditions is reviewable by the Administrative Appeals Tribunal under regulation 297A.]

- (4) If CASA approves a person's appointment it must give a copy of the approval, including the conditions (if any) applicable to the approval, both to the person and to the operator.

- (5) A person whose appointment is approved must not contravene a condition to which the approval is subject.

Penalty: 50 penalty units.

- (5A) An offence against subregulation (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) An approval stops being in force if:
- (a) it is cancelled; or
 - (b) the appointment to which it relates ends.
- (7) If CASA suspends an approval, the approval has no effect during the period of the suspension.

42ZX Suspension or cancellation of approvals

- (1) CASA may suspend or cancel an approval of a person's appointment as the maintenance controller for a class A aircraft if:
- (a) the person is not carrying out the maintenance controller's functions satisfactorily; or
 - (b) the person has contravened a condition to which the approval is subject.

[*Note* A decision to suspend or cancel an approval is reviewable by the Administrative Appeals Tribunal under regulation 297A.]

- (2) A suspension or cancellation does not have effect until a notice of the suspension or cancellation is served on:
- (a) the person; and
 - (b) the operator of the aircraft.

42ZY Maintenance control manuals

- (1) The operator of a class A aircraft must prepare a maintenance control manual for the aircraft that:
- (a) states the operator's name; and
 - (b) if the operator does not hold the registration certificate for the aircraft—states the name of its certificate holder; and
 - (c) sets out the functions of the operator's maintenance controller; and
 - (d) includes:
 - (i) a description of the aircraft that identifies it, including particulars of its type, model and marks; and
 - (ii) details of the arrangements for the control of maintenance of the aircraft; and
 - (iii) details of the arrangements under which the aircraft's approved maintenance program is to be met; and
 - (iv) details of the arrangements to ensure compliance with the weight and balance requirements for the aircraft; and
 - (v) a statement determining the period, or period of time-in-service, for which a maintenance release for the aircraft is to remain in force.

Penalty: 50 penalty units.

- (2) The operator must ensure:

- (a) compliance, with the maintenance control manual; and
- (b) that the maintenance controller properly carries out the maintenance controller's function set out in Part 2 of Schedule 9.

Penalty: 50 penalty units.

- (3) An operator must make available to a person who carries out maintenance on the operator's aircraft a copy of the parts of the maintenance control manual that are relevant to the maintenance.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42ZZ Maintenance control manuals: amendments

- (1) An operator must amend the operator's maintenance control manual whenever it is necessary to do so to keep it up-to-date.

Penalty: 50 penalty units

- (2) CASA may direct the operator, in writing, to amend the maintenance control manual in accordance with the direction.

- (3) An operator must comply with a direction given to the operator.

Penalty: 50 penalty units.

- (4) The operator must ensure that amendments of the maintenance control manual made under this regulation are incorporated in each copy of the manual kept by the operator.

Penalty: 50 penalty units.

- (5) An offence against subregulation (1), (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

42ZZA Inspection of maintenance control manuals

- (1) An operator must, if asked by CASA, make the operator's maintenance control manual available for inspection by CASA.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

*Division 9**Maintenance Releases***43 Maintenance releases in respect of Australian aircraft**

- (1) Maintenance releases in respect of Australian aircraft shall be issued only by authorised persons and only in such manner, and in accordance with such form, as CASA directs or approves.
- (2) CASA may give a direction specifying the information to be entered on a maintenance release before its issue.
- (3) Where a person appointed as an authorised person for the purposes of this regulation is a body corporate, CASA shall specify in the instrument of appointment the condition that any maintenance release issued by the authorised person is to be signed, on behalf of the authorised person, by a specified person or by a person included in a specified class of persons.
- (4) CASA may give a direction with respect to the retention and transfer of maintenance releases and copies of maintenance releases issued under this regulation.
- (5) CASA may give a direction specifying the period, or the maximum period, that a maintenance release of a kind specified in the direction is to be expressed to remain in force.
- (6) A maintenance release may be issued in respect of an aircraft only if:
 - (a) there is in force, a certificate of airworthiness for the aircraft; or
 - (b) CASA has approved the issue of the maintenance release.
- (7) A maintenance release may be issued in respect of an aircraft only if:
 - (a) all maintenance in respect of the aircraft required to be carried out to comply with any requirement or condition imposed under these Regulations has been certified, in accordance with regulation 42ZE or 42ZN, to have been completed; or
 - (b) for a maintenance release for a flight under a permission to fly in force under subregulation 317 (1)—the completion of any maintenance required under a condition of the permit, or under a direction in relation to the permit or permission, has been certified under regulation 42ZE or 42ZN.
- (8) For the purposes of paragraph (7) (a), the existence of an earlier maintenance release issued by virtue of that paragraph in respect of an aircraft may, in the absence of evidence to the contrary, be accepted by an authorised person for the purposes of this regulation as proof that all maintenance required under these Regulations to be carried out on the aircraft before the date of issue of the earlier maintenance release has been certified to have been completed as required by that paragraph.

- (9) A maintenance release may bear an endorsement that the release is issued subject to a condition set out in the endorsement, being a condition imposed for the purpose of ensuring the safety of air navigation.
- (10) Where an aircraft has a permissible unserviceability, a maintenance release issued in respect of the aircraft, or other document approved for use as an alternative to the maintenance release for the purposes of this subregulation, shall bear an endorsement:
- (a) setting out each permissible unserviceability that exists with respect to the aircraft;
 - (b) setting out such of the conditions (if any) with respect to the use of an aircraft with those permissible unserviceabilities set out in any direction given under regulation 37 in relation to those permissible unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Civil Aviation Orders; and
 - (c) stating that the maintenance release is issued subject to those conditions, whether set out in the maintenance release or the other document or otherwise.
- (11) A person shall not issue a maintenance release in contravention of this regulation.
- Penalty:
- (a) for a contravention of subregulation (1)—25 penalty units; or
 - (b) for a contravention of subregulation (6)—25 penalty units; or
 - (c) for a contravention of subregulation (7)—50 penalty units; or
 - (d) for a contravention of subregulation(10)—10 penalty units.
- (11A) A person must not contravene:
- (a) a direction; or
 - (b) the condition specified in subregulation (3); or
 - (c) a condition to which a maintenance release is subject.
- Penalty:
- (a) for a contravention of a direction under subregulation (2)—10 penalty units; or
 - (b) for a contravention of the condition specified in subregulation (3)—10 penalty units; or
 - (c) for a contravention of a direction under subregulation (4) or (5)—5 penalty units; or
 - (d) for a contravention of a condition under subregulation (9)—50 penalty units.
- (12) Subregulation (11) does not apply in relation to a person by reason only that he or she has issued a maintenance release in contravention of a direction given under this regulation unless the direction has been served on the person.

- (13) A person shall not sign a maintenance release to be issued by virtue of paragraph (7) (a) in respect of an aircraft if:
- (a) the person considers that:
 - (i) the aircraft is in a damaged condition or is defective;
 - (ii) the damage is major damage or the defect is a major defect, as the case may be; and
 - (iii) the damage or defect is not a permissible unserviceability;
 - (b) the person considers that maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or of any system of aircraft components, installed in the aircraft;
 - (c) the person is aware that certain maintenance that has been carried out on the aircraft has not been certified, in accordance with regulation 42ZE or 42ZN, to have been completed; or
 - (d) the person is aware that:
 - (i) information entered on the maintenance release is incorrect; or
 - (ii) the maintenance release does not contain all information that it is required by or under these Regulations to contain.
- (13A) A person must not contravene subregulation (13).
- Penalty:
- (a) if the person signs the maintenance release in contravention of paragraph (13) (a) or (b)—50 penalty units; or
 - (b) if the person signs the maintenance release in contravention of paragraph (13) (c)—10 penalty units; or
 - (c) if the person signs the maintenance release in contravention of paragraph (13) (d)—25 penalty units.
- (15) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.
- (16) Where a maintenance release is issued under this regulation, or again commences to be in force by virtue of regulation 48, in respect of an aircraft, any other maintenance release in force in respect of the aircraft immediately before that issue or that commencement, as the case may be, ceases to be in force.
- (17) An offence against subregulation (11) or (11A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

43A Maintenance release to be available for inspection

- (1) CASA or an authorised person may, at all reasonable times, inspect a maintenance release, or a copy of a maintenance release, for an aircraft.

- (2) A person who has possession or custody of a maintenance release, or a copy of a maintenance release, must make it available for inspection by CASA or an authorised person at the request of CASA or the authorised person.

Penalty: 25 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

43B

Time-in-service to be recorded on maintenance release

- (1) On the completion of flying operations on each day that an aircraft is flown, the owner, operator or pilot in command must record on the maintenance release the total time-in-service of the aircraft on the day.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

44

Conditions with respect to maintenance releases

- (1) CASA may, for the purpose of ensuring the safety of air navigation, give a direction that a condition set out in the direction shall apply in relation to:

- (a) every maintenance release in force on or after the date of the direction;
- (b) every maintenance release in respect of an aircraft of a kind specified in the direction in force on or after the date of the direction; or
- (c) a maintenance release in respect of a specified aircraft.

- (1A) CASA may, for the purpose of ensuring the safety of air navigation, give directions requiring the endorsement of information on maintenance releases.

- (1B) It is a condition of a maintenance release that any applicable directions under subregulation (1A) are complied with.

- (2) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.
- (3) A person who contravenes a direction given under this regulation is guilty of an offence punishable, on conviction, by:
 - (a) in the case of a direction under subregulation (1)—a fine not exceeding 50 penalty units; and
 - (b) in the case of a direction under subregulation (1A)—a fine not exceeding 25 penalty units.
- (4) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

45 Suspension or cancellation of maintenance release

- (1) Where CASA is satisfied that a condition set out in, or applying in relation to, a maintenance release has not been complied with, CASA may suspend or cancel the maintenance release.
- (2) A suspension or cancellation of a maintenance release under this regulation does not have effect in relation to a person until a notification of the suspension or cancellation has been served on the person.

46 Information to be passed to other persons

- (1) If a direction setting out a condition that applies in relation to a maintenance release of an aircraft given under regulation 44, or a notification of a suspension or cancellation of a maintenance release of an aircraft given under regulation 45, has been served on the holder of the certificate of registration for the aircraft, the holder must use his or her best endeavours to ensure that the direction or the fact that the maintenance release has been suspended or cancelled, as the case may be, is brought to the attention of any person, who is likely to fly, or likely to issue a maintenance release for, the aircraft.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

47 Maintenance release to cease to be in force

- (1) If:
 - (aa) the holder of the certificate of registration for; or
 - (ab) the operator of; or
 - (ac) a flight crew member of; or
 - (ad) an authorised person engaged (whether as an employee or on his or her own behalf) in the maintenance of;an aircraft in respect of which a maintenance release is in force becomes aware:
 - (a) that:

- (i) a requirement or condition imposed under these Regulations in respect of the maintenance of the aircraft has not been complied with;
 - (ii) the aircraft has suffered major damage or has developed a major defect, other than damage or a defect that is a permissible unserviceability;
 - (iii) abnormal flight or ground loads have been imposed on the aircraft; or
 - (iv) maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or any system of aircraft components, installed in the aircraft; and
- (b) that there is a likelihood that the aircraft will be flown before:
- (i) the requirement or condition referred to in subparagraph (a) (i) has been complied with;
 - (ii) the damage or defect referred to in subparagraph (a) (ii) has been remedied;
 - (iii) any damage caused by the imposition of the abnormal loads referred to in subparagraph (a) (iii) has been remedied; or
 - (iv) the characteristics referred to in subparagraph (a) (iv) have been corrected;
- as the case may be;

he or she shall, subject to subregulation (2), enter on the maintenance release, or other document approved for use as an alternative to the maintenance release for the purposes of this subregulation, an endorsement signed by him or her setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

Penalty: 25 penalty units.

- (2) A person is not required under subregulation (1) to enter an endorsement on a maintenance release or other document approved for use as an alternative to a maintenance release if:
- (a) the maintenance release was issued by virtue of paragraph 43 (7) (b); and
 - (b) the person considers that the ground for entering the endorsement:
 - (i) existed at the time when the maintenance release was issued; and
 - (ii) was known to the person who issued the maintenance release or to a responsible employee of that person.
- (3) If:
- (a) the holder of the certificate of registration for; or
 - (b) the operator of; or
 - (c) the pilot in command of; or

(d) an authorised person engaged (whether as an employee or on his or her own behalf) in the maintenance of;

an aircraft in respect of which a maintenance release is in force becomes aware that the certificate of airworthiness in respect of the aircraft has been suspended or cancelled, he or she shall enter on the maintenance release an endorsement signed by him or her setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

Penalty: 25 penalty units.

(4) Where:

(a) an authorised person (whether acting as an employee or on his or her own behalf) carries out maintenance on an aircraft in pursuance of an authorisation under subregulation 35 (3), or subregulation 36 (3) with a view to the aircraft being tested; and

(b) there is in force in respect of the aircraft a maintenance release issued by virtue of paragraph 43 (7) (a);

the authorised person shall enter on the maintenance release an endorsement signed by him or her setting out that he or she has carried out maintenance authorised under the relevant provision referred to in paragraph (a) and that the aircraft requires testing, and thereupon the maintenance release ceases to be in force.

Penalty: 25 penalty units.

(5) A maintenance release for an aircraft stops being in force when a maintenance release inspection of the aircraft begins.

(6) In this regulation *maintenance release inspection* means an inspection carried out on an aircraft for the purpose of determining whether a maintenance release for the aircraft should be issued.

(7) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

48 Maintenance release to recommence to be in force

(1) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under subregulation 47 (1), the maintenance release shall again commence to be in force if:

(a) where the endorsement refers to a requirement or condition in respect of the maintenance of the aircraft not having been complied with—there is entered on the maintenance release or other document on which the endorsement was made a certification in accordance with regulation 42ZE or 42ZN, that the maintenance to which the requirement or condition relates has been completed;

- (b) where the endorsement refers to the aircraft having suffered major damage or having developed a major defect—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to remedy the damage or the defect, as the case may be, has been completed;
 - (c) where the endorsement refers to the aircraft having had imposed on it abnormal flight or ground loads—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to be carried out to check whether that imposition has caused any damage to the aircraft, and to remedy any damage so caused, has been completed; or
 - (d) where the endorsement relates to the flight characteristics of the aircraft or the operating characteristics of an aircraft component, or system of aircraft components, installed in the aircraft—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with regulation 42ZE or 42ZN, that the maintenance required to correct the flight characteristics or operating characteristics, as the case may be, has been completed.
- (2) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under regulation 47, the maintenance release shall again commence to be in force if there is entered on the maintenance release or other document on which the endorsement was made a further endorsement signed by an authorised person cancelling the first-mentioned endorsement.
- (3) An authorised person must not make an endorsement under subregulation (2) if there is a reason why the endorsement to be cancelled should remain in force.

Penalty: 25 penalty units.

- (4) A maintenance release that has ceased to be in force by virtue of an endorsement made under regulation 47 shall not again commence to be in force except by virtue of an endorsement made under this regulation.
- (5) This regulation does not have effect in relation to a maintenance release issued in respect of an aircraft if:
 - (a) the period during which the maintenance release is expressed to remain in force has expired; or
 - (b) a subsequent maintenance release has been issued in respect of the aircraft by virtue of paragraph 43 (7) (a).

49 Permissible unserviceabilities to be endorsed on maintenance releases

- (1) This regulation applies to each of the following persons in relation to an aircraft in respect of which a maintenance release is in force:
 - (a) the holder of the certificate of registration for the aircraft;
 - (b) the operator of the aircraft;
 - (c) a flight crew member of the aircraft;
 - (d) an authorised person engaged (whether as an employee or on his or her own behalf) in the maintenance of the aircraft.
- (2) If:
 - (a) an aircraft in respect of which a maintenance release is in force has developed a defect, or has suffered damage, that is a permissible unserviceability; and
 - (b) there is a likelihood that the aircraft will be flown before the permissible unserviceability is rectified;a person mentioned in subregulation (1), who becomes aware of the defect or damage, must endorse the maintenance release, or other document approved for use as an alternative to the maintenance release for the purposes of this regulation, in the manner set out in subregulation (3).

Penalty: 25 penalty units.
- (3) For subregulation (2), the maintenance release or other document must be signed by the person mentioned in subregulation (1), and must:
 - (a) set out each permissible unserviceability that exists with respect to the aircraft; and
 - (b) set out the conditions (if any) with respect to the use of the aircraft with those permissible unserviceabilities set out in any direction given under regulation 37 in relation to those permissible unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Civil Aviation Orders; and
 - (c) state that the maintenance release has effect subject to those conditions, whether set out in the maintenance release or the other document or otherwise.

50 Defects and major damage to be endorsed on maintenance release

- (1) This regulation applies to each of the following persons:
- (a) the holder of the certificate of registration for an Australian aircraft;
 - (b) the operator of an Australian aircraft;
 - (c) a flight crew member of an Australian aircraft.

- (2) If:
- (a) there is a defect in the aircraft; or
 - (b) the aircraft has suffered major damage;
- a person mentioned in subregulation (1), who becomes aware of the defect or damage, must endorse the maintenance release of the aircraft or other document approved for use as an alternative for the purposes of this regulation, setting out the particulars of the defect or damage, as the case may be, and sign the endorsement.

Penalty: 25 penalty units.

Division 10 Aircraft Log Books**50A Aircraft log book**

- (1) Subject to regulation 50B, the holder of the certificate of registration for an Australian aircraft must:
 - (a) keep a log book for the aircraft; and
 - (b) make the log book, and other documents referred to in the log book, available to CASA and to persons engaged in maintenance on the aircraft;in accordance with the instructions issued by CASA under subregulation (2).
Penalty: 50 penalty units.
- (2) CASA may issue written instructions:
 - (a) relating to how aircraft log books are to be kept; and
 - (b) requiring aircraft log books, and documents referred to in aircraft log books, to be made available to CASA and to persons engaged in maintenance on aircraft.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

50B Alternative to aircraft log book or section of aircraft log book

- (1) CASA may, in writing, approve the use, in relation to an Australian aircraft, of an alternative to an aircraft log book or to a particular section of an aircraft log book.
- (2) An approval may be subject to such conditions as CASA considers necessary in the interests of the safety of air navigation.
- (3) If CASA approves the use of an alternative to an aircraft log book, the holder of certificate of registration of the aircraft concerned must:
 - (a) keep a record relating to the aircraft's maintenance; and
 - (b) make the record, and other documents referred to in the record, available to CASA and to persons engaged in maintenance on the aircraft;in accordance with the terms of the approval.
Penalty: 50 penalty units.
- (4) If CASA approves the use of an alternative to a particular section of an aircraft log book, the holder of the certificate of registration of the aircraft concerned must:
 - (a) keep a record relating to the aspects of the aircraft's maintenance that would otherwise be covered by that section; and

- (b) make the record, and other documents referred to in the record, available to CASA and to persons engaged in maintenance on the aircraft;

in accordance with the terms of the approval.

Penalty: 50 penalty units.

- (5) A person must not engage in conduct that results in the alteration of an entry in an alternative to an aircraft log book if:
 - (a) the alteration is not a single line through the words to be struck out; and
 - (b) the words struck out do not remain legible.

Penalty: 50 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

50C Directions relating to aircraft maintenance records

- (1) CASA may, for the purpose of ensuring the safety of air navigation, give directions in relation to:
 - (a) the retention and transfer of aircraft maintenance records and parts of aircraft maintenance records; and
 - (b) the making and keeping of copies of aircraft maintenance records and parts of aircraft maintenance records.

- (2) A direction is not binding on a person unless it has been served on the person.

- (3) A person must not contravene a direction that is binding on the person.
Penalty: 50 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

50D Inspection of records

- (1) A person required by this Division (including by a direction under regulation 50C to keep or retain a record must make the record available for inspection by CASA or an authorised person at the request of CASA or the authorised person.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 11 *Miscellaneous***50E** **Inconsistent requirements— resolution of inconsistencies**

- (1) This regulation applies where, apart from this regulation, a person would be required, by this Part, to comply with two requirements that are inconsistent.
- (2) The person is only required to comply with whichever of the requirements has the higher priority.
- (3) For the purposes of this regulation, two requirements are inconsistent if:
 - (a) it is not possible to comply with both of the requirements; or
 - (b) they require the same, or substantially the same, action to be taken at different times or in a different way.
- (4) The order of priority of requirements is as follows (starting with those of highest priority):
 - (a) requirements in these Regulations (except those requirements mentioned in the remaining provisions of this subregulation);
 - (b) requirements in instruments made under these Regulations;
 - (c) requirements in documents (including designs) approved by CASA or authorised persons under these Regulations;
 - (d) requirements in instructions issued by designers of modifications of aircraft;
 - (e) requirements in instructions issued by designers of modifications of aircraft components;
 - (f) requirements in instructions issued by aircraft manufacturers;
 - (g) requirements in instructions issued by aircraft component manufacturers;
 - (h) requirements in instructions issued by aircraft material manufacturers;
 - (j) requirements in documents that are approved maintenance data because of paragraphs 2A (2) (e).
- (5) If there is in existence more than one requirement of a kind mentioned in one of the paragraphs of subregulation (4), then the requirement that is later in time has higher priority.

50F **Notice of maintenance to be given**

- (1) A person who has control in Australian territory of an aircraft on which maintenance is being carried out must take reasonable steps to ensure that notice that the maintenance is being carried out is given to any person likely to want to fly the aircraft.

Penalty: 50 penalty units.

- (2) For the purposes of this regulation, an aircraft on which maintenance (other than approved maintenance to be carried out by the holder of a pilot licence that is valid for the aircraft) has been commenced is to be taken to be an aircraft on which maintenance is being carried out until completion of the maintenance has been certified in accordance with regulation 42ZE.
- (3) An offence against subregulation (1) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

PART 4B DEFECT REPORTING

51 Reporting of defects in Australian aircraft—general

- (1) Where a person who, in the course of his or her employment with an employer, is engaged in the maintenance of an Australian aircraft becomes aware of the existence of a defect in the aircraft, the person shall report the defect to his or her employer.
- (2) Subject to subregulation (3), if a person engaged in the maintenance of an Australian aircraft becomes aware of the existence of a major defect in the aircraft, the person must report the defect to the holder of the certificate of registration for the aircraft and to CASA.

Penalty: 25 penalty units.

- (2A) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A person is not required to report a defect under subregulation (2) if:
 - (a) the person was engaged in the maintenance as an employee; or
 - (b) the person is the holder of the certificate of registration for the aircraft.
- (4) If the holder of the certificate of registration for an Australian aircraft becomes aware of the existence of a defect in the aircraft, he or she must:
 - (a) have an investigation made of the defect; and
 - (b) if the defect is a major defect—have a report made to CASA with respect to the defect and to any matters revealed by the investigation.

Penalty: 25 penalty units.

51A Reporting of defects in Australian aircraft: major defects

- (1) This regulation applies to major defects:
 - (a) that have caused, or that could cause, a primary structural failure in an aircraft; or
 - (b) that have caused, or that could cause, a control system failure in an aircraft; or
 - (c) that have caused, or that could cause, an engine structural failure in an aircraft; or
 - (d) caused by, that have caused, or that could cause, fire in an aircraft.

- (2) If a person connected with the operation of, or the carrying out of maintenance on, an Australian aircraft discovers a defect in the aircraft, being a defect of a kind to which this regulation applies, the person must report the defect to CASA immediately.

Penalty: 50 penalty units.

- (2A) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A person must not prevent another person from reporting a defect of a kind to which this regulation applies.

Penalty: 50 penalty units.

- (4) It is a defence to a prosecution under subregulation (2) if the person charged establishes:

- (a) a reason for not being able to report the defect to CASA immediately; and
- (b) that the reason was:
 - (i) by its nature such as to prevent the person reporting the defect to CASA immediately; or
 - (ii) that the defect required further investigation to discover the extent of the defect; and
- (c) that the person reported the defect to CASA as soon as he or she was not prevented by the reason from doing so.

51B Defects discovered in complying with directions by CASA

- (1) If a person discovers a defect in an aircraft in the course of complying with an airworthiness directive or a direction given by CASA under regulation 38, the person must report the defect to CASA.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

52 Defects discovered in aircraft components

- (1) This regulation applies if:
- (a) a person engaged in the maintenance of an aircraft component becomes aware of a defect in the component; or
 - (b) a person engaged in the maintenance of an aircraft becomes aware of a defect in an aircraft component that the person proposed to install in the aircraft in the course of that maintenance; or
 - (c) a person who holds a certificate of approval that covers the maintenance of aircraft components becomes aware of a defect in an aircraft component that he or she owns; or
 - (d) a person who holds an Air Operator's Certificate becomes aware of a defect in an aircraft component that he or she owns and intends to install in an aircraft used in operations under that Air Operator's Certificate.

- (2) If the person owns the aircraft component:
- (a) the person must have an investigation made of the defect; and
 - (b) if the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might be affected or the aircraft might become a danger to person or property—the person must have a report made to CASA in relation to the defect and any matters revealed by the investigation.

Penalty: 25 penalty units.

- (3) If the person does not own the aircraft component the person must:
- (a) have a report made to the owner of the component in relation to the defect; and
 - (b) if the person thinks that the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might be affected or the aircraft might become a danger to person or property—have a report made to CASA in relation to the defect.

Penalty: 25 penalty units.

- (4) After the owner of an aircraft component receives the report mentioned in paragraph (3) (a):
- (a) the owner must have an investigation made of the defect; and
 - (b) if the defect is such that, if the component were installed in an aircraft, the safety of the aircraft might be affected or the aircraft might become a danger to person or property—the owner must have a report made to CASA in relation to the defect and any matters revealed by the investigation.

Penalty: 25 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

52A

How must reports to CASA be made?

- (1) A report of a defect to CASA under regulation 51, 51A or 52:
- (a) must be made in accordance with this regulation; and
 - (b) is not taken to be made unless in accordance with this regulation.
- (2) A report must:
- (a) describe the defect; and
 - (b) set out the date on which the defect was discovered; and
 - (c) set out the circumstances in which the defect was discovered; and
 - (d) set out any action that has been taken or that is proposed to be taken:
 - (i) to rectify the defect; or
 - (ii) to prevent the defect from recurring; and
 - (e) set out what the person making the report thinks is the cause of the defect; and
 - (f) if the defect is in an aircraft—set out:

- (i) the type, model, serial number and registration mark of the aircraft; and
- (ii) the type, model and serial number of the aircraft's engine; and
- (iii) if the aircraft has a propeller—the type, model and serial number of the aircraft's propeller; and
- (iv) the time in service of, number of landings of, or number of cycles completed by, the aircraft since new; and
- (g) if the defect is in an aircraft component—set out:
 - (i) the identity of the component, including (if applicable) the part number and serial number of the component; and
 - (ii) the time in service of, or the number of cycles completed by, the component since new; and
 - (iii) if the component has been overhauled—the time in service of, or the number of cycles completed by, the component since its most recent overhaul; and
 - (iv) if the component is a turbine engine—the number of cycles completed by the component since new.
- (3) Subject to subregulation (4), a report to CASA in relation to a defect must be sent to CASA within 2 working days of the discovery of the defect.
- (4) Subregulation (3) does not apply to a report of a defect of a kind to which regulation 51A applies.

52B Keeping of defective aircraft and aircraft components

- (1) This regulation applies where a person:
 - (a) who owns an aircraft or an aircraft component; or
 - (b) who is otherwise in possession of an aircraft or an aircraft component;
 is required, by a provision of this Division, to report a defect in the aircraft or component to CASA.

- (2) The person must take reasonable steps to ensure that:
- (a) the aircraft, or the part of the aircraft that is defective; or
 - (b) the aircraft component;
- as the case requires, is kept in a state that will allow CASA to investigate the defect.
- Penalty: 25 penalty units.
- (2A) An offence against subregulation (2) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) Subject to subregulation (5), the obligation under subregulation (2) ends when CASA gives the person notice that the aircraft, part of the aircraft, or aircraft component is no longer required to be kept in a state that allows CASA to investigate the defect.
- (4) CASA must give the notice to the person within a period of 1 year from the day on which the defect was reported to CASA.
- (5) If CASA does not give the notice to the person within that period, the obligation under subregulation (2) ends at the end of that period.

53**Investigation of defects of Australian aircraft**

- (1) An authorised person may, for the purpose of ensuring the safety of air navigation, conduct an investigation into any matter connected with any defect in an Australian aircraft (including the making of a test of an aircraft or of any aircraft component installed or provided in an aircraft).
- (2) An investigation under subregulation (1) may extend to defects generally or may be limited to the investigation of a particular defect or a particular kind of defect.
- (3) The authorised person may, for the purposes of carrying out the investigation:
- (a) by order in writing served on a person, require the production to the first-mentioned person of any documents, aircraft components or other things that are in the possession, or under the control, of the person on whom the order is served;
 - (b) retain any document, aircraft component or other thing produced during the course of the investigation for such period as is necessary for the purpose of carrying out the investigation; and
 - (c) make and retain copies of, or take extracts from, any document so produced.
- (3A) A person must comply with an order.
- Penalty: 10 penalty units.
- (3B) An offence against subregulation (3A) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) Where the retention of a document, aircraft component or other thing produced for the purposes of an investigation is no longer necessary, CASA or the authorised person shall return the document, aircraft component or other thing to the person by whom it was produced.

PART 4C Flight manuals

54 Meaning of *flight manual*

- (1) The *flight manual*, for an aircraft, is:
 - (a) if a flight manual for the aircraft was given to the aircraft owner under regulation 21.005 of CASR — that flight manual; or
 - (b) in any other case — any manual or other document (not being a placard) that must, under the relevant airworthiness standards for the aircraft, be provided with the aircraft and contain the following information and instructions about the aircraft:
 - (i) the limitations within which, under the relevant airworthiness standards, it is considered airworthy;
 - (ii) any other information, and any instructions, necessary for its safe operation.
- (2) However, if a change has been made to the flight manual under regulation 55 or 55A, a reference in a provision other than this regulation to the *flight manual* is a reference to the flight manual as changed.

55 Changes to flight manuals for Australian aircraft

- (1) This regulation applies to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:
 - (a) the aircraft's manufacturer, or the holder of the type certificate to which the aircraft conforms, gives an instruction to the effect that a change must be made to the manual; and
 - (b) the change is approved by CASA or the relevant NAA for the aircraft.

Note For *relevant NAA* see subregulation 2 (1).

- (2) This regulation also applies to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:
 - (a) a modification that conforms to a supplemental type certificate applying to the aircraft, or an aircraft component fitted to the aircraft, is carried out on the aircraft or aircraft component; and
 - (b) the holder of the supplemental type certificate gives an instruction to the effect that a change must be made to the manual because of the modification; and
 - (c) the change is approved by CASA or the NAA that issued the supplemental type certificate.

Note For *NAA* see the Dictionary at the end of CASR.

- (3) This regulation also applies to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:

- (a) a modification that does not conform to a supplemental type certificate is carried out on the aircraft or an aircraft component fitted to the aircraft; and
 - (b) CASA or an authorised person has approved the design of the modification under regulation 35; and
 - (c) CASA or the authorised person gives an instruction, in writing, to the effect that a change must be made to the manual because of the modification; and
 - (d) the change is approved by CASA or the authorised person.
- (4) This regulation also applies to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if CASA, or an authorised person, instructs the certificate holder, in writing, to make a change to the manual that is:
- (a) for the purpose of ensuring the safety of air navigation; and
 - (b) approved by CASA or the authorised person.
- (4A) This regulation also applies to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:
- (a) a change to the manual is approved by CASA under regulation 55A; and
 - (b) CASA gives an instruction, in writing, to the effect that the change must be made to the manual.

Note 1 A person is an **authorised person** for a provision of these Regulations only if the person's instrument of appointment mentions the provision: see regulation 6.

Note 2 A change to a flight manual that is approved under subregulation (2), (3) or (4) can be in the form of a flight manual supplement that includes the instruction to make the change.

- (5) The holder of the certificate of registration for the aircraft must make the change to the aircraft's flight manual:
- (a) if the instruction indicates the period within which the change must be made — within that period; or
 - (b) in any other case — before the aircraft is flown for the first time after the certificate holder is told of the instruction.

Penalty: 50 penalty units.

- (6) If the certificate holder makes a change to the aircraft's flight manual under subregulation (5), the holder must tell CASA, in an approved form, about the details of the change within 48 hours after the aircraft is flown for the first time after the change is made .

Penalty: 20 penalty units.

- (7) An offence against subregulation (5) or (6) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

55A Change to flight manual may be approved

- (1) The holder of the certificate of registration for an Australian aircraft, or a person acting on behalf of the holder, may apply, in writing, to CASA to approve a change to the flight manual for the aircraft (other than a change of a kind mentioned in subregulation 55 (1), (2), (3) or (4)).
- (2) CASA may, on receiving an application made under subregulation (1), approve the change.
- (3) In deciding whether to approve the change, CASA must take into account any relevant considerations relating to the interests of the safety of air navigation.

Note A change to a flight manual that is approved under this regulation can be in the form of a flight manual supplement that includes the instruction to make the change.

PART 4D Removal of data plates and registration identification plates

56 Definitions for this Part

In this Part:

manufacturer's data plate means a manufacturer's data plate attached to an aircraft, aircraft engine or aircraft propeller under Division 21.Q.2 of CASR.

57 Removal or alteration of manufacturer's data plate

- (1) A person must not remove from an aircraft, aircraft engine, aircraft propeller, propeller blade or propeller hub a manufacturer's data plate that has been attached to the aircraft, engine, propeller, blade or hub, if the person does not have CASA's written approval to do so.

Penalty: 20 penalty units.

Note The removal of a manufacturer's data plate is permitted during maintenance, subject to conditions — see regulation 60.

- (2) A person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of the information on a manufacturer's data plate required by Division 21.Q.2 of CASR to be there.

Penalty: 20 penalty units.

- (2A) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) CASA must not grant an approval for subregulation (1) or (2) if granting the approval would adversely affect the safety of air navigation.

58 Removal or alteration of identification from heater assembly of manned balloon or propeller

- (1) A person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of the information marked on the heater assembly of a manned balloon under Division 21.Q.2 of CASR.

Penalty: 20 penalty units.

- (2) If information mentioned in subregulation 21.840 (5) of CASR is marked on an aircraft propeller, propeller blade or propeller hub, a person must not, without CASA's written approval, remove or engage in conduct that results in the alteration of any of that information.

Penalty: 20 penalty units.

- (2A) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) CASA must not grant an approval for subregulation (1) or (2) if granting the approval would adversely affect the safety of air navigation.

59 Transfer of manufacturer's data plate to another aircraft etc prohibited

- (1) A person must not attach, to an aircraft, aircraft engine, aircraft propeller, propeller blade or propeller hub, a manufacturer's data plate that bears information about another aircraft, engine, propeller, blade or hub.

Penalty: 50 penalty units.

- (2) A person must not mark on an aircraft propeller, propeller blade or propeller hub information:
- (a) about another propeller, blade or hub; or
 - (b) about a fictitious propeller, blade or hub .

Penalty: 50 penalty units.

- (3) A person must not mark on a balloon heater:
- (a) information about another balloon heater; or
 - (b) information about a fictitious balloon heater.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

60 Removal of manufacturer's data plates

- (1) In spite of regulation 57, a person carrying out maintenance on an aircraft, aircraft engine or aircraft propeller or the basket of a manned balloon may remove the manufacturer's data plate attached to the aircraft, engine, propeller or basket if he or she does so in accordance with a method, technique or practice acceptable to CASA .
- (2) A person who has removed a manufacturer's data plate from an aircraft, aircraft engine or aircraft propeller, or from the basket of a manned balloon, under subregulation (1) must re-attach it to the aircraft, engine, propeller or basket in accordance with a method, technique or practice acceptable to CASA.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

61 Removal of aircraft registration identification plates

- (1) In spite of regulation 45.155 of CASR, a person carrying out maintenance on an aircraft may remove the aircraft's aircraft registration identification plate if he or she does so in accordance with an acceptable method, technique or practice.
- (2) A person who has removed an aircraft registration identification plate from an aircraft under subregulation (1) must re-attach it to the aircraft in accordance with an acceptable method, technique or practice.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

PART 5 QUALIFICATIONS OF FLIGHT CREW

Division 1 Interpretation

5.01 Interpretation

(1) In this Part, unless the contrary intention appears:

aeroplane conversion training means training undertaken by the holder of an aeroplane pilot licence for the purpose of qualifying for an aircraft endorsement for an aeroplane.

aircraft endorsement means:

- (a) a type endorsement; or
- (b) a class endorsement; or
- (c) a special design feature endorsement.

airship conversion training means training undertaken by a commercial (airship) pilot for the purpose of qualifying for an aircraft endorsement for an airship.

balloon conversion training means training undertaken by a commercial (balloon) pilot for the purpose of qualifying for an aircraft endorsement for a balloon.

class endorsement means an aircraft endorsement that authorises the holder of the endorsement to fly:

- (a) aeroplanes included in a particular class in a direction under paragraph 5.22 (2) (a); or
- (b) balloons included in a particular class under regulation 5.148; or
- (c) helicopters included in a particular class in a direction under paragraph 5.22 (2) (b).

command endorsement means an aircraft endorsement that authorises the holder of the endorsement to fly an aircraft as pilot in command.

ground training means any training in aeronautical skills and aeronautical knowledge that does not take place during flight time.

helicopter conversion training means training undertaken by the holder of a helicopter pilot licence for the purpose of qualifying for an aircraft endorsement for a helicopter.

multi-pilot aeroplane means an aeroplane that is required by its flight manual to be flown by 2 or more pilots.

multi-pilot airship means an airship that is required by its flight manual to be flown by 2 or more pilots.

multi-pilot gyroplane means a gyroplane that is required by its flight manual to be flown by 2 or more pilots.

multi-pilot helicopter means a helicopter that is required by its flight manual to be flown by 2 or more pilots.

single pilot aeroplane means an aeroplane that is not a multi-pilot aeroplane.

single pilot gyroplane means a gyroplane that is not a multi-pilot gyroplane.

single pilot helicopter means a helicopter that is not a multi-pilot helicopter.

single place aeroplane means an aeroplane that is designed to be fitted with only one set of controls.

single place aircraft means:

- (a) a single place aeroplane; or
- (b) a single place airship; or
- (c) a single place gyroplane; or
- (d) a single place helicopter.

single place airship means an airship that is designed to be fitted with only one set of controls.

single place gyroplane means a gyroplane that is designed to be fitted with only one set of controls.

single place helicopter means a helicopter that is designed to be fitted with only one set of controls.

special design feature, in relation to an aeroplane, means one of the following design features:

- (a) constant speed propeller;
- (b) tailwheel undercarriage;
- (c) retractable undercarriage;
- (d) ski landing gear;
- (e) float alighting gear;
- (f) floating hull;
- (g) pressurisation system.

special design feature endorsement means an aircraft endorsement that authorises the holder of the endorsement to fly aeroplanes that have a special design feature.

student record means a record of a person's progress in flying training and ground training that is kept by the flying school at which the person receives flying training.

type, in relation to an aircraft, means the make and model of the aircraft.

type endorsement means an aircraft endorsement that authorises the holder of the endorsement to perform a duty essential to the operation of an aircraft of a particular type.

- (2) For the purposes of this Part, a flight crew rating is required for the following activities:
 - (a) flying in agricultural operations;
 - (b) giving flying training;
 - (c) flying under the I.F.R.;
 - (d) flying at night under the V.F.R.
- (3) For the purposes of this Part, a person flies an aircraft as pilot acting in command under supervision if, during flight time in the aircraft, the person performs the duties and functions of the pilot in command while under the supervision of the pilot in command approved for the purpose by the operator of the aircraft.
- (4) For the purposes of this Part, the categories of aircraft are as follows:
 - (a) aeroplanes;
 - (b) helicopters;
 - (c) gyroplanes;
 - (d) airships.

5.01A Night V.F.R. handling requirements for unrated pilots

- (1) For this Part, a person satisfies night V.F.R. handling requirements in an aircraft if, while dual flying in the aircraft, he or she:
 - (a) in daylight, manually recovers from unusual attitudes by using appropriate techniques solely by reference to the aircraft's flight instruments; and
 - (b) in daylight or at night, manually performs each of the following manoeuvres, within so many of the tolerances specified in subregulation (2) as are relevant to the manoeuvre solely by reference to the aircraft's flight instruments:
 - (i) level turns of up to 30° angle of bank;
 - (ii) climbing turns at a constant speed to an altitude previously determined by the person giving the flying training;
 - (iii) descending turns at a constant speed to an altitude previously determined by the person giving the flying training;
 - (iv) straight and level flight;
 - (v) climbing and descending; and
 - (c) performs each of the following sequences at night by reference to visual cues and the aircraft's flight instruments:
 - (i) circuits;
 - (ii) baulked approaches;
 - (iii) if the aircraft is a multi-engine helicopter—cruise flight in the reduced power configuration (simulated one engine inoperative);
 - (iv) if the aircraft is a multi-engine aeroplane—asymmetric flight in the cruise configuration (simulated one engine inoperative);

- (v) if the aircraft is a single engine helicopter—autorotative flight with power termination to an in-ground effect hover, or to an air taxi;
 - (vi) if the aircraft is a single engine aeroplane—entry to the glide configuration from straight and level flight, and from a climbing attitude.
- (2) For paragraph (1) (b), the following tolerances are specified:
- (a) $\pm 10^\circ$ of a heading previously nominated by the person giving the flying training;
 - (b) ± 10 knots of a speed previously nominated by the person giving the flying training;
 - (c) ± 200 feet of an altitude previously nominated by the person giving the flying training.
- (3) For subparagraph (1) (c) (i), a person performs a circuit while flying an aircraft if the person:
- (a) takes off in the aircraft from an aerodrome; and
 - (b) flies the aircraft around the aerodrome in accordance with the traffic pattern for the aerodrome; and
 - (c) lands the aircraft at the aerodrome.

5.01B Direct supervision

For this Part, a pilot is taken to conduct a flight at night under the V.F.R. under the direct supervision of an authorised flight instructor only if the instructor:

- (a) provides guidance to the pilot in relation to the flight; and
- (b) has been nominated to be on duty by the Chief Flying Instructor of a flying school for the purpose of providing such guidance; and
- (c) during the flight:
 - (i) is present at the aerodrome from which the flight started; or
 - (ii) is flying in the traffic pattern for that aerodrome; or
 - (iii) is flying under the I.F.R. in the vicinity of that aerodrome in accordance with the instrument procedures for the aerodrome and instructions (if any) from air traffic control; or
 - (iv) is flying under the V.F.R. within 10 miles of the aerodrome reference point for that aerodrome; and
- (d) can be contacted during the flight by radio or other electronic means.

Division 2**General**

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|---------------------------|
| airship instructor | flight test |
| air transport (aeroplane) pilot | flight time |
| air transport (helicopter) pilot | flying school |
| air transport pilot licence | flying training |
| approved check radio operator | medical certificate |
| approved testing officer | operator |
| authorised flight instructor | overseas pilot licence |
| certificate of validation | personal log book |
| chief flying instructor | pilot licence |
| commercial (aeroplane) pilot | private pilot licence |
| commercial (helicopter) pilot | responsible authority |
| commercial pilot licence | responsible organisation |
| flight crew licence | special pilot licence |
| flight crew rating | synthetic flight trainer. |

[*Note 2* The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|--------------------------------|------------------------|
| aeroplane conversion training | special design feature |
| aircraft endorsement | student record |
| helicopter conversion training | type. |

[*Note 3* The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.02 Effect of Division

This Division:

- (a) sets out the general requirements that apply to flight crew licences; and
- (b) empowers CASA to make Civil Aviation Orders about the requirements that apply to flight crew ratings and aircraft endorsements.

5.03 May a person perform a duty essential to the operation of an aircraft without a licence?

A person may perform a duty essential to the operation of an Australian aircraft during flight time without holding a flight crew licence, a special pilot licence or a certificate of validation if:

- (a) the person:
 - (i) is accompanied by an authorised flight instructor; and
 - (ii) is receiving flying training; or
- (b) the person is attempting a flight test for the purpose of qualifying for a flight crew licence; or
- (c) the person is being assessed by a chief flying instructor for the purpose of enabling the instructor to make a determination under subregulation 5.83 (2) .

[*Note* A determination under subregulation 5.83 (2) in relation to a person affects the training that the person must complete to be qualified for a private pilot (aeroplane) licence.]

5.04 Medical certificate: flight crew licence

- (1) Without the permission of CASA, the holder of a flight crew licence must not perform a duty authorised by the licence if the person does not hold a current medical certificate that is appropriate to the licence.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) CASA may, on the written or oral application of the holder of a flight crew licence, permit the holder to perform a duty essential to the operation of an Australian aircraft during flight time without holding a current appropriate medical certificate if:

- (a) in all the circumstances it is reasonable to allow the holder to perform the duty without holding the certificate; and
- (b) the performance of the duty by the holder without holding the certificate will not adversely affect the safety of air navigation.

- (3) For the purposes of this regulation, a medical certificate is appropriate to a flight crew licence if:

- (a) in the case of an air transport pilot licence, a commercial pilot licence (other than a commercial pilot (balloon) licence), a flight engineer licence or a student flight engineer licence—the medical certificate is a class 1 medical certificate; and
- (b) in the case of a commercial pilot (balloon) licence, a private pilot licence, a student pilot licence or a flight radiotelephone licence—the medical certificate is a class 1 or class 2 medical certificate.

[*Note 1* Class 1 and class 2 medical certificates are issued under Part 67 of CASR.

Note 2 The medical standards for obtaining each class of medical certificate are set out in Part 67 of CASR.]

5.05 Medical certificate: certificate of validation

- (1) If:
- (a) a person holds a certificate of validation for an overseas authorisation; and
 - (b) the person is required to hold an overseas medical certificate for the authorisation to exercise the authority given by the authorisation in the country in which the authorisation was issued;

the person must not perform a duty authorised by the certificate of validation if the person does not hold an overseas medical certificate for the authorisation that:

- (c) is valid; and
- (d) is current; and
- (e) is not suspended or cancelled.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.06 Medical certificate: special pilot licence

- (1) The holder of a special pilot licence must not perform a duty authorised by the licence if the person does not hold a class 1 or class 2 medical certificate, or an overseas medical certificate, that:
- (a) is valid; and
 - (b) is current; and
 - (c) is not suspended or cancelled.

Penalty: 50 penalty units.

[*Note 1* Class 1 and class 2 medical certificates are issued under Part 67 of CASR.

Note 2 The medical standards for obtaining each class of medical certificate are set out in Part 67 of CASR.]

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) In this regulation:

overseas medical certificate means a certificate:

- (a) issued by the responsible authority of the Contracting State that issued the overseas pilot licence used by the holder of a special pilot licence to qualify for that licence; and
- (b) that indicates that the holder of the certificate meets the medical standard set by the responsible authority of the State.

5.07 Medical certificate: flight tests and assessments

- (1) A person who does not hold a flight crew licence, a special pilot licence or a certificate of validation must not:
- (a) attempt a flight test for a flight crew licence; or
 - (b) undertake an assessment with a chief flying instructor for the purpose of enabling the instructor to make a determination under subregulation 5.83 (2);

if the person does not hold a class 1 or a class 2 medical certificate.

Penalty: 50 penalty units.

[*Note* A determination under subregulation 5.83 (2) in relation to a person affects the training that the person must complete to be qualified for a private pilot (aeroplane) licence.]

- (2) An approved testing officer may conduct a flight test for the issue of a flight crew licence, or for the issue, or renewal, of a flight crew rating, only if the person attempting the test:
- (a) holds a current class 1 or class 2 medical certificate; or
 - (b) holds:
 - (i) a certificate of validation, or a special pilot licence; and
 - (ii) a current overseas medical certificate for the overseas authorisation he or she used to qualify for the certificate of validation or licence.

- (3) A chief flying instructor may conduct an assessment of a person for the purpose of making a determination under subregulation 5.83 (2) only if the person:
- (a) holds a current class 1 or class 2 medical certificate; or
 - (b) holds:
 - (i) a certificate of validation, or a special pilot licence; and
 - (ii) a current overseas medical certificate for the overseas authorisation he or she used to qualify for the certificate of validation or licence.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.08 Flight crew licence: application

Subject to Division 18, a person may apply to CASA, in writing, for the issue of 1 or more of the following licences:

- (a) a flight radiotelephone operator licence;
- (b) a student pilot licence;
- (c) a private pilot (aeroplane) licence;
- (d) a private pilot (helicopter) licence;
- (e) a private pilot (gyroplane) licence;
- (f) a commercial pilot (aeroplane) licence;
- (g) a commercial pilot (helicopter) licence;
- (h) a commercial pilot (gyroplane) licence;
- (i) a commercial pilot (balloon) licence;
- (j) a commercial pilot (airship) licence;
- (k) an air transport pilot (aeroplane) licence;
- (m) an air transport pilot (helicopter) licence;
- (n) a student flight engineer licence;
- (o) a flight engineer licence;
- (p) a restricted flight engineer licence.

[*Note* Division 18 empowers CASA to issue a pilot licence (called a *special pilot licence* in these Regulations) to the holder of an overseas pilot licence who does not satisfy the qualification requirements for the licence. Special pilot licences can be used only in private operations.]

5.09 Flight crew licence: issue and refusal

- (1) Subject to subregulation (2), CASA must issue a flight crew licence to an applicant if, and only if, the applicant:
 - (a) possesses a knowledge of the English language that is sufficient to enable him or her to exercise safely the authority given by the licence; and
 - (b) is qualified to hold the licence; and
 - (c) is a fit and proper person to hold the licence.
- (2) CASA must not issue a licence to a person if the person:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the person's application for a licence; or
 - (b) does not satisfy the requirements of subregulation (1) .
- (3) In deciding whether an applicant for a licence is a fit and proper person to hold the licence, CASA must only take into account:
 - (a) any action taken by CASA, or a responsible organisation, in relation to any authority to perform duties essential to the operation of an aircraft during flight time that was given to the applicant by CASA, or the organisation; and
 - (b) any other matter that relates to the safety of air navigation.
- (4) An applicant for a licence must disclose to CASA information of which the applicant is aware and that is relevant to a matter that CASA must take into account under subregulation (3).
Penalty: 25 penalty units.
- (5) For subregulation (4), strict liability applies to the physical element that CASA must take the matter into account under subregulation (3).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.10 Notice of decision to issue or refuse licence

- (1) CASA must, in writing, notify an applicant for a flight crew licence of CASA's decision in relation to the application.
- (2) If CASA decides not to issue the licence, CASA must include in the notice a statement of the reasons for that decision.

5.11 Licence may be subject to conditions

- (1) CASA may issue a flight crew licence subject to any condition that is necessary in the interests of the safety of air navigation.
- (2) A condition must be set out:
 - (a) in the notice under subregulation 5.10 (1); or
 - (b) on the licence; or
 - (c) in Civil Aviation Orders under regulation 303.

- (3) A person must not contravene a condition subject to which his or her licence is issued.

Penalty: 50 penalty units.

- (3A) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) Nothing in this Part limits the effect of a condition to which a licence is subject under subregulation (1).

5.12 Duration of licence

A flight crew licence remains in force until it is suspended or cancelled.

5.13 Flight crew rating: application

The holder of a flight crew licence, a special pilot licence or a certificate of validation may apply to CASA for the issue of 1 or more of the following flight crew ratings:

- (a) an agricultural pilot (aeroplane) rating of one of the following grades:
 - (i) grade 1;
 - (ii) grade 2;
- (b) an agricultural pilot (helicopter) rating of one of the following grades:
 - (i) grade 1;
 - (ii) grade 2;
- (c) a flight instructor (aeroplane) rating of one of the following grades:
 - (i) grade 1;
 - (ii) grade 2;
 - (iii) grade 3;
- (d) a flight instructor (helicopter) rating of one of the following grades:
 - (i) grade 1;
 - (ii) grade 2;
- (e) a flight instructor (gyroplane) rating of one of the following grades:
 - (i) grade 1;
 - (ii) grade 2;
- (f) a flight instructor (balloon) rating;
- (g) an instrument rating of one of the following grades:
 - (i) command (multi-engine aeroplane);
 - (ii) command (single engine aeroplane);
 - (iii) co-pilot (aeroplane);
 - (iv) command (multi-engine helicopter);
 - (v) command (single engine helicopter);
 - (vi) co-pilot (helicopter);

- (ga) a private I.F.R. rating of one of the following grades:
 - (i) multi-engine aeroplane grade;
 - (ii) single-engine aeroplane grade;
 - (iii) multi-engine helicopter grade;
 - (iv) single-engine helicopter grade;
- (h) a night V.F.R. rating of one of the following grades:
 - (i) aeroplane;
 - (ii) helicopter;
 - (iii) gyroplane;
 - (iv) balloon;
 - (v) airship;
- (i) a night V.F.R. agricultural rating of one of the following grades:
 - (i) aeroplane;
 - (ii) helicopter.

5.14 Flight crew rating: issue and refusal

- (1) CASA may give directions in Civil Aviation Orders setting out requirements for the issue of a flight crew rating, or grade of flight crew rating, to a person.
- (1A) The Orders may include:
 - (a) the flight tests that must be passed by the person; and
 - (b) any other requirements that must be satisfied by the person; and
 - (c) any other condition that must be satisfied by, or in relation to, the person.
- (2) Subject to subregulation (3), CASA must issue a flight crew rating, or grade of flight crew rating, to a qualified person, or renew the person's rating, or grade of rating, by entering the rating, or grade of rating, in the person's personal log book only if:
 - (a) the person has passed the necessary flight tests; and
 - (b) the person satisfies the other requirements; and
 - (c) any other condition to be met by, or in relation to, the person has been met;for the issue, or renewal, of a rating, or grade of rating.
- (3) CASA must not issue a flight crew rating, or grade of flight crew rating, to a person, or renew the person's rating, or grade of rating, if the person:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the person's application for a rating, or grade of rating; or
 - (b) does not satisfy the requirements of subregulation (2).
- (5) In this regulation:
qualified person means a person who holds a flight crew licence, a special pilot licence, or a certificate of validation.

5.15 Notice of decision to issue or refuse rating

- (1) CASA must, in writing, notify an applicant for a flight crew rating, or grade of flight crew rating, of CASA's decision in relation to the application.
- (2) If CASA decides not to issue, or renew, the rating, or grade of rating, CASA must include in the notice a statement of the reasons for that decision.

5.16 Rating may be subject to conditions

- (1) CASA may issue, or renew, a flight crew rating, or grade of flight crew rating, subject to any condition that is necessary in the interests of the safety of air navigation.
- (2) A condition must be set out:
 - (a) in the notice under subregulation 5.15 (1); or
 - (b) in the personal log book of the person who holds the rating, or grade of rating; or
 - (c) in Civil Aviation Orders under regulation 303.
- (3) A person must not contravene a condition subject to which his or her rating, or grade of rating, is issued or renewed.
Penalty: 50 penalty units .
- (3A) An offence against subregulation (3) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) Nothing in this Part limits the effect of a condition to which a rating is subject under subregulation (1).

5.17 Flight crew rating: duration

- (1) A flight crew rating, or grade of flight crew rating, remains in force from the day on which it is issued, or renewed, until:
 - (a) the end of the period set out in the Civil Aviation Orders as the period for which a rating, or grade of rating, of the kind concerned remains in force; or

- (b) the end of the period set out by CASA in a person's personal log book as the period for which the rating, or grade of rating, remains in force; or
 - (c) it is suspended or cancelled;
- whichever occurs first.
- (2) If a flight crew rating, or grade of flight crew rating, is entered by CASA in a personal log book, CASA may set out in the log book the period for which the rating, or grade of rating, remains in force.
 - (3) CASA may give directions in Civil Aviation Orders setting out the period for which a flight crew rating, or grade of flight crew rating, remains in force.

5.17A Private I.F.R. rating — regular flight reviews required

- (1) The holder of a grade of private I.F.R. rating must satisfactorily complete a private I.F.R. flight review for that grade (a *flight review*) no more than 2 years after:
 - (a) that grade of rating was issued to the holder; or
 - (b) the holder satisfactorily completed a flight review.
- (2) If the holder does not comply with subregulation (1), that grade of rating ceases to be in force until the holder satisfactorily completes a flight review.
- (3) CASA may publish Civil Aviation Orders that specify:
 - (a) who may conduct a flight review; and
 - (b) the assessment used for a flight review; and
 - (c) the way in which the holder is given evidence of the satisfactory completion of a flight review; and
 - (d) that the holder of a particular grade of rating need not complete a flight review for another grade of rating.

5.18 Flight crew rating: authority and flight tests

CASA may give directions in Civil Aviation Orders setting out:

- (a) the authority given by a flight crew rating, or grade of flight crew rating; and
- (b) the limitations on that authority; and
- (c) the flight tests that must be passed, or any other requirement that must be satisfied, before that authority may be exercised.

5.19 Flight crew rating — flight tests

- (1) CASA may issue Civil Aviation Orders that describe the flight tests for the issue of a flight crew rating, or a grade of flight crew rating, to a person.
- (2) The Orders may include :
 - (a) any condition that must be satisfied by, or in relation to, the person; and
 - (b) the content of any test that must be passed by the person; and

- (c) the way in which a test is to be conducted.
- (3) CASA may conduct the flight tests in relation to a flight crew rating, or grade of flight crew rating, that are required by the Civil Aviation Orders.

5.20 Flight crew rating: approval to give training

- (1) CASA may approve a person who holds a pilot licence to give flying training for the issue of a flight crew rating, or a grade of flight crew rating .
- (2) CASA may give an approval subject to any condition that is necessary in the interests of the safety of air navigation.
- (3) CASA must:
 - (a) set out the condition in the approval; or
 - (b) give it as a direction in Civil Aviation Orders.
- (4) A person must not contravene a condition to which his or her approval is subject.
Penalty: 50 penalty units.
- (4A) An offence against subregulation (4) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) CASA may, in writing, revoke a person's approval if:
 - (a) the person's pilot licence is suspended or cancelled; or
 - (b) a Court makes an order in relation to the person under section 30A of the Act that affects the authority given by the person's pilot licence; or
 - (c) there are reasonable grounds for believing that the person has contravened a condition to which his or her approval is subject; or
 - (d) it is necessary to do so in the interests of the safety of air navigation.
- (6) If CASA revokes a person's approval, it must give the person written notice of the revocation setting out the grounds for the revocation.

5.20A Flight procedure authorisation — purpose

A flight procedure authorisation entitles the holder, while acting as pilot in command of an aircraft, to:

- (a) use a radio-navigation aid or other navigation system; or
- (b) carry out another flight procedure under the I.F.R.

5.20B Flight procedure authorisation — eligibility

CASA may issue a flight procedure authorisation to a person if:

- (a) the person applies in writing to CASA; and
- (b) the person:
 - (i) holds a private I.F.R. rating; or

- (ii) has satisfied the requirements for the issue of a private I.F.R. rating; and
- (c) all the conditions relating to the issue of the authorisation have been satisfied.

5.20C Issue of flight procedure authorisations and entitlements of holders

CASA may issue Civil Aviation Orders that set out the following:

- (a) each kind of flight procedure authorisation that CASA may issue;
- (b) any requirements that must be satisfied before a flight procedure authorisation may be issued to a person, including:
 - (i) any condition that must be satisfied by, or in relation to, the person; and
 - (ii) the content of any test that must be passed by the person; and
 - (iii) the way in which a test is to be conducted;
- (c) the way in which a person is given evidence that a flight procedure authorisation has been issued to him or her;
- (d) the authority that is given by a particular flight procedure authorisation.

5.21 Approval to give conversion training

- (1) CASA may approve:
 - (a) a person who holds an aeroplane pilot licence to give aeroplane conversion training; or
 - (b) a person who holds a helicopter pilot licence to give helicopter conversion training.
- (2) CASA may give an approval subject to any condition that is necessary in the interests of the safety of air navigation.
- (3) CASA must set out the condition in the approval.
- (4) A person must not contravene a condition to which his or her approval is subject.

Penalty: 50 penalty units .

- (4A) An offence against subregulation (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) CASA may, in writing, revoke a person's approval if:
 - (a) the person's pilot licence is suspended or cancelled; or
 - (b) a Court makes an order in relation to the person under section 30A of the Act that affects the authority given by the person's pilot licence; or
 - (c) there are reasonable grounds for believing that the person has contravened a condition to which his or her approval is subject; or

- (d) it is necessary to do so in the interests of the safety of air navigation.
- (6) If CASA revokes a person's approval, it must give the person written notice of the revocation setting out the grounds for the revocation.

5.22 Aircraft endorsement must be held in certain circumstances

- (1) CASA may give directions in Civil Aviation Orders prescribing the aircraft endorsements that must be held by the holder of a flight crew licence, a special pilot licence or a certificate of validation before the holder is permitted to carry out the duties authorised by the licence or certificate in a particular type or class of aircraft, or in an aircraft that has a special design feature.
- (2) For the purposes of this Part, CASA may give directions in Civil Aviation Orders:
 - (a) classifying types of aeroplanes into classes; and
 - (b) classifying types of helicopters into classes.

5.23 Aircraft endorsement: issue and refusal

- (1) CASA may give directions in Civil Aviation Orders setting out requirements for the issue of aircraft endorsements.
- (2) Subject to subregulation (3), CASA must issue an aircraft endorsement to the holder of a flight crew licence, a special pilot licence or a certificate of validation by entering the endorsement in the holder's personal log book if the holder satisfies the requirements for the issue of the endorsement.
- (3) CASA must not issue an aircraft endorsement to a person if the person:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the person's application for an endorsement; or
 - (b) does not satisfy the requirements of subregulation (2).
- (5) CASA may permit the holder of a pilot licence, a special pilot licence or a certificate of validation to fly a single place aircraft:
 - (a) as pilot in command; and
 - (b) without holding an aircraft endorsement for the aircraft;if the flight is for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aircraft.

5.24 Notice of decision to issue or refuse endorsement

- (1) CASA must, in writing, notify an applicant for an aircraft endorsement of its decision in relation to the application.
- (2) If CASA decides not to issue the endorsement, CASA must include in the notice a statement of the reasons for that decision.

5.25 Endorsement may be subject to conditions

- (1) CASA may issue an aircraft endorsement subject to any condition it thinks necessary in the interests of the safety of air navigation.
- (2) A condition must be set out:
 - (a) in the notice under subregulation 5.24 (1); or
 - (b) in the personal log book of the person who holds the endorsement; or
 - (c) in Civil Aviation Orders under regulation 303.
- (3) A person must not contravene a condition subject to which an endorsement is issued.
Penalty: 50 penalty units.
- (3A) An offence against subregulation (3) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) Nothing in this Part limits the effect of a condition to which an endorsement is subject under subregulation (1).

5.26 Duration of endorsement

An aircraft endorsement issued under subregulation 5.23 (2) remains in force until it is suspended or cancelled.

5.27 Certificate of validation: issue

- (1) A person may apply to CASA, in writing, for the issue of a certificate of validation for an overseas authorisation held by the person if:
 - (a) the person's overseas authorisation:
 - (i) is valid; and
 - (ii) is current; and
 - (iii) is not suspended or cancelled; and
 - (b) where the person is required to hold an overseas medical certificate for the authorisation to exercise the authority given by the authorisation in the country in which the authorisation was issued—the person holds an overseas medical certificate for the authorisation that:
 - (i) is valid; and
 - (ii) is current; and
 - (iii) is not suspended or cancelled.

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- (2) Subject to subregulation (3), CASA may issue a certificate of validation to an applicant for his or her overseas authorisation if, and only if:
 - (a) the applicant satisfies the requirements of subregulation (1); and
 - (b) the applicant possesses a knowledge of the English language that is sufficient to enable him or her to safely exercise the authority given by a certificate of validation; and
 - (c) the applicant is a fit and proper person to hold the certificate; and
 - (d) the applicant has been awarded a pass in the certificate of validation examinations that CASA considers necessary in the interests of the safety of air navigation.
- (3) CASA must not issue a certificate of validation to an applicant if the applicant:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the application; or
 - (b) does not satisfy the requirements of subregulation (2).
- (4) In deciding whether an applicant for a certificate is a fit and proper person to hold the certificate, CASA must only take into account:
 - (a) any action taken by CASA, or a responsible organisation, in relation to any authority to perform duties essential to the operation of an aircraft during flight time that was given to the applicant by CASA, or the organisation; and
 - (b) any other matter that relates to the safety of air navigation.
- (5) An applicant for a certificate must disclose to CASA information of which the applicant is aware and that is relevant to a matter that CASA must take into account in deciding whether the applicant is a fit and proper person to hold the certificate.

Penalty: 25 penalty units.
- (6) For the purposes of paragraph (2) (d), CASA may set and conduct certificate of validation examinations.
- (7) A certificate of validation examination must be based on examination materials published by CASA.

5.28 Notice of decision to issue or refuse certificate

- (1) CASA must, in writing, notify an applicant for a certificate of validation of its decision in relation to the application.
- (2) If CASA decides not to issue the certificate, CASA must include in the notice a statement of the reasons for that decision.

5.29 Certificate may be subject to conditions

- (1) CASA may issue a certificate of validation subject to any condition that is necessary in the interests of the safety of air navigation.
- (2) A condition must be set out:

- (a) in the notice under subregulation 5.28 (1); or
- (b) on the certificate.

- (3) A person must not contravene a condition subject to which his or her certificate is issued.

Penalty: 50 penalty units.

- (3A) An offence against subregulation (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) Nothing in this Part limits the effect of a condition to which a certificate is subject under subregulation (1).

5.30 Certificate of validation: overseas authorisation information to be entered

- (1) If CASA issues a certificate of validation for an overseas authorisation, CASA must enter on the certificate:
 - (a) the name of the country in which the overseas authorisation was issued; and
 - (b) the name of the overseas authorisation; and
 - (c) the period of validity of the overseas authorisation; and
 - (d) the serial number or reference number of the overseas authorisation.

5.31 Certificate of validation: effect

- (1) A certificate of validation for an overseas authorisation has effect as if it were:
 - (a) a flight crew licence that is the equivalent of the authorisation; or
 - (b) an aircraft endorsement that is the equivalent of the authorisation;
 or
 - (c) if the authorisation would allow the holder to perform duties in an aircraft that is engaged in an activity for which a flight crew rating is required—a flight crew rating, or grade of flight crew rating, that is the equivalent of the authorisation;
 as the case requires.
- (2) For the purposes of this regulation, an overseas authorisation is the equivalent of a flight crew licence if the authorisation and the licence allow the holder to perform the same duties in aircraft of the same category in the same operations.
- (3) For the purposes of this regulation, an overseas authorisation is the equivalent of an aircraft endorsement if the authorisation and the endorsement allow the holder to perform the same duties in the same type of aircraft.

- (4) For the purposes of this regulation, an overseas authorisation is the equivalent of a flight crew rating, or grade of flight crew rating, if the authorisation and the rating, or grade of rating, allow the holder to perform the same duties in the same type of aircraft that is engaged in the same activity.

5.32 Certificate of validation: period of validity

- (1) A certificate of validation for an overseas authorisation remains in force until:
- (a) the end of the period of 3 months commencing on the day on which the certificate was issued; or
 - (b) the end of the period set out by CASA on the certificate as the period for which the certificate remains in force; or
 - (c) the overseas authorisation ceases to be in force; or
 - (d) if a holder of the overseas authorisation is required to hold an overseas medical certificate for the authorisation to exercise the authority given by the authorisation in the country in which it was issued—the overseas medical certificate for the authorisation ceases to be in force; or
 - (e) it is suspended or cancelled;
- whichever occurs first.
- (2) CASA may set out on a certificate of validation the period for which the certificate remains in force.

5.33 Certificate of validation: offences

- (1) A person must not make an application for a certificate of validation for an overseas authorisation if, at the time the application is made:
- (a) the person's authorisation:
 - (i) is not valid; or
 - (ii) is not current; or
 - (iii) is suspended or cancelled; or
 - (b) if the person is required to hold an overseas medical certificate for the authorisation to exercise the authority given by the authorisation in the country in which it was issued—the person does not hold an overseas medical certificate for the authorisation that:
 - (i) is valid; and
 - (ii) is current; and
 - (iii) is not suspended or cancelled.

Penalty: 50 penalty units.

- (2) The holder of a certificate of validation for an overseas authorisation must not exercise the authority given by the certificate in an Australian aircraft during flight time if:
- (a) the holder's overseas authorisation is not valid and current, or is suspended or cancelled; or

- (b) if the holder is required to hold an overseas medical certificate for the authorisation to exercise the authority given by the authorisation in the country in which it was issued—the holder does not hold a valid and current overseas medical certificate for the authorisation or the certificate is suspended or cancelled.

Penalty: 50 penalty units.

5.34 Airship instructor: appointment

- (1) CASA may appoint a person to be an airship instructor for the purposes of this Part.
- (2) CASA is not to appoint a person under subregulation (1) unless the person holds:
- (a) a commercial pilot (airship) licence; or
 - (b) a current overseas pilot licence that is at least equivalent to a commercial pilot (airship) licence.
- (3) An appointment may be made subject to any condition that is necessary in the interests of the safety of air navigation.
- (4) CASA must set out the condition in the instrument of appointment.
- (5) A person must not contravene a condition to which his or her appointment is subject.

Penalty: 50 penalty units.

- (5A) An offence against subregulation (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (airship) licence if it authorises the holder of the licence to fly airships as pilot in command in commercial operations.

5.35 Airship pilot training

- (1) A person must not give flying training in an airship if the person is not an airship instructor.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.36 Airship instructor: cancellation of appointment

- (1) CASA may, in writing, cancel an airship instructor's appointment if:
 - (a) the licence mentioned in subregulation 5.34 (2) held by the instructor is suspended or cancelled; or
 - (b) there are reasonable grounds for believing that the instructor has contravened a condition to which his or her appointment is subject; or
 - (c) it is necessary to do so in the interests of the safety of air navigation.
- (2) If CASA cancels an airship instructor's appointment, it must give the instructor written notice of the cancellation, setting out the grounds for the cancellation.

5.37 Flight engineer training

- (1) A person must not, during flight time in an aircraft, give training in carrying out the duties of a flight engineer if the person is not a check flight engineer or a training flight engineer.
Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.38 Further examination of holders of flight crew licence etc.

- (1) If CASA considers it necessary in the interests of the safety of air navigation, CASA may give the holder of a flight crew licence, a special pilot licence, a certificate of validation, a flight crew rating or an aircraft endorsement, notice in writing:
 - (a) requiring the holder to undertake an examination specified by CASA to demonstrate that the holder continues to possess the aeronautical skills and aeronautical knowledge appropriate to the licence, certificate, rating or endorsement; and
 - (b) setting out the reasons for CASA's decision; and
 - (c) setting out the time and place of the examination.

Note A decision to require a person to undertake an examination is reviewable by the Administrative Appeals Tribunal — see regulation 297A.
- (1A) CASA must not set out a time under paragraph (1) (c) that is within 21 days after the date of the notice.
- (2) A person who is given a notice under subregulation (1) must not:
 - (a) refuse to undertake an examination; or
 - (b) fail to attend at the time and place set out in the notice.

Penalty: 25 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) It is a defence to a prosecution under paragraph (2) (b) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

5.40 Pilot acting in command under supervision

- (1) A person may fly an aircraft as pilot acting in command under supervision only if:

- (a) the person holds:

(i) a commercial pilot licence or an air transport pilot licence;
or

(i) a certificate of validation that has effect as if it were a commercial pilot licence or an air transport pilot licence;
and

- (b) the person holds an aircraft endorsement that authorises him or her to fly the aircraft as pilot in command; and

- (c) if the person proposes to carry out an activity for which a flight crew rating is required—the person holds a flight crew rating, or grade of flight crew rating, that permits him or her to carry out that activity as pilot in command of the aircraft concerned; and

- (d) the person is the co-pilot of the aircraft; and

- (e) the operator of the aircraft permits the person to fly the aircraft as pilot acting in command under supervision; and

- (f) the pilot in command of the aircraft is appointed for the purpose by the operator of the aircraft.

Penalty: 10 penalty units.

- (2) The operator of an aircraft may permit a person to fly an aircraft as pilot acting in command only if:

- (a) the person holds:

(i) a commercial pilot licence, or an air transport pilot licence, that authorises him or her to fly the aircraft; or

(ii) a certificate of validation that has effect as if it were such a licence; and

- (b) the person holds an endorsement that authorises him or her to fly the aircraft as pilot in command; and

- (c) if the person carries out an activity for which a flight crew rating is required—the person holds a flight crew rating, or grade of flight crew rating, that permits him or her to carry out that activity as pilot in command of the aircraft concerned.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.41 Flight crew licence: CASA may set tests and examinations

- (1) CASA may set and conduct the following theory examinations:
 - (a) air transport pilot (aeroplane) licence theory examination;
 - (b) air transport pilot (helicopter) licence theory examination;
 - (c) basic flight engineer theory examination;
 - (d) commercial pilot (aeroplane) licence theory examination;
 - (e) commercial pilot (airship) licence theory examination;
 - (f) commercial pilot (balloon) licence theory examination;
 - (g) commercial pilot (gyroplane) licence theory examination;
 - (h) commercial pilot (helicopter) licence theory examination;
 - (i) flight radiotelephone theory examination;
 - (j) private pilot (aeroplane) licence theory examination;
 - (k) private pilot (gyroplane) licence theory examination;
 - (m) private pilot (helicopter) licence theory examination.
- (2) A basic flight engineer theory examination must include a flight rules and procedures section, and such other sections as CASA thinks fit.
- (3) CASA may set and conduct the following air law examinations:
 - (a) air transport pilot (aeroplane) licence air law examination;
 - (b) air transport pilot (helicopter) licence air law examination;
 - (c) commercial pilot (aeroplane) licence air law examination;
 - (d) commercial pilot (helicopter) licence air law examination;
 - (e) private pilot (aeroplane) licence air law examination;
 - (f) private pilot (helicopter) licence air law examination.
- (4) CASA may set and conduct the following flight tests:
 - (a) commercial pilot (aeroplane) licence flight test;
 - (b) commercial pilot (airship) licence flight test;
 - (c) commercial pilot (balloon) licence flight test;
 - (d) commercial pilot (gyroplane) licence flight test;
 - (e) commercial pilot (helicopter) licence flight test;
 - (f) flight engineer flight test;
 - (g) general flying progress flight test;
 - (h) private pilot (aeroplane) licence flight test;
 - (i) private pilot (gyroplane) licence flight test;
 - (j) private pilot (helicopter) licence flight test.
- (5) CASA may set and conduct a flight radiotelephone practical test.
- (6) CASA may set and conduct a basic aeronautical knowledge examination.
- (7) CASA may set and conduct the following overseas conversion examinations:
 - (a) air transport pilot (aeroplane) licence overseas conversion examination;
 - (b) air transport pilot (helicopter) licence overseas conversion examination;

- (c) commercial pilot (aeroplane) licence overseas conversion examination;
- (d) commercial pilot (helicopter) licence overseas conversion examination;
- (c) private pilot (aeroplane) licence overseas conversion examination;
- (f) private pilot (helicopter) licence overseas conversion examination.

5.42 Flight tests: CASA to be notified

- (1) This regulation has effect subject to regulation 5.43.
- (2) An approved testing officer must not conduct a flight test if, at least 24 hours before the test, the officer has not:
 - (a) given CASA notice of the time, date, place and nature of the proposed test; and
 - (b) obtained from CASA a flight test number for the test.

Penalty: 10 penalty units.

- (3) An approved testing officer must:
 - (a) enter the flight test number on the flight test report form used for the flight test; and
 - (b) record the results of the test on a flight test report form; and
 - (c) send the flight test report form to CASA:
 - (i) if the test is passed—within 14 days after the day of the test; or
 - (ii) if the test is failed—within 90 days after the day of the test.

Penalty: 5 penalty units.

- (3A) CASA may give a written notice to an approved testing officer requiring the officer to give CASA documents relating to a flight test that he or she has notified to CASA under subregulation (2) that:
 - (a) are described in the notice; and
 - (b) are in the officer's possession and control; and
 - (c) are reasonably required by CASA in relation to the test.

- (3B) If an approved testing officer receives a notice under subregulation (3A), he or she must send the documents to CASA within:
- (a) if the test is passed—14 days after the day of the test; or
 - (b) if the test is failed—90 days after the day of the test.

Penalty: 5 penalty units.

- (3C) An offence against subregulation (2), (3) or (3B) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) CASA may issue different flight test report forms for different kinds of flight tests.
- (5) In this regulation:
- flight test report form*** means a form issued by CASA for recording the results of flight tests.

5.43 Flight tests: application for exemption from requirement to notify CASA

- (1) A person who is permitted under this Part to conduct a flight test may apply to CASA for an exemption from any of the requirements of regulation 5.42 in relation to a flight test.

[*Note* A person may apply for an exemption in relation to a particular flight test, a particular kind of flight test or all flight tests conducted by the person.]

- (2) The application must set out:
- (a) the requirements in relation to which the exemption is sought; and
 - (b) the flight test in relation to which the exemption is sought; and
 - (c) the reason for seeking the exemption; and
 - (d) if the exemption is sought in relation to a particular flight test:
 - (i) the name of the person who is to attempt the test; and
 - (ii) the name of the test that is to be attempted.

5.44 Flight tests: granting of exemptions from requirement to notify CASA

- (1) CASA may, in writing, grant an exemption of the kind sought by an applicant under subregulation 5.43 (1).
- (2) An exemption must specify:
- (a) the person to whom the exemption is granted; and
 - (b) the flight test in relation to which the exemption is granted; and
 - (c) the requirements of regulation 5.42 in relation to which the exemption is granted; and
 - (d) the conditions (if any) subject to which the exemption is granted.

- (3) CASA must not grant an exemption unless granting the exemption will not adversely affect CASA's ability to ensure that an applicant conducts flight tests in accordance with the requirements of these Regulations.
- (4) An exemption may be granted subject to any condition that is necessary in the interests of the safety of air navigation.
- (5) A person granted an exemption must not contravene a condition subject to which the exemption is granted.
Penalty: 15 penalty units.
- (5A) An offence against subregulation (5) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) CASA must give an applicant for an exemption notice, in writing, of CASA's decision in relation to the application.

5.45 Flight tests: date of effect of exemption for particular flight test

If CASA grants an exemption under regulation 5.44 in relation to a particular flight test, the exemption has immediate effect.

5.46 Flight tests: date of effect of general exemption

- (1) If CASA grants a general exemption, the exemption has immediate effect.
- (2) A general exemption stops being in force if:
 - (a) it is expressed to have effect for a limited period and that period ends; or
 - (b) it is revoked by CASA under regulation 5.48; or
 - (c) the person to whom it was issued gives CASA written notice that the person no longer wants it to apply to him or her.
- (3) In this regulation:

general exemption means an exemption from any or all of the requirements of regulation 5.42 granted to a person under regulation 5.44 in relation to a particular kind of flight test, or in relation to all flight tests, conducted by the person.

5.47 Flight tests: changes affecting general exemptions

- (1) A person to whom a general exemption has been granted must notify CASA if:
 - (a) the person's reason for seeking the exemption no longer exists; or
 - (b) the person cannot comply with any condition subject to which the exemption was granted.
 Penalty: 10 penalty units.
- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) In this regulation:
general exemption has the same meaning as in regulation 5.46.

5.48 Flight tests: revocation of general exemption

- (1) CASA may revoke a general exemption granted to a person by giving the person written notice of the revocation.
- (2) CASA must not revoke a general exemption granted to a person unless:
- (a) the person has contravened a condition to which the exemption is subject; or
 - (b) continuation of the exemption will adversely affect CASA's ability to ensure that the person conducts flight tests in accordance with the requirements of these Regulations.
- (3) In this regulation:
general exemption has the same meaning as in regulation 5.46.

5.49 Flight tests: effect of grant of exemption

- (1) If CASA has granted a person an exemption under regulation 5.44 in relation to a particular flight test then, subject to any conditions imposed under subregulation 5.44 (4), the person is, in relation to that test, exempt from compliance with the requirements of regulation 5.42 that are set out in the exemption.
- (2) If:
- (a) CASA has granted a general exemption to a person; and
 - (b) that exemption is in force;
- then, subject to any conditions imposed under subregulation 5.44 (4), the person is exempt from compliance with the requirements of regulation 5.42 that are set out in the exemption.
- (3) In this regulation:
general exemption has the same meaning as in regulation 5.46.

5.50 Approval to test aircraft

- (1) CASA may, in writing, permit the holder of a flight crew licence, a special pilot licence or a certificate of validation to perform duties essential to the operation of an aircraft for which the holder does not hold an aircraft endorsement during a flight conducted for the purpose of:
- (a) testing the aircraft; or
 - (b) carrying out an experiment in relation to the aircraft.
- (2) A permission may be given subject to any condition that is necessary in the interests of the safety of air navigation.
- (3) CASA must set out the condition in the permission.

- (4) A person must not contravene a condition to which a permission is subject.

Penalty: 50 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.51 Personal log books

- (1) The holder of a flight crew licence, a special pilot licence or a certificate of validation must have a personal log book that is suitable:
- (a) for the entry of flight crew ratings, aircraft endorsements, flight procedure authorisations and other kinds of privileges; and
 - (b) for recording the matters required by regulation 5.52 to be recorded in a personal log book; and
 - (c) for recording any other matter that CASA directs must be recorded in a personal log book.

Penalty: 10 penalty units.

[*Note* Regulation 5.56 requires the holder of a flight crew licence, a special pilot licence or a certificate of validation to produce his or her personal log book when required by CASA.]

- (2) CASA may give directions in writing requiring the holder of a flight crew licence, a special pilot licence or a certificate of validation to record the matters set out in the direction in his or her personal log book.

- (3) CASA must not give a direction under subregulation (2) unless it is necessary to do so in the interests of the safety of air navigation.

- (4) A person must not contravene a direction under subregulation (2).

Penalty: 10 penalty units.

- (5) A direction does not have effect in relation to a person until it is given to the person .

- (6) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.52 What must be recorded in a personal log book?

- (1) The holder of a flight crew licence, a special pilot licence or a certificate of validation must record in his or her personal log book:
 - (a) the holder's full name, address, date of birth and aviation reference number; and
 - (b) any information about each flight undertaken by the holder that CASA directs be recorded in the log book; and
 - (c) the time spent by the holder practising simulated flight in an approved synthetic flight trainer.

Penalty: 10 penalty units.

[*Note* It is an offence against regulation 283 for a person to make a false or misleading statement in his or her personal log book.]

- (2) CASA may give directions in Civil Aviation Orders setting out the information about each flight undertaken by the holder of a flight crew licence, a special pilot licence or a certificate of validation that the holder must record in his or her personal log book.
- (3) CASA must not give a direction under subregulation (2) unless it is necessary to do so in the interests of the safety of air navigation.
- (4) A person must not contravene a direction under subregulation (2).
Penalty: 10 penalty units.
- (5) A direction does not have effect in relation to a person until it is given to the person.
- (5A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) In this regulation:
aviation reference number means the number given to the holder of a flight crew licence, a special pilot licence or a certificate of validation by CASA when his or her first licence or certificate is issued.

5.53 How long must a personal log book be retained?

- (1) A person who is required by subregulation 5.51 (1) to have a personal log book must retain it for as long as the person holds a flight crew licence, a special pilot licence or a certificate of validation.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.54 Evidence of identity

- (1) CASA may require a person to produce evidence of his or her identity before:
 - (a) CASA issues a flight crew licence, a special pilot licence, a certificate of validation, a flight crew rating or an aircraft endorsement to the person; or
 - (b) the person attempts an examination conducted by CASA.
- (1A) In spite of anything else in these Regulations, if a person is required to produce evidence of his or her identity under subregulation (1), then until the person produces the evidence :
 - (a) CASA may refuse to issue the licence, certificate, rating or endorsement; or
 - (b) CASA may refuse to allow the person to attempt the examination.
- (2) A person who is permitted by this Part to conduct an examination may require a person to produce evidence of his or her identity before he or she attempts an examination conducted by the first-mentioned person.
[Note Under regulation 2, *examination* includes flight tests.]
- (2A) If a person is required to produce evidence of his or her identity under subregulation (2), the examiner may refuse to allow the person to attempt the examination until he or she produces the evidence.
- (3) Subject to subregulation (4), if there are reasonable grounds for believing that a person has performed, or is about to perform, a duty essential to the operation of an Australian aircraft, CASA may require the person to produce evidence of his or her identity.
- (3A) In spite of anything in these Regulations, if a person who is about to perform a duty essential to the operation of an Australian aircraft is required to produce evidence of his or her identity under subregulation (3), CASA may direct the person not to perform the duty until he or she produces the evidence.
- (3B) A person must not contravene a direction under subregulation (3A).
Penalty: 25 penalty units.
- (4) CASA must not require a person to produce evidence of his or her identity under subregulation (3) unless it is necessary to do so in the interests of the safety of air navigation.
- (5) If a person who has performed a duty essential to the operation of an Australian aircraft is required to produce evidence of his or her identity under subregulation (3), the person must not refuse to produce the evidence.
Penalty: 25 penalty units.
- (6) An offence against subregulation (3B) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.55 Flight time limitations

- (1) CASA may give directions to the holder of a flight crew licence, a special pilot licence or a certificate of validation, or to an aircraft operator, about:
 - (a) the number of hours that the holder may fly in any period as a member of the flight crew of an aircraft; and
 - (b) the length of each tour of duty undertaken by the holder; and
 - (c) the length of reserve time for the holder; and
 - (d) the rest periods that must be taken by the holder; and
 - (e) the circumstances in which the holder must not:
 - (i) fly as a member of the flight crew of an aircraft; or
 - (ii) perform any other duty associated with his or her employment; and
 - (f) the circumstances in which an operator must not require the holder:
 - (i) to fly as a member of the flight crew of an aircraft; or
 - (ii) perform any other duty associated with the holder's employment.
- (2) A person must not contravene a direction under subregulation (1).
Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) It is a defence to a prosecution under subregulation (2) if the defendant had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

5.56 Production of licence etc.

- (1) CASA may request the holder of a flight crew licence, a special pilot licence or a certificate of validation to produce to CASA any or all of the following:
 - (a) his or her licence or certificate;
 - (b) his or her personal log book;
 - (c) his or her medical certificate;for inspection by CASA.
- (2) If CASA requests the holder of a flight crew licence, a special pilot licence or a certificate of validation to produce a document under subregulation (1), the holder must:
 - (a) produce the document without delay; or
 - (b) if the holder does not have immediate access to the document at the time the request is made—produce the document at the place specified by CASA not more than 7 days after the day of the request.Penalty: 25 penalty units.

- (2A) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) For the purposes of paragraph (2) (b), CASA may specify the place at which the holder of a flight crew licence, a special pilot licence or a certificate of validation must produce a document.
- (4) In this regulation:
medical certificate includes an overseas medical certificate.

5.57 Flying schools: transfer of student records

If:

- (a) a person has received flying training at a flying school; and
(b) the person subsequently arranges to receive flying training at another flying school;

the first-mentioned flying school must, on the written or oral request of the person or the other flying school, give a copy of the person's student record to the other flying school.

5.58 Flying schools: chief flying instructor

- (1) CASA may approve the appointment of a person who holds approved qualifications to be the chief flying instructor of a flying school.
- (2) CASA may give an approval subject to any condition that is necessary in the interests of the safety of air navigation.
- (3) CASA must:
- (a) set out the condition in the approval; or
(b) give it as a direction in Civil Aviation Orders.
- (4) A person must not contravene a condition to which his or her approval is subject.

Penalty: 50 penalty units.

- (4A) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) CASA may, in writing, revoke a person's approval if:
- (a) the person ceases to hold the approved qualifications; or
(b) there are reasonable grounds for believing that the person has contravened a condition to which his or her approval is subject;
or
(c) it is necessary to do so in the interests of the safety of air navigation.
- (6) If CASA revokes a person's approval, it must give the person written notice of the revocation setting out the grounds for the revocation.
- (7) CASA may approve qualifications for the purposes of subregulation (1).

5.59 Syllabuses of training

CASA may prepare and publish (whether in the form of Civil Aviation Orders, or otherwise) the following syllabuses of training:

- (a) aeroplane syllabus;
- (b) airship syllabus;
- (c) balloon syllabus;
- (d) gyroplane syllabus;
- (e) helicopter syllabus;
- (f) flight radiotelephone operator syllabus;
- (g) flight crew rating syllabus;
- (h) ACAS syllabus.

5.60 Instrument ground time: approval of trainer

CASA may approve a synthetic flight trainer for the purposes of the definition of *instrument ground time* in subregulation 2 (1).

Division 3 ***Flight Radiotelephone Operator Licence***

[*Note* The following terms used in this Division are defined in regulation 2:

| | |
|---------------------------------------|------------------------|
| approved check radio operator | flight time |
| CASA flying operations inspector | overseas radio licence |
| flight radio telephone practical test | theory examination.] |

5.61 **What are the qualifications for a flight radiotelephone operator licence?**

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) is at least 16 years old; and
 - (b) has been awarded a pass in a flight radiotelephone theory examination; and
 - (c) has been awarded a pass in a flight radiotelephone practical test.
- (2) In spite of subregulation (1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) satisfies the requirements of paragraph (1) (a); and
 - (b) holds, or has held, a qualification:
 - (i) that CASA is satisfied is at least equivalent to a flight radiotelephone operator licence; and
 - (ii) that was issued by the Defence Force of Australia.
- (3) In spite of subregulation (1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) satisfies the requirements of paragraph (1) (a); and
 - (b) holds, or has held, an overseas radio licence that is at least equivalent to the flight radiotelephone operator licence.
- (4) For the purposes of this regulation, an overseas radio licence is equivalent to a flight radiotelephone operator licence if it authorises the holder of the licence to operate a radiocommunication system installed in, or carried on, an aircraft during flight time in the aircraft.

5.62 **What does a flight radiotelephone operator licence authorise a person to do?**

A flight radiotelephone operator licence authorises the holder of the licence to operate:

- (a) a radiocommunication system that is installed in, or carried on, an aircraft during flight time in the aircraft and when the aircraft is on the ground; and

(b) a radiocommunication system used in connection with aircraft .

[*Note 1* Under subregulation 5.66 (1), the holder of a student pilot licence is authorised to operate an aircraft's radiocommunication system for the purposes of a flight.

Note 2 Regulation 83 prohibits a person from using a radiocommunication system used in connection with aircraft otherwise than during flight time in an aircraft unless the person holds a flight radiotelephone operator licence or an aircraft radiotelephone operator certificate of proficiency.]

5.63 Flight radiotelephone operator licence: conduct of examination and test

- (1) A flight radiotelephone theory examination and flight radiotelephone practical test must be conducted only by a CASA flying operations inspector or an approved check radio operator.
- (2) If:
 - (a) a person attempts a flight radiotelephone theory examination or a flight radiotelephone practical test; and
 - (b) the examination or test is not conducted by a CASA flying operations inspector or an approved check radio officer;the person is taken not to have been awarded a pass in the examination or test.

Division 4 Student Pilot Licence**5.64 Interpretation**

In this Division:

aircraft means a registered aircraft that is:

- (a) an aeroplane; or
- (b) a helicopter; or
- (c) a gyroplane; or
- (d) an airship.

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|--------------------------|
| aerodrome reference point | group A ultralight |
| airship instructor | instrument flight time |
| approved testing officer | instrument ground time |
| authorised flight instructor | operating crew |
| CASA flying operations inspector | passenger |
| chief flying instructor | personal log book |
| cross-country flight time | recognised aeroplane |
| cross-country training | recognised flight time |
| dual flying | registered |
| flight crew rating | student pilot |
| flight test | student pilot area limit |
| flying school | syllabus |
| flying training | traffic pattern. |
| flying training aircraft | |
| flying training area | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|------------------------|------------------------------------|
| aircraft endorsement | special design feature endorsement |
| class endorsement | type |
| special design feature | type endorsement.] |

5.65 What are the qualifications for a student pilot licence?

For the purposes of subregulation 5.09 (1), a person is qualified to hold a student pilot licence if the person is at least 16 years old.

5.66 What does a student pilot licence authorise a person to do?

- (1) Subject to subregulations (2) and (3), a student pilot licence authorises the holder of the licence:
 - (a) to fly a flying training aircraft as pilot in command; and
 - (b) to operate the aircraft's radiocommunication system for the purposes of the flight.
- (2) A student pilot must not fly an aircraft as pilot in command if each of the following requirements is not satisfied:
 - (a) an authorised flight instructor gives the student permission to conduct the flight as pilot in command;

- (b) the student conducts the flight in accordance with that permission and any conditions subject to which the permission is given.

Penalty: 50 penalty units.

[*Note* The circumstances in which an authorised flight instructor may give this permission are set out in regulations 5.67 to 5.74 inclusive.]

- (3) A student pilot must not fly an Australian aircraft as pilot in command outside Australian territory.

Penalty: 10 penalty units.

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3B) It is a defence to a prosecution under subregulation (3) if the defendant had the permission of CASA.

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

- (4) CASA may permit a student pilot to fly an Australian aircraft as pilot in command outside Australian territory.

5.67 What training is required before an instructor may permit a student to fly as pilot in command?

- (1) An authorised flight instructor must not permit a student pilot to fly an aircraft as pilot in command if each of the following requirements is not satisfied:

- (a) the student pilot has received flying training from an authorised flight instructor in the type of aircraft concerned;
- (b) the student pilot has satisfied the requirements of the flight radiotelephone operator licence syllabus that are relevant to the proposed flight;
- (c) if the aircraft is an aeroplane—the student pilot has satisfied the requirements of the aeroplane syllabus that are relevant to the proposed flight;
- (d) if the aircraft is a helicopter—the student pilot has satisfied the requirements of the helicopter syllabus that are relevant to the proposed flight;
- (e) if the aircraft is a gyroplane—the student pilot has satisfied the requirements of the gyroplane syllabus that are relevant to the proposed flight;
- (f) if the aircraft is an airship—the student pilot has satisfied the requirements of the airship syllabus that are relevant to the proposed flight;
- (g) the student pilot can safely fly the aircraft as pilot in command on the proposed flight.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.68 What kind of aircraft may an instructor permit a student to fly as pilot in command?

- (1) An authorised flight instructor may permit a student pilot to fly an aircraft as pilot in command only if:

- (a) the aircraft is of a type:
- (i) in which the student pilot has received flying training; and
 - (ii) that the student pilot can safely fly as pilot in command; or
- (b) if the student pilot has passed a general flying progress flight test for the category of aircraft that the student proposes to fly:
- (i) the student holds a type endorsement or a class endorsement for the aircraft; and
 - (ii) if the aircraft is an aeroplane that has a special design feature—the student holds a special design feature endorsement for the aeroplane.

Penalty: 50 penalty units.

[*Note* Requirements to qualify for type, class and special design feature endorsements are set out in the Civil Aviation Orders.]

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.69 Where may an instructor permit a student to fly as pilot in command?

- (1) An authorised flight instructor must not permit a student pilot to fly an aircraft as pilot in command if the flight is not:

- (a) in a traffic pattern; or
- (b) if the student has flown 2 hours of flight time in a traffic pattern as pilot in command of an aircraft of the category used for the flight—within the student pilot area limit; or
- (c) if the aircraft is being flown for the purposes of cross-country training—along a route specified by the instructor.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.70 How many consecutive hours may an instructor permit a student to fly as pilot in command?

- (1) An authorised flight instructor must not permit a student pilot to fly as pilot in command of an aircraft:
- (a) if the student has not passed a general flying progress flight test for the category of aircraft that the student proposes to fly—for more than 3 consecutive hours of flight time in aircraft of that category; or
 - (b) if the student has passed a general flying progress flight test for the category of aircraft that the student proposes to fly—for more than 15 consecutive hours of flight time in aircraft of that category;

if, after each period of 3 or 15 hours, as the case requires, the student has not undertaken dual flying in an aircraft of that category.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.71 What recent experience must a student have for an instructor to permit the student to fly as pilot in command?

- (1) An authorised flight instructor may permit a student pilot to fly an aircraft as pilot in command only if:
- (a) if the student has not passed a general flying progress flight test for the category of aircraft that the student proposes to fly—within the period of 30 days immediately before the day of the proposed flight, the student has:
 - (i) flown as pilot in command of; or
 - (ii) undertaken dual flying in;
an aircraft of that category; or
 - (b) if the student has passed a general flying progress flight test for the category of aircraft that the student proposes to fly—within the period of 90 days immediately before the day of the proposed flight, the student has:
 - (i) flown as pilot in command of; or
 - (ii) undertaken dual flying in;
an aircraft of that category.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.72 May an instructor permit a student to carry passengers while flying as pilot in command?

- (1) An authorised flight instructor must not permit a student pilot to fly as pilot in command of an aircraft in which a passenger is carried.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if:
- (a) the flight takes place solely within the student pilot area limit; and
 - (b) the student pilot has passed a general flying progress flight test, and a basic aeronautical knowledge examination, for aircraft of the category used for the flight.

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

5.73 May an instructor permit a student to carry other students while flying as pilot in command?

- (1) An authorised flight instructor must not permit a student pilot to fly as pilot in command of an aircraft in which another student pilot is a member of the aircraft's operating crew if each of the following requirements is not satisfied:

- (a) some part of the flight takes place outside the student pilot area limit;
- (b) the student pilot has flown at least 5 hours of cross-country flight time as pilot in command of an aircraft of the category used for the flight;
- (c) the student pilot's most recent cross-country flight as pilot in command of an aircraft of the category used for the flight was undertaken as the sole occupant of the aircraft.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.74 May an instructor permit a student to carry out activities for which a rating is required?

- (1) Subject to subregulation (2), an authorised flight instructor must not permit a student pilot, in the course of flying an aircraft as pilot in command, to carry out any activity for which a flight crew rating is required.

Penalty: 50 penalty units.

[*Note* Activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

- (1A) An offence against subregulation (1) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) An authorised flight instructor may permit a student pilot to fly an aircraft as pilot in command at night under the V.F.R. in a traffic pattern, if:
- (a) the student conducts the flight under the direct supervision of an authorised flight instructor; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the student's personal log book to the effect that the student has satisfied the night V.F.R. handling requirements in an aircraft of the same category as the aircraft used for the flight; and
 - (d) the student meets the recent experience requirements set out in subregulation (3) for the flight; and
 - (e) there are no passengers in the aircraft.
- (3) For paragraph (2) (d), the student pilot meets the recent experience requirements for the flight if:
- (a) in the case of a student who has not passed the general flying progress flight test for the category of aircraft used for the flight—the student has, within 30 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying under the V.F.R. as pilot in command of an aircraft of that category; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying under the V.F.R. in an aircraft of that category; or
 - (b) in the case of a student who has passed the general flying progress flight test for the category of aircraft used for the flight—the student has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying under the V.F.R. as pilot in command of an aircraft of that category; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying under the V.F.R. in an aircraft of that category.

5.75 What are the requirements for attempting a general flying progress flight test?

- (1) A general flying progress flight test must be conducted only by a CASA flying operations inspector, or an approved testing officer, in an aircraft:
- (a) that is fitted with:
 - (i) fully functioning dual controls; and

- (ii) an electronic system for communication between the person conducting the test and the student pilot attempting the test that is serviceable when the test begins; and
 - (iii) dual control brakes; and
 - (b) unless the aircraft is an airship—for which the student pilot attempting the test holds an aircraft endorsement.
- (2) A CASA flying operations inspector, or an approved testing officer, must not conduct a general flying progress flight test for a particular category of aircraft if the chief flying instructor of the flying school where the student attempts the test has not recommended the student for the test for that category.

Penalty: 25 penalty units.

- (3) A chief flying instructor must not recommend a student pilot for a general flying progress flight test for a particular category of aircraft if the student does not satisfy each of the following requirements:
- (a) the student has the aeronautical experience set out in regulation 5.76;
 - (b) the student:
 - (i) in the case of the general flying progress flight test for aeroplanes—has satisfied the requirements of the aeroplane syllabus that are relevant to the test; or
 - (ii) in the case of the general flying progress flight test for helicopters—has satisfied the requirements of the helicopter syllabus that are relevant to the test; or
 - (iii) in the case of the general flying progress flight test for gyroplanes—has satisfied the requirements of the gyroplane syllabus that are relevant to the test; or
 - (iv) in the case of the general flying progress flight test for airships—has satisfied the requirements of the airship syllabus that are relevant to the test.

Penalty: 25 penalty units.

- (4) If:
- (a) a student pilot attempts a general flying progress flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the student is taken not to have passed the test.
- (5) If a student pilot is awarded a pass in a general flying progress flight test for a particular category of aircraft, the person who conducted the test must make an entry in the student's personal log book to that effect.
- Penalty: 10 penalty units.
- (6) Failure to comply with subregulation (5) does not affect the validity of an award of a pass in the test.
- (7) An offence against subregulation (2), (3) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.76 What aeronautical experience is required before a student attempts a general flying progress flight test?

- (1) For the purposes of paragraph 5.75 (3) (a), a student pilot must have the following aeronautical experience:
- (a) in the case of a student who wishes to attempt a general flying progress flight test for aeroplanes—at least 20 hours of flight time that includes:
 - (i) at least 5 hours of flight time as pilot in command; and
 - (ii) at least 2 hours of instrument flight time; or
 - (b) in the case of a student who wishes to attempt a general flying progress flight test for helicopters—at least 35 hours of flight time in a helicopter that includes:
 - (i) at least 10 hours of flight time as pilot in command; and
 - (ii) at least 20 hours of flight time in dual flying; or
 - (c) in the case of a student who wishes to attempt a general flying progress flight test for gyroplanes—at least 35 hours of flight time in a gyroplane that includes:
 - (i) at least 10 hours of flight time as pilot in command; and
 - (ii) at least 20 hours of flight time in dual flying; or
 - (d) in the case of a student who wishes to attempt a general flying progress flight test for airships—at least 50 hours of flight time in an airship that includes at least 10 hours of flight time as pilot in command.
- (2) The 20 hours of flight time mentioned in paragraph (1) (a) must be flown in a registered aeroplane or a recognised aeroplane.

- (3) In spite of subregulation (2), the 20 hours of flight time mentioned in paragraph (1) (a) may include recognised flight time that was flown in a helicopter, gyroplane, glider, power-assisted sailplane or group A ultralight.
- (4) In spite of subparagraph (1) (a) (ii), up to 1 hour of instrument ground time may be treated as part of the 2 hours of instrument flight time mentioned in that subparagraph.
- (5) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) in dual flying ;must be halved in calculating the person's flight time for the purposes of this regulation.

Division 5 **Private Pilot (Aeroplane) Licence**

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|--------------------------|
| aeroplane flight review | group A ultralight |
| aeroplane pilot licence | instrument flight time |
| aeroplane pilot rating | instrument ground time |
| aeroplane proficiency check | overseas pilot licence |
| air law examination | personal log book |
| approved testing officer | recognised aeroplane |
| CASA flying operations inspector | recognised flight time |
| chief flying instructor | registered |
| cross-country flight time | responsible authority |
| flight test | syllabus |
| flight time | synthetic flight trainer |
| flying training | theory examination. |
| general flight time | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|-------------------------------|------------------------------------|
| aeroplane conversion training | special design feature endorsement |
| aircraft endorsement | student record |
| class endorsement | type |
| single place aeroplane | type endorsement. |
| special design feature | |

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.77 **What are the qualifications for a private pilot (aeroplane) licence?**

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a private pilot (aeroplane) licence if the person:
 - (a) is at least 17 years old; and
 - (b) holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - (c) has been awarded a pass in a private pilot (aeroplane) licence theory examination or a commercial pilot (aeroplane) licence theory examination; and
 - (d) has been awarded a pass in a private pilot (aeroplane) licence flight test; and
 - (e) has satisfied the requirements of the aeroplane syllabus that are relevant to the private pilot (aeroplane) licence; and
 - (f) has the aeronautical experience set out in regulation 5.84.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a private pilot (aeroplane) licence if the person:
 - (a) satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - (b) holds, or has held, a pilot qualification:
 - (i) that CASA is satisfied is at least equivalent to a private pilot (aeroplane) licence; and
 - (ii) that was issued by the Defence Force of Australia.

- (3) In spite of subregulation (1), a person is qualified to hold a private pilot (aeroplane) licence if:
- (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the private pilot (aeroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and
 - (iii) has been awarded a pass in a private pilot (aeroplane) licence overseas conversion examination; or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the private pilot (aeroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed an aeroplane proficiency check required by regulation 217; and
 - (v) has been awarded a pass in a private pilot (aeroplane) licence overseas conversion examination.
- (4) In spite of subregulation (1), a person is qualified to hold a private pilot (aeroplane) licence if:
- (a) under regulation 5.104, the person is qualified to hold a commercial pilot (aeroplane) licence; or
 - (b) under regulation 5.165, the person is qualified to hold an air transport pilot (aeroplane) licence.
- (5) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed an aeroplane proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a private pilot (aeroplane) licence if it authorises the holder of the licence to fly aeroplanes as pilot in command in private operations.

5.78 What does a private pilot (aeroplane) licence authorise a person to do?

- (1) A private pilot (aeroplane) licence authorises the holder of the licence:
- (a) to fly an aeroplane as pilot in command, or as co-pilot, while the aeroplane is engaged in a private operation; and
 - (b) to fly an aeroplane as pilot in command while the aeroplane is engaged in flying training operations for the purpose of increasing the holder's flying skill.

[Note Paragraph (d) of subregulation 2 (7) sets out the operations that are classed as private operations.]

- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.79, 5.80, 5.81 and 5.82.

5.79 What kind of aeroplane may a private (aeroplane) pilot fly?

- (1) Subject to subregulation (2), a private pilot (aeroplane) licence does not authorise the holder of the licence to fly an aeroplane as pilot in command, or as co-pilot, unless the holder also holds:
- (a) a type endorsement or class endorsement; and
 - (b) if the aeroplane has a special design feature—a special design feature endorsement;
- that authorise the holder to fly the aeroplane in that capacity.
- (2) A private pilot (aeroplane) licence authorises the holder of the licence to fly an aeroplane without holding an aircraft endorsement for the aeroplane:
- (a) in dual flying—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the aeroplane; or
 - (ii) carrying out an experiment in relation to the aeroplane; if CASA has given the holder permission under subregulation 5.50 (1) to fly the aeroplane in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane if:
 - (i) the aeroplane is a single place aeroplane; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the aeroplane.

5.80 Private (aeroplane) pilot: rating required

- (1) Subject to subregulation (2), a private pilot (aeroplane) licence does not authorise the holder of the licence, in the course of flying an aeroplane, to carry out any activity for which a flight crew rating is required:
- (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the aeroplane; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
- (2) The holder of a private pilot (aeroplane) licence may fly as pilot in command of an aeroplane at night under the V.F.R. without holding an aeroplane grade of night V.F.R. rating, if:
- (a) the aeroplane is flying in a traffic pattern; and

- (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has satisfied the night V.F.R. handling requirements in an aeroplane; and
 - (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying an aeroplane under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in an aeroplane under the V.F.R.; and
 - (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
 - (f) there are no passengers in the aeroplane.
- (3) If the holder of a private pilot (aeroplane) licence is approved under regulation 5.21 to give aeroplane conversion training, the licence authorises the holder to give the training without holding a flight instructor rating:
- (a) in an aeroplane for which the holder also holds an aircraft endorsement; and
 - (b) to a person who holds an aeroplane pilot licence.

5.81 Private (aeroplane) pilot: regular flight reviews required

- (1) A private (aeroplane) pilot must not fly an aeroplane as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed an aeroplane flight review.
Penalty: 50 penalty units.
- (2) An aeroplane flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
 - (a) an aeroplane:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and

- (ii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane or is not fitted with wheel brakes—that is fitted with dual control brakes; or
- (b) an approved synthetic flight trainer appropriate to the type of aeroplane mentioned in subparagraph (a) (i) .

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
- (a) a private (aeroplane) pilot undertakes an aeroplane flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;
- the pilot is taken not to have satisfactorily completed the review.
- (4) If a private (aeroplane) pilot satisfactorily completes an aeroplane flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the aeroplane flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) A private (aeroplane) pilot who, within the period of 2 years immediately before the day of the proposed flight, has:
- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of an aeroplane pilot licence; or
 - (ii) the issue, or renewal, of an aeroplane pilot rating; or
 - (b) satisfactorily completed an aeroplane proficiency check; or
 - (c) satisfactorily completed aeroplane conversion training given by the holder of a grade of flight instructor (aeroplane) rating that authorises him or her to conduct aeroplane flight reviews;
- is taken to have satisfactorily completed an aeroplane flight review.
- (6) For the purposes of paragraph (5) (b), a private (aeroplane) pilot is not taken to have satisfactorily completed an aeroplane proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.
- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).

(8) In this regulation:

appropriate person means:

- (a) an authorised flight instructor who holds a grade of flight instructor (aeroplane) rating that authorises him or her to conduct flight reviews in aeroplanes; or
- (b) an approved testing officer; or
- (c) a CASA flying operations inspector.

5.82 Private (aeroplane) pilot: recent experience requirements

(1) A private (aeroplane) pilot must not fly an aeroplane as pilot in command if the aeroplane is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:

- (a) if the flight is undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 take-offs and 3 landings while flying an aeroplane as pilot in command or as pilot acting in command under supervision, or in dual flying;
- (b) if the flight is undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 take-offs and 3 landings at night while flying an aeroplane as pilot in command or as pilot acting in command under supervision, or in dual flying.

Penalty: 25 penalty units.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

(2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

5.83 Chief flying instructor may determine that a person satisfies aeroplane syllabus

(1) For the purposes of paragraph 5.77 (1) (e), a person satisfies the requirements of the aeroplane syllabus that are relevant to the private pilot (aeroplane) licence if:

- (a) the chief flying instructor of a flying school makes a determination under subregulation (2) in relation to the person; and
- (b) the person satisfies any conditions as to further training that the instructor specifies in the determination.

(2) A chief flying instructor may make a written determination for the purposes of paragraph (1) (a) if:

- (a) the person has the aeronautical experience set out in regulation 5.84; and

- (b) in all the circumstances, the person's aeronautical experience can reasonably be taken to be training for a private pilot (aeroplane) licence.
- (3) If a chief flying instructor makes a determination under subregulation (2) in relation to a person, the instructor may include in the determination conditions as to further training that the person must undertake.
- (4) If a chief flying instructor makes a determination under subregulation (2) in relation to a person, the instructor must:
 - (a) attach the determination to the person's student record; and
 - (b) give a copy of the determination to the person.

5.84 Private pilot (aeroplane) licence: aeronautical experience required

- (1) For the purposes of paragraph 5.77 (1) (f), a person's aeronautical experience must consist of at least 40 hours of flight time as a pilot, being flight time that includes:
 - (a) at least 5 hours of general flight time as pilot in command; and
 - (b) at least 5 hours of cross-country flight time as pilot in command; and
 - (c) at least 2 hours of instrument flight time.
- (2) The 40 hours must be recognised flight time that was flown in a registered aeroplane, recognised aeroplane, helicopter, gyroplane, glider, power-assisted sailplane or group A ultralight.
- (3) For the purposes of paragraph (1) (b), the flight time must include 1 flight of at least 150 miles, that includes at least 1 full stop landing at, and at least 1 take-off from, each of 2 or more aerodromes:
 - (a) that are not the aerodrome from which the flight commenced; and
 - (b) that are not within the student pilot area limit of the aerodrome from which the flight commenced.
- (4) For the purposes of subregulation (3), a landing is a full stop landing if, after landing, the aeroplane's speed is reduced to taxi speed before take-off begins.

5.85 Aeronautical experience: calculation of flight time

- (1) For the purposes of subregulation 5.84 (1), the same flight time may be counted towards paragraphs 5.84 (1) (b) and (c) if both paragraphs describe the flight time.
- (2) A period of 5 hours or less spent by a person practising simulated flight in an approved synthetic flight trainer may be treated as if it were part of the 40 hours of flight time mentioned in subregulation 5.84 (1).

- (3) The period in an approved synthetic flight trainer must not be treated as if it were part of any of the periods mentioned in paragraphs 5.84 (1) (a) and (b).
- (4) For the purposes of subregulation (2), no more than 1 hour of the 5 hours in an approved synthetic flight trainer may be instrument ground time.
- (5) If a period spent by a person in an approved synthetic flight trainer includes a period of instrument ground time, the instrument ground time may be treated as if it were part of the 2 hours of instrument flight time mentioned in paragraph 5.84 (1) (c).
- (6) CASA may approve a synthetic flight trainer for the purposes of subregulation (2).
- (7) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) as pilot acting in command under supervision; or
 - (c) in dual flying;
 must be halved in calculating the person's flight time for the purposes of regulation 5.84.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

5.86 How and when may a private pilot (aeroplane) licence flight test be attempted?

- (1) A private pilot (aeroplane) licence flight test must be conducted only by an approved testing officer or a CASA flying operations inspector, in an aeroplane:
 - (a) for which the person attempting the test holds an aircraft endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) dual control brakes.

- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a private pilot (aeroplane) licence flight test if the chief flying instructor of the flying school where the person attempts the test has not recommended the person for the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a private pilot (aeroplane) licence flight test only if the person:

(a) satisfies the requirements of paragraphs 5.77 (1) (b), (c), (e) and (f); and

(b) is at least 16 years old.

Penalty: 25 penalty units.

[*Note 1* A determination under subregulation 5.83 (2) is different from a recommendation under this regulation.

Note 2 Under paragraph 5.77 (1) (a) a person must be 17 years old to qualify for a private pilot (aeroplane) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:

(a) a person attempts a private pilot (aeroplane) licence flight test; and

(b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;

the person is taken not to have been awarded a pass in the test.

Division 6 **Private Pilot (Helicopter) Licence**

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|------------------------------|
| aeroplane pilot licence | gyroplane pilot licence |
| air law examination | helicopter flight review |
| approved testing officer | helicopter pilot licence |
| CASA flying operations inspector | helicopter pilot rating |
| cross-country flight time | helicopter proficiency check |
| dual flying | overseas pilot licence |
| flight crew rating | personal log book |
| flight test | syllabus |
| flight time | synthetic flight trainer |
| flying training | theory examination. |
| general flight time | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|--------------------------------|-------------------------|
| aircraft endorsement | single place helicopter |
| helicopter conversion training | type. |

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.87 **What are the qualifications for a private pilot (helicopter) licence?**

- (1) For the purposes of subregulation 5.09 (1) a person is qualified to hold a private pilot (helicopter) licence if the person:
- (a) is at least 17 years old; and
 - (b) holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - (c) has been awarded a pass in a private pilot (helicopter) licence theory examination, or a commercial pilot (helicopter) licence theory examination; and
 - (d) has been awarded a pass in a private pilot (helicopter) licence flight test; and
 - (e) meets the standards set out in the helicopter syllabus that are relevant to the private pilot (helicopter) licence; and
 - (f) has the aeronautical experience set out in regulation 5.93.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a private pilot (helicopter) licence if the person:
- (a) satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - (b) holds, or has held, a pilot qualification:
 - (i) that CASA is satisfied is at least equivalent to a private pilot (helicopter) licence; and
 - (ii) that was issued by the Defence Force of Australia.

- (3) In spite of subregulation (1), a person is qualified to hold a private pilot (helicopter) licence if:
- (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the private pilot (helicopter) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and
 - (iii) has been awarded a pass in a private pilot (helicopter) licence overseas conversion examination; or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the private pilot (helicopter) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed a helicopter proficiency check required by regulation 217; and
 - (v) has been awarded a pass in a private pilot (helicopter) licence overseas conversion examination.
- (4) In spite of subregulation (1), a person is qualified to hold a private pilot (helicopter) licence if:
- (a) under regulation 5.120, the person is qualified to hold a commercial pilot (helicopter) licence; or
 - (b) under regulation 5.174, the person is qualified to hold an air transport pilot (helicopter) licence.
- (5) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed a helicopter proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a private pilot (helicopter) licence if it authorises the holder of the licence to fly helicopters as pilot in command in private operations.

5.88 What does a private pilot (helicopter) licence authorise a person to do?

- (1) A private pilot (helicopter) licence authorises the holder of the licence:
- (a) to fly a helicopter as pilot in command, or as co-pilot, while the helicopter is engaged in a private operation; and
 - (b) to fly a helicopter as pilot in command while the helicopter is engaged in flying training operations for the purpose of increasing the holder's flying skill.

[*Note* Paragraph (d) of subregulation 2 (7) sets out the operations that are classed as private operations.]

- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.89, 5.90, 5.91 and 5.92.

5.89 What kind of helicopter may a private (helicopter) pilot fly?

- (1) Subject to subregulation (2), a private pilot (helicopter) licence does not authorise the holder of the licence to fly a helicopter as pilot in command, or co-pilot, unless the holder also holds an aircraft endorsement that authorises the holder to fly the helicopter in that capacity.
- (2) A private pilot (helicopter) licence authorises the holder of the licence to fly a helicopter without holding an aircraft endorsement for the helicopter:
- (a) in dual flying—for the purpose of satisfying the requirements for the issue of an aircraft endorsement; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the helicopter; or
 - (ii) carrying out an experiment in relation to the helicopter; if CASA has given the holder permission under subregulation 5.50 (1) to fly the helicopter in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the helicopter if:
 - (i) the helicopter is a single place helicopter; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the helicopter.

5.90 Private (helicopter) pilot: rating required

- (1) Subject to subregulation (2), a private pilot (helicopter) licence does not authorise the holder of the licence, in the course of flying a helicopter, to carry out any activity for which a flight crew rating is required:
- (a) as pilot in command or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the helicopter; or

- (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
- (2) The holder of a private pilot (helicopter) licence may fly as pilot in command of a helicopter at night under the V.F.R. without holding a helicopter grade of night V.F.R. rating, if:
- (a) the helicopter is flying in a traffic pattern; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has met the night V.F.R. handling requirements in a helicopter; and
 - (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying a helicopter under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in a helicopter under the V.F.R.; and
 - (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
 - (f) there are no passengers in the helicopter.
- (3) If the holder of a private pilot (helicopter) licence is approved under regulation 5.21 to give helicopter conversion training, the licence authorises the holder to give the training without holding a flight instructor rating:
- (a) in a helicopter for which the holder also holds an aircraft endorsement; and
 - (b) to a person who holds a helicopter pilot licence.

5.91 Private (helicopter) pilot: regular flight reviews required

- (1) On and after 1 December 1994, a private (helicopter) pilot must not fly a helicopter as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a helicopter flight review.
Penalty: 50 penalty units.
- (2) A helicopter flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
- (a) a helicopter:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and

- (ii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter—that is fitted with fully functioning dual controls; and
- (iii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter or is not fitted with wheel brakes—that is fitted with dual control brakes; or
- (b) an approved synthetic flight trainer appropriate to the type of helicopter mentioned in subparagraph (a) (i).

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
- (a) a private (helicopter) pilot undertakes a helicopter flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a private (helicopter) pilot satisfactorily completes a helicopter flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the helicopter flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) A private (helicopter) pilot who has, within the period of 2 years immediately before the day of the proposed flight:
- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a helicopter pilot licence; or
 - (ii) the issue, or renewal, of a helicopter pilot rating; or
 - (b) satisfactorily completed a helicopter proficiency check; or
 - (c) satisfactorily completed helicopter conversion training given by the holder of a grade of flight instructor (helicopter) rating that authorises him or her to conduct helicopter flight reviews;

is taken to have satisfactorily completed a helicopter flight review.

- (6) For the purposes of paragraph (5) (b), a private (helicopter) pilot is not taken to have satisfactorily completed a helicopter proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.

- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).

(8) In this regulation:

appropriate person means:

- (a) an authorised flight instructor who holds a grade of flight instructor (helicopter) rating that authorises him or her to conduct flight reviews in helicopters; or
- (b) an approved testing officer; or
- (c) a CASA flying operations inspector.

5.92 Private (helicopter) pilot: recent experience requirements

(1) A private (helicopter) pilot must not fly a helicopter as pilot in command if the helicopter is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:

- (a) if the flight is undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 circuits while flying a helicopter as pilot in command or as pilot acting in command under supervision or in dual flying;
- (b) if the flight is undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 circuits at night while flying a helicopter as pilot in command or as pilot acting in command under supervision or in dual flying.

Penalty: 25 penalty units.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

(1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

(2) For the purposes of this regulation, a person carries out a circuit while flying a helicopter if the person:

- (a) takes-off in the helicopter from an aerodrome; and
- (b) flies the helicopter around the aerodrome in accordance with the traffic pattern for the aerodrome; and
- (c) lands the helicopter at the aerodrome.

(3) In this regulation:

aerodrome means a place that aircraft may land at, or take off from, in accordance with regulation 92.

5.93 Private pilot (helicopter) licence: aeronautical experience required

- (1) For the purposes of paragraph 5.87 (1) (f), a person's aeronautical experience must consist of:
 - (a) if the person holds an aeroplane pilot licence or a gyroplane pilot licence—at least 38 hours of flight time as a pilot of a helicopter that includes:
 - (i) at least 35 hours of general flight time; and
 - (ii) at least 3 hours of cross-country flight time; or
 - (b) in any other case—at least 50 hours of flight time as a pilot of a helicopter that includes:
 - (i) at least 35 hours of general flight time; and
 - (ii) at least 15 hours of cross-country flight time.
- (2) For the purposes of subparagraphs (1) (a) (i) and (1) (b) (i), the 35 hours of general flight time must include:
 - (a) at least 20 hours of flight time in dual flying; and
 - (b) at least 10 hours of flight time as pilot in command.
- (3) For the purposes of subparagraph (1) (a) (ii), the 3 hours of cross-country flight time must be flown in dual flying.
- (4) For the purposes of subparagraph (1) (b) (ii), the 15 hours of cross-country flight time must include at least 6 hours of flight time as pilot in command.
- (5) For the purposes of subregulation (4), the 6 hours of flight time as pilot in command must include at least 1 flight:
 - (a) to a destination that is at least 70 miles from the place from which the flight commenced; and
 - (b) that includes at least 1 landing at, and 1 take-off from, that destination.
- (6) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) in dual flying;must be halved in calculating the person's flight time for the purposes of this regulation.

5.94 How and when may a private pilot (helicopter) licence flight test be attempted?

- (1) A private pilot (helicopter) licence flight test must be conducted only by an approved testing officer, or a CASA flying operations inspector, in a helicopter:
- (a) for which the person attempting the test holds an aircraft endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) if the helicopter has wheel brakes—dual control brakes.

- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a private pilot (helicopter) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a private pilot (helicopter) licence flight test only if the person:
- (a) satisfies the requirements of paragraphs 5.87 (1) (b), (c), (e) and (f); and
 - (b) is at least 16 years old.

Penalty: 25 penalty units.

[Note Under paragraph 5.87 (1) (a) a person must be 17 years old to qualify for a private pilot (helicopter) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a private pilot (helicopter) licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.

Division 7 Private Pilot (Gyroplane) Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|-----------------------------|
| aeroplane pilot licence | gyroplane pilot rating |
| approved testing officer | gyroplane proficiency check |
| CASA flying operations inspector | helicopter pilot licence |
| cross-country flight time | overseas pilot licence |
| dual flying | personal log book |
| flight crew rating | recognised aeroplane |
| flight test | registered |
| flight time | responsible authority |
| flying training | syllabus |
| general flight time | synthetic flight trainer |
| gyroplane flight review | theory examination. |
| gyroplane pilot licence | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|------------------------|-------------------|
| single place gyroplane | type endorsement. |
| type | |

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.95 What are the qualifications for a private pilot (gyroplane) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a private pilot (gyroplane) licence if the person:
- is at least 17 years old; and
 - holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - has been awarded a pass in a private pilot (gyroplane) licence theory examination, or a commercial pilot (gyroplane) licence theory examination; and
 - has been awarded a pass in a private pilot (gyroplane) licence flight test; and
 - meets the standards set out in the gyroplane syllabus that are relevant to the private pilot (gyroplane) licence; and
 - has the aeronautical experience set out in regulation 5.101.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a private pilot (gyroplane) licence if the person:
- satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - holds, or has held, a pilot qualification:
 - that CASA is satisfied is at least equivalent to a private pilot (gyroplane) licence; and
 - that was issued by the Defence Force of Australia.

- (3) In spite of subregulation (1), a person is qualified to hold a private pilot (gyroplane) licence if:
- (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the private pilot (gyroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (c), (d) and (f); or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the private pilot (gyroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (c) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed a gyroplane proficiency check required by regulation 217.
- (4) In spite of subregulation (1), a person is qualified to hold a private pilot (gyroplane) licence if, under regulation 5.129, the person is qualified to hold a commercial pilot (gyroplane) licence.
- (5) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed a gyroplane proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a private pilot (gyroplane) licence if it authorises the holder of the licence to fly gyroplanes as pilot in command in private operations.

5.96 What does a private pilot (gyroplane) licence authorise a person to do?

- (1) A private pilot (gyroplane) licence authorises the holder of the licence:
- (a) to fly a gyroplane as pilot in command, or co-pilot, while the gyroplane is engaged in a private operation; and
 - (b) to fly a gyroplane as pilot in command while the gyroplane is engaged in flying training operations for the purpose of increasing the holder's flying skill.

[*Note* Paragraph (d) of subregulation 2 (7) sets out the operations that are classed as private operations.]

- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.97, 5.98, 5.99 and 5.100.

5.97 What kind of gyroplane may a private (gyroplane) pilot fly?

- (1) Subject to subregulation (2), a private pilot (gyroplane) licence does not authorise the holder of the licence to fly a gyroplane as pilot in command, or co-pilot, unless the holder also holds a type endorsement that authorises the holder to fly the gyroplane in that capacity.
- (2) A private pilot (gyroplane) licence authorises the holder of the licence to fly a gyroplane without holding a type endorsement for the gyroplane:
 - (a) in dual flying—for the purpose of satisfying the requirements for the issue of a type endorsement for the gyroplane; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the gyroplane; or
 - (ii) carrying out an experiment in relation to the gyroplane; if CASA has given the holder permission under subregulation 5.50 (1) to fly the gyroplane in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the gyroplane if:
 - (i) the gyroplane is a single place gyroplane; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the gyroplane.

5.98 Private (gyroplane) pilot: rating required

A private pilot (gyroplane) licence does not authorise the holder of the licence, in the course of flying a gyroplane, to carry out any activity for which a flight crew rating is required:

- (a) as pilot in command or co-pilot—unless the holder also holds a flight crew rating that authorises him or her to carry out the activity in that capacity in the gyroplane; or
- (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.

5.99 Private (gyroplane) pilot: regular flight reviews required

- (1) On and after 1 December 1994, a private (gyroplane) pilot must not fly a gyroplane as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a gyroplane flight review.

Penalty: 50 penalty units.

- (2) A gyroplane flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:

- (a) a gyroplane:
- (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of gyroplane mentioned in subparagraph (i) is a single place gyroplane—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of gyroplane mentioned in subparagraph (i) is a single place gyroplane or is not fitted with wheel brakes—that is fitted with dual control brakes; or
- (b) an approved synthetic flight trainer appropriate to the type of gyroplane mentioned in subparagraph (a) (i).

[*Note* For **appropriate person** see subregulation (8).]

- (3) If:
- (a) a private (gyroplane) pilot undertakes a gyroplane flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a private (gyroplane) pilot satisfactorily completes a gyroplane flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the gyroplane flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) A private (gyroplane) pilot who has, within the period of 2 years immediately before the day of the proposed flight:

- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a gyroplane pilot licence; or
 - (ii) the issue, or renewal, of a gyroplane pilot rating; or
- (b) satisfactorily completed a gyroplane proficiency check;

is taken to have satisfactorily completed a gyroplane flight review.

- (6) For the purposes of paragraph (5) (b), a private (gyroplane) pilot is not taken to have satisfactorily completed a gyroplane proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.
- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).
- (8) In this regulation:
 - appropriate person** means:
 - (a) an authorised flight instructor who holds a grade of flight instructor (gyroplane) rating that authorises him or her to conduct flight reviews in gyroplanes; or
 - (b) an approved testing officer; or
 - (c) a CASA flying operations inspector.

5.100 Private (gyroplane) pilot: recent experience requirements

- (1) A private (gyroplane) pilot must not fly a gyroplane as pilot in command if the gyroplane is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
 - (a) if the flight is undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 circuits while flying a gyroplane as pilot in command or as pilot acting in command under supervision, or in dual flying;
 - (b) if the flight is undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight, carried out at least 3 circuits at night while flying a gyroplane as pilot in command or as pilot acting in command under supervision, or in dual flying.

Penalty: 25 penalty units.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

- (1A) An offence against subregulation (1) is an offence of strict liability.
 - Note* For **strict liability**, see section 6.1 of the *Criminal Code*.
- (2) For the purposes of this regulation, a person carries out a circuit while flying a gyroplane if the person:
 - (a) takes-off in the gyroplane from an aerodrome; and
 - (b) flies the gyroplane around the aerodrome in accordance with the traffic pattern for the aerodrome; and
 - (c) lands the gyroplane at the aerodrome.

(3) In this regulation:

aerodrome means a place that aircraft may land at, or take off from, in accordance with regulation 92.

5.101 Private pilot (gyroplane) licence: aeronautical experience required

(1) For the purposes of paragraph 5.95 (1) (f), a person's aeronautical experience must consist of:

(a) if the person holds an aeroplane pilot licence and a helicopter pilot licence—at least 8 hours of general flight time that includes:

(i) at least 4 hours of flight time in dual flying; and

(ii) at least 3 hours of flight time as pilot in command; or

(b) if the person holds an aeroplane pilot licence or a helicopter pilot licence, but not both—at least 15 hours of general flight time that includes:

(i) at least 8 hours of flight time in dual flying; and

(ii) at least 5 hours of flight time as pilot in command; or

(c) in any other case:

(i) at least 35 hours of general flight time that includes:

(A) at least 20 hours of flight time in dual flying; and

(B) at least 10 hours of flight time as pilot in command;
and

(ii) at least 12 hours of cross-country flight time that includes:

(A) at least 8 hours of flight time in dual flying; and

(B) at least 4 hours of flight time as pilot in command.

(2) Subject to subregulation (3), the flight time referred to in subregulation (1) must be flown in a gyroplane.

(3) Up to 10 hours of the 20 hours of flight time in dual flying mentioned in sub-subparagraph (1) (c) (i) (A) may be flown in a registered aeroplane, a recognised aeroplane or a helicopter.

(4) Each period of flight time flown by a person as a pilot, but not flown:

(a) as pilot in command; or

(b) in dual flying;

must be halved in calculating the person's flight time for the purposes of this regulation.

5.102 How and when may a private pilot (gyroplane) licence flight test be attempted?

(1) A private pilot (gyroplane) licence flight test must be conducted only by an approved testing officer, or a CASA flying operations inspector, in a gyroplane:

(a) for which the person attempting the test holds a type endorsement; and

(b) that is fitted with:

- (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) if the gyroplane has wheel brakes—dual control brakes.
- (2) An approved testing officer, or CASA flying operations inspector, must not conduct a private pilot (gyroplane) licence flight test if the chief flying instructor of the flying school where the person attempts the test has not recommended the person for the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a private pilot (gyroplane) licence flight test only if the person:
- (a) satisfies the requirements of paragraphs 5.95 (1) (b), (c), (e) and (f); and
 - (b) is at least 16 years old.

Penalty: 25 penalty units.

[*Note* Under paragraph 5.95 (1) (a) a person must be 17 years old to qualify for a private pilot (gyroplane) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a private pilot (gyroplane) licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.

Division 8 Commercial Pilot (Aeroplane) Licence

5.103 Interpretation

In this Division:

commercial flying school means a school for which there is an Air Operator's Certificate that authorises flying training for the issue of a commercial pilot (aeroplane) licence;

commercially trained person means a person who has successfully completed a training course conducted by a commercial flying school in accordance with the relevant aeroplane syllabus.

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|--------------------------|
| aeroplane flight review | flying school |
| aeroplane pilot licence | flying training |
| aeroplane pilot rating | instrument flight time |
| aeroplane proficiency check | instrument ground time |
| air law examination | overseas pilot licence |
| approved testing officer | recognised aeroplane |
| CASA flying operations inspector | registered |
| chief flying instructor | responsible authority |
| cross-country flight time | syllabus |
| flight crew rating | synthetic flight trainer |
| flight test | theory examination. |
| flight time | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|-------------------------------|------------------------------------|
| aeroplane conversion training | single place aeroplane |
| aircraft endorsement | special design feature |
| class endorsement | special design feature endorsement |
| multi-pilot aeroplane | type |
| single pilot aeroplane | type endorsement. |

Note 3 The term **pilot acting in command under supervision** is defined in subregulation 5.01 (3).]

5.104 What are the qualifications for a commercial pilot (aeroplane) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a commercial pilot (aeroplane) licence if the person:
- (a) is at least 18 years old; and
 - (b) holds, or is qualified to hold, a radiotelephone operator licence; and
 - (c) has been awarded a pass in a commercial pilot (aeroplane) licence theory examination; and
 - (d) has been awarded a pass in a commercial pilot (aeroplane) licence flight test; and
 - (e) meets the standards set out in the aeroplane syllabus that are relevant to the commercial pilot (aeroplane) licence; and

- (f) meets the aeronautical experience requirements set out in:
 - (i) if the person is a commercially trained person—regulation 5.111; or
 - (ii) if the person is not a commercially trained person—regulation 5.113, 5.114 or 5.115.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a commercial pilot (aeroplane) licence if the person:
 - (a) satisfies the requirements of paragraphs (1) (a) and (b) and subparagraph (1) (f) (ii); and
 - (b) holds, or has held, a pilot qualification:
 - (i) that CASA is satisfied is at least equivalent to a commercial pilot (aeroplane) licence; and
 - (ii) that was issued by the Defence Force of Australia.
- (3) In spite of subregulation (1), a person is qualified to hold a commercial pilot (aeroplane) licence if:
 - (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the commercial pilot (aeroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b) and (d) and subparagraph (1) (f) (ii); and
 - (iii) has been awarded a pass in a commercial pilot (aeroplane) licence overseas conversion examination; or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the commercial pilot (aeroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a) and (b) and subparagraph (1) (f) (ii); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed an aeroplane proficiency check required by regulation 217; and
 - (v) has been awarded a pass in a commercial pilot (aeroplane) licence overseas conversion examination.
- (4) In spite of subregulation (1), a person is qualified to hold a commercial pilot (aeroplane) licence if, under regulation 5.165, the person is qualified to hold an air transport pilot (aeroplane) licence.
- (5) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed an aeroplane proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (aeroplane) licence if it authorises the

holder of the licence to fly aeroplanes as pilot in command in commercial operations.

5.105 What does a commercial pilot (aeroplane) licence authorise a person to do?

- (1) A commercial pilot (aeroplane) licence authorises the holder of the licence:
 - (a) to fly a single pilot aeroplane as pilot in command while the aeroplane is engaged in any operation; and
 - (b) to fly a multi-pilot aeroplane as pilot in command while the aeroplane is engaged in any operation other than a charter operation, or a regular public transport operation; and
 - (c) to fly an aeroplane as co-pilot while the aeroplane is engaged in any operation.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.106, 5.107, 5.108, 5.109 and 5.110.

5.106 What kind of aeroplane may a commercial (aeroplane) pilot fly?

- (1) Subject to subregulation (2), a commercial pilot (aeroplane) licence does not authorise the holder of the licence to fly an aeroplane as pilot in command, or co-pilot, unless the holder also holds:
 - (a) a type endorsement or class endorsement; and
 - (b) if the aeroplane has a special design feature—a special design feature endorsement;
that authorises the holder to fly the aeroplane in that capacity.
- (2) A commercial pilot (aeroplane) licence authorises the holder of the licence to fly an aeroplane without holding an aircraft endorsement for the aeroplane:
 - (a) in dual flying—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the aeroplane; or
 - (ii) carrying out an experiment in relation to the aeroplane; if CASA has given the holder permission under subregulation 5.50 (1) to fly the aeroplane in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane if:
 - (i) the aeroplane is a single place aeroplane; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the aeroplane.

5.107 Commercial (aeroplane) pilot: rating required

- (1) Subject to subregulation (3), a commercial pilot (aeroplane) licence does not authorise the holder of the licence, in the course of flying an aeroplane, to carry out any activity for which a flight crew rating is required:
 - (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the aeroplane; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
- (2) A commercial pilot (aeroplane) licence authorises the holder of the licence:
 - (a) if the holder is approved under regulation 5.21 to give aeroplane conversion training—to give the training without holding a flight instructor (aeroplane) rating:
 - (i) in an aeroplane for which the holder also holds an aircraft endorsement; and
 - (ii) to a person who holds an aeroplane pilot licence; and
 - (b) if the holder is approved under regulation 5.20 to give flying training in relation to an aeroplane pilot rating—to give the training without holding a flight instructor (aeroplane) rating.

[*Note* Under subregulation 5.01 (2), flying training is an activity for which a flight crew rating is required.]
- (3) The holder of a commercial pilot (aeroplane) licence may fly as pilot in command of an aeroplane at night under the V.F.R. without holding an aeroplane grade of night V.F.R. rating, if:
 - (a) the aeroplane is flying in a traffic pattern; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has met the night V.F.R. handling requirements in an aeroplane; and

- (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying an aeroplane under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in an aeroplane under the V.F.R.; and
- (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
- (f) there are no passengers in the aeroplane.

5.108 Commercial (aeroplane) pilot: regular flight reviews required

- (1) A commercial (aeroplane) pilot must not fly an aeroplane as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed an aeroplane flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies aeroplanes for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) An aeroplane flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:

- (a) an aeroplane:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane or is not fitted with wheel brakes—that is fitted with dual control brakes; or
- (b) an approved synthetic flight trainer appropriate to the type of aeroplane mentioned in subparagraph (a) (i).

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
 - (a) a commercial (aeroplane) pilot undertakes an aeroplane flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a commercial (aeroplane) pilot satisfactorily completes an aeroplane flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the aeroplane flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) A commercial (aeroplane) pilot who has, within the period of 2 years immediately before the day of the proposed flight:
- (a) passed a flight test conducted for the purpose of :
 - (i) the issue of an aeroplane pilot licence; or
 - (ii) the issue, or renewal, of an aeroplane pilot rating; or
 - (b) satisfactorily completed an aeroplane proficiency check; or
 - (c) satisfactorily completed aeroplane conversion training given by the holder of a grade of flight instructor (aeroplane) rating that authorises him or her to conduct aeroplane flight reviews;

is taken to have satisfactorily completed an aeroplane flight review.

[*Note* Conversion training given by a person who does not hold a flight instructor (aeroplane) rating must not be substituted for a flight review.]

- (6) For the purposes of paragraph (5) (b), a commercial (aeroplane) pilot is not taken to have satisfactorily completed an aeroplane proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.
- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).
- (8) In this regulation:
- appropriate person** means:
- (a) an authorised flight instructor who holds a grade of flight instructor (aeroplane) rating that authorises him or her to conduct flight reviews in aeroplanes; or
 - (b) an approved testing officer; or
 - (c) a CASA flying operations inspector.

5.109 Commercial (aeroplane) pilot: recent experience requirements

- (1) A commercial (aeroplane) pilot must not fly an aeroplane as pilot in command if the aeroplane is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings while flying an aeroplane as pilot in command or as pilot acting in command under supervision or in dual flying; or
 - (ii) satisfactorily completed an aeroplane proficiency check; or

- (iii) passed a flight test conducted for the purpose of the issue of an aeroplane pilot licence, or the issue, or renewal, of an aeroplane pilot rating;
- (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings at night while flying an aeroplane as pilot in command or as pilot acting in command under supervision or in dual flying; or
 - (ii) satisfactorily completed an aeroplane proficiency check that was conducted at night; or
 - (iii) passed a flight test that was conducted at night for the purpose of the issue of an aeroplane pilot licence, or the issue, or renewal, of an aeroplane pilot rating.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.110 Commercial (aeroplane) pilot: requirements if over 60 years old

- (1) A commercial (aeroplane) pilot who is at least 60 years old must not fly as pilot in command of an aeroplane:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to a commercial (aeroplane) pilot if:
- (a) the pilot flies an aeroplane:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot has satisfactorily completed an aeroplane proficiency check or an aeroplane flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot has satisfactorily completed an aeroplane proficiency check or an aeroplane flight review.

(3) In this regulation:

qualified pilot means a commercial (aeroplane) pilot or an air transport (aeroplane) pilot who:

- (a) holds a command endorsement for the aeroplane; and
- (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the aeroplane; and
- (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

5.111 Aeronautical experience: commercially trained persons

- (1) For the purposes of subparagraph 5.104 (1) (f) (i), a commercially trained person's aeronautical experience must consist of at least 150 hours of flight time flown as a pilot during the person's training course.
- (2) For the purposes of subregulation (1), the 150 hours must be flown in a registered aeroplane and must include:
 - (a) 70 hours of flight time as pilot in command; and
 - (b) 20 hours of cross-country flight time as pilot in command; and
 - (c) 10 hours of instrument flight time.
- (3) For the purposes of subregulation (2), the same flight time may be counted towards as many of paragraphs (a), (b) and (c) as describe the flight time.

5.112 Commercially trained persons: time spent in synthetic flight trainer

- (1) A period of 10 hours or less spent by a commercially trained person practising simulated flight in an approved synthetic flight trainer may be treated as if it were part of the 150 hours mentioned in subregulation 5.111 (1).
- (2) The period in an approved synthetic flight trainer must not be treated as if it were part of any of the periods mentioned in paragraphs 5.111 (2) (a) and (b).

- (3) If the period in an approved synthetic flight trainer includes instrument ground time, that time may be treated as part of the 10 hours of instrument flight time required by paragraph 5.111 (2) (c), but not more than 5 hours of instrument ground time may be treated in that way.
- (4) CASA may approve a synthetic flight trainer for the purposes of this regulation.

5.113 Aeronautical experience: commercial (helicopter) pilots and air transport (helicopter) pilots

- (1) For the purposes of subparagraph 5.104 (1) (f) (ii), the aeronautical experience of a person who is not a commercially trained person but who holds a commercial pilot (helicopter) licence or an air transport pilot (helicopter) licence must consist of:
 - (a) at least 60 hours of flight time as a pilot of a registered aeroplane, or a recognised aeroplane; and
 - (b) at least 10 hours of cross-country flight time as pilot in command of a registered aeroplane, or a recognised aeroplane; and
 - (c) at least 10 hours of instrument flight time in a registered aeroplane, or a recognised aeroplane.
- (2) For the purposes of subregulation (1), the same flight time may be counted towards as many of paragraphs (1) (a), (b) and (c) as describe the flight time.
- (3) If a person complies with subregulation (1) by flying a total flight time of less than 200 hours, the person's aeronautical experience for the purposes of subparagraph 5.104 (1) (f) (ii) must include a period of additional flight time equal to the difference between 200 hours and that total flight time.
- (4) In this regulation:

additional flight time means recognised flight time as a pilot of any 1 or more of the following:

 - (a) a registered aeroplane;
 - (b) a recognised aeroplane;
 - (c) a helicopter;
 - (d) a gyroplane;
 - (e) a glider (other than a hang glider).

5.114 Aeronautical experience: private (helicopter) pilots

- (1) For the purposes of subparagraph 5.104 (1) (f) (ii), the aeronautical experience of a person who is not a commercially trained person but who holds a private pilot (helicopter) licence must consist of:

- (a) at least 80 hours of flight time as a pilot of a registered aeroplane, or a recognised aeroplane; and
 - (b) at least 15 hours of cross-country flight time as pilot in command of a registered aeroplane, or a recognised aeroplane; and
 - (c) at least 10 hours of instrument flight time in a registered aeroplane, or a recognised aeroplane.
- (2) For the purposes of subregulation (1), the same flight time may be counted towards as many of paragraphs (1) (a), (b) and (c) as describe the flight time.
- (3) If a person complies with subregulation (1) by flying a total flight time of less than 200 hours, the person's aeronautical experience for the purposes of subparagraph 5.104 (1) (f) (ii) must include a period of additional flight time equal to the difference between 200 hours and that total flight time.
- (4) In this regulation:
- additional flight time*** means recognised flight time as a pilot of any 1 or more of the following:
- (a) a registered aeroplane;
 - (b) a recognised aeroplane;
 - (c) a helicopter;
 - (d) a gyroplane;
 - (e) a glider (other than a hang glider).

5.115 Aeronautical experience: persons other than commercially trained persons and helicopter pilots

- (1) For the purposes of subparagraph 5.104 (1) (f) (ii), the aeronautical experience of a person who is not covered by regulation 5.113 or 5.114 must consist of:
- (a) at least 100 hours as pilot in command; and
 - (b) at least 100 hours of flight time in a registered aeroplane, or a recognised aeroplane; and
 - (c) at least 20 hours of cross-country flight time as pilot in command of a registered aeroplane, or a recognised aeroplane; and
 - (d) at least 10 hours of instrument flight time in a registered aeroplane, or a recognised aeroplane.
- (2) For the purposes of subregulation (1), the same flight time may be counted towards as many of paragraphs (1) (a), (b), (c) and (d) as describe the flight time.
- (3) If a person complies with subregulation (1) by flying a total flight time of less than 200 hours, the person's aeronautical experience for the purposes of subparagraph 5.104 (1) (f) (ii) must include a period of additional flight time equal to the difference between 200 hours and that total flight time.

- (4) In this regulation:

additional flight time means recognised flight time as a pilot of any 1 or more of the following:

- (a) a registered aeroplane;
- (b) a recognised aeroplane;
- (c) a helicopter;
- (d) a gyroplane;
- (e) a glider (other than a hang glider).

5.116 Persons other than commercially trained persons: time spent in synthetic flight trainer

- (1) A period of 10 hours or less spent by a person, who is not a commercially trained person, practising simulated flight in an approved synthetic flight trainer may be treated as if it were part of the additional flight time mentioned in subregulations 5.113 (3), 5.114 (3) and 5.115 (3).
- (2) If the period in an approved synthetic flight trainer includes instrument ground time, that time may be treated as part of the 10 hours of instrument flight time required by paragraphs 5.113 (1) (c), 5.114 (1) (c) and 5.115 (1) (d), but not more than 5 hours of instrument ground time may be treated in that way.
- (3) If a period of instrument ground time is treated as part of the 10 hours of instrument flight time required by paragraph 5.113 (1) (c), 5.114 (1) (c), or 5.115 (1) (d), that period must not be treated as part of the additional flight time mentioned in subregulations 5.113 (3), 5.114 (3) and 5.115 (3).
- (4) CASA may approve a synthetic flight trainer for the purposes of this regulation.

5.117 Cross-country flight time

- (1) For the purposes of paragraphs 5.111 (2) (b), 5.113 (1) (b), 5.114 (1) (b) and 5.115 (1) (c), the cross-country flight time must include a flight of at least 300 miles that includes:
 - (a) at least 1 full stop landing at; and
 - (b) at least 1 take-off from;each of 2 or more aerodromes that are not the aerodrome from which the flight commenced.
- (2) For the purposes of this regulation, a landing is a full stop landing if, after landing, the aeroplane's speed is reduced to taxi speed before take-off begins.

5.118 Aeronautical experience: calculation of flight time

Each period of flight time flown by a person as a pilot, but not flown:

- (a) as pilot in command; or
- (b) as pilot acting in command under supervision; or
- (c) in dual flying;

must be halved in calculating the person's flight time for the purposes of regulations 5.111, 5.113, 5.114 and 5.115.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

5.119 How and when may a commercial pilot (aeroplane) licence flight test be attempted?

- (1) A commercial pilot (aeroplane) licence flight test must be conducted only by an approved testing officer or a CASA flying operations inspector in an aeroplane:
 - (a) for which the person attempting the test holds an aircraft endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) dual control brakes; and
 - (iv) if the aeroplane has a propeller—a constant speed propeller; and
 - (c) that has a cruise speed of at least 120 knots true air speed when the aeroplane's engines are set at a recommended cruise power specified in the flight manual, or pilot's operating handbook, for the aeroplane; and
 - (d) that has a suitable means of simulating instrument flight conditions.

- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a commercial pilot (aeroplane) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a commercial pilot (aeroplane) flight test only if the person:
- (a) satisfies the requirements of paragraphs 5.104 (1) (b), (c), (e) and (f); and
 - (b) is at least 16 years old.

Penalty: 25 penalty units.

[*Note* Under paragraph 5.104 (1) (a) a person must be 18 years old to qualify for a commercial pilot (aeroplane) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a commercial pilot (aeroplane) licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.

Division 9**Commercial Pilot (Helicopter) Licence**

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|------------------------------|
| air law examination | helicopter flight review |
| approved testing officer | helicopter pilot licence |
| CASA flying operations inspector | helicopter pilot rating |
| cross-country flight time | helicopter proficiency check |
| dual flying | overseas pilot licence |
| flight test | personal log book |
| flight time | responsible authority |
| flying school | syllabus |
| flying training | synthetic flight trainer |
| general flight time | theory examination. |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|--------------------------------|-------------------------|
| aircraft endorsement | single pilot helicopter |
| command endorsement | single place helicopter |
| helicopter conversion training | type. |
| multi-pilot helicopter | |

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.120 What are the qualifications for a commercial pilot (helicopter) licence?

- (1) For the purposes of subregulation 5.09 (1) a person is qualified to hold a commercial pilot (helicopter) licence if the person:
- is at least 18 years old; and
 - holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - has been awarded a pass in a commercial pilot (helicopter) licence theory examination; and
 - has been awarded a pass in a commercial pilot (helicopter) licence flight test; and
 - meets the requirements set out in the helicopter syllabus that are relevant to the commercial pilot (helicopter) licence; and
 - has the aeronautical experience set out in regulation 5.127.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a commercial pilot (helicopter) licence if the person:
- satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - holds, or has held, a pilot qualification:
 - that CASA is satisfied is at least equivalent to a commercial pilot (helicopter) licence; and
 - that was issued by the Defence Force of Australia.

- (3) In spite of subregulation (1), a person is qualified to hold a commercial pilot (helicopter) licence if:
- (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the commercial pilot (helicopter) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and
 - (iii) has been awarded a pass in a commercial pilot (helicopter) licence overseas conversion examination; or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the commercial pilot (helicopter) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed an helicopter proficiency check required by regulation 217; and
 - (v) has been awarded a pass in a commercial pilot (helicopter) licence overseas conversion examination.”.
- (4) In spite of subregulation (1), a person is qualified to hold a commercial pilot (helicopter) licence if, under regulation 5.174, the person is qualified to hold an air transport pilot (helicopter) licence.
- (5) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed a helicopter proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (6) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (helicopter) licence if it authorises the holder of the licence to fly helicopters as pilot in command in commercial operations.

5.121 What does a commercial pilot (helicopter) licence authorise a person to do?

- (1) A commercial pilot (helicopter) licence authorises the holder of the licence:
- (a) to fly a single pilot helicopter as pilot in command while the helicopter is engaged in any operation; and
 - (b) to fly a multi-pilot helicopter as pilot in command while the helicopter is engaged in any operation other than a charter, or regular public transport, operation; and
 - (c) to fly a helicopter as co-pilot while the helicopter is engaged in any operation.

- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.122, 5.123, 5.124, 5.125 and 5.126.

5.122 What kind of helicopter may a commercial (helicopter) pilot fly?

- (1) Subject to subregulation (2), a commercial pilot (helicopter) licence does not authorise the holder of the licence to fly a helicopter as pilot in command, or co-pilot, unless the holder also holds an aircraft endorsement that authorises the holder to fly the helicopter in that capacity.
- (2) A commercial pilot (helicopter) licence authorises the holder of the licence to fly a helicopter without holding an aircraft endorsement for the helicopter:
- (a) in dual flying—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the helicopter; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the helicopter; or
 - (ii) carrying out an experiment in relation to the helicopter; if CASA has given the holder permission under subregulation 5.50 (1) to fly the helicopter in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the helicopter if:
 - (i) the helicopter is a single place helicopter; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the helicopter.

5.123 Commercial (helicopter) pilot: rating required

- (1) Subject to subregulations (2) and (4), a commercial pilot (helicopter) licence does not authorise the holder of the licence, in the course of flying a helicopter, to carry out any activity for which a flight crew rating is required:
- (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the helicopter; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.

- (2) A commercial pilot (helicopter) licence authorises the holder of the licence:
- (a) subject to subregulation (3), if the holder is approved under regulation 5.21 to give helicopter conversion training—to give the training without holding a flight instructor (helicopter) rating:
 - (i) in a helicopter for which the holder also holds an aircraft endorsement; and
 - (ii) to a person who holds a helicopter pilot licence; and
 - (b) if the holder is approved under regulation 5.20 to give flying training in relation to a helicopter pilot rating—to give the training without holding a flight instructor (helicopter) rating.
- [*Note* Under subregulation 5.01 (2), flying training is an activity for which a flight crew rating is required.]
- (3) A commercial pilot (helicopter) licence does not authorise the holder of the licence to give helicopter conversion training in a type of helicopter that is powered by 1 piston engine unless the person receiving the training holds an aircraft endorsement for another type of helicopter that is powered by 1 piston engine.
- (4) The holder of a commercial pilot (helicopter) licence may fly as pilot in command of a helicopter at night under the V.F.R. without holding a helicopter grade of night V.F.R. rating, if:
- (a) the helicopter is flying in a traffic pattern; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has met the night V.F.R. handling requirements in a helicopter; and
 - (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying a helicopter under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in a helicopter under the V.F.R.; and
 - (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
 - (f) there are no passengers in the helicopter.

5.124 Commercial (helicopter) pilot: regular flight reviews required

- (1) On and after 1 December 1994, a commercial (helicopter) pilot must not fly a helicopter as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a helicopter flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies helicopters for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) A helicopter flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
- (a) a helicopter:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter or is not fitted with wheel brakes—that is fitted with dual control brakes; or
 - (b) an approved synthetic flight trainer appropriate to the type of helicopter mentioned in subparagraph (a) (i).

[*Note* For **appropriate person** see subregulation (8).]

- (3) If:
- (a) a commercial (helicopter) pilot undertakes a helicopter flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a commercial (helicopter) pilot satisfactorily completes a helicopter flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the helicopter flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) A commercial (helicopter) pilot who has, within the period of 2 years immediately before the day of the proposed flight:
- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a helicopter pilot licence; or
 - (ii) the issue, or renewal, of a helicopter pilot rating; or
 - (b) satisfactorily completed a helicopter proficiency check; or
 - (c) satisfactorily completed helicopter conversion training given by the holder of a grade of flight instructor (helicopter) rating that authorises him or her to conduct helicopter flight reviews;

is taken to have satisfactorily completed a helicopter flight review.

[*Note* Conversion training given by a person who does not hold a flight instructor (helicopter) rating must not be substituted for a flight review.]

- (6) For the purposes of paragraph (5) (b), a commercial (helicopter) pilot is not taken to have satisfactorily completed a helicopter proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.
- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).
- (8) In this regulation:
- appropriate person** means:
- (a) an authorised flight instructor who holds a grade of flight instructor (helicopter) rating that authorises him or her to conduct flight reviews in helicopters; or
 - (b) an approved testing officer; or
 - (c) a CASA flying operations inspector.

5.125 Commercial (helicopter) pilot: recent experience requirements

- (1) A commercial (helicopter) pilot must not fly a helicopter as pilot in command if the helicopter is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits while flying a helicopter as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed a helicopter proficiency check; or
 - (iii) passed a flight test conducted for the purpose of the issue of a helicopter pilot licence or the issue, or renewal, of a helicopter pilot rating;
 - (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits at night while flying a helicopter as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed a helicopter proficiency check at night; or
 - (iii) passed a flight test conducted at night for the purpose of the issue of a helicopter pilot licence or the issue, or renewal, of a helicopter pilot rating.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) For the purposes of this regulation, a person carries out a circuit while flying a helicopter if the person:
- (a) takes-off in the helicopter from an aerodrome; and
 - (b) flies the helicopter around the aerodrome in accordance with the traffic pattern for the aerodrome; and
 - (c) lands the helicopter at the aerodrome.
- (3) In this regulation:
aerodrome means a place that aircraft may land at, or take off from, in accordance with regulation 92.

5.126 Commercial (helicopter) pilot: requirements if over 60 years old

- (1) A commercial (helicopter) pilot who is at least 60 years old must not fly as pilot in command of a helicopter:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.
- Penalty: 50 penalty units.
- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Subregulation (1) does not apply to a commercial (helicopter) pilot if:
- (a) the pilot flies a helicopter:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot has satisfactorily completed a helicopter proficiency check or a helicopter flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot has satisfactorily completed a helicopter proficiency check or a helicopter flight review.

(3) In this regulation:

qualified pilot means a commercial (helicopter) pilot or an air transport (helicopter) pilot who:

- (a) holds a command endorsement for the helicopter; and
- (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the helicopter; and
- (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

5.127 Commercial (helicopter) pilot: aeronautical experience required

(1) For the purposes of paragraph 5.120 (1) (f), a person's aeronautical experience must consist of:

- (a) if the person holds a commercial pilot (aeroplane) licence or a commercial pilot (gyroplane) licence:
 - (i) at least 70 hours of flight time in a helicopter; or
 - (ii) if the person undertook a special training course and completed the final 30 hours of the course within a period of 3 consecutive calendar months—at least 60 hours of flight time in a helicopter; or
- (b) if the person holds a private pilot (aeroplane) licence or a private pilot (gyroplane) licence:
 - (i) at least 80 hours of flight time in a helicopter; or
 - (ii) if the person undertook a special training course and completed the final 30 hours of the course within a period of 3 consecutive calendar months—at least 70 hours of flight time in a helicopter; or
- (c) in any other case:
 - (i) at least 125 hours of flight time in a helicopter; or
 - (ii) if the person undertook a special training course and completed the final 30 hours of the course within a period of 3 consecutive calendar months—at least 105 hours of flight time in a helicopter.

(2) For the purposes of paragraph (1) (a), the flight time must include:

- (a) at least 30 hours of flight time in dual flying; and
- (b) at least 20 hours of general flight time as pilot in command; and
- (c) at least 5 hours of cross-country flight time that includes at least 3 hours of flight time as pilot in command.

(3) For the purposes of paragraph (1) (b), the flight time must include:

- (a) at least 30 hours of flight time in dual flying; and
- (b) at least 20 hours of general flight time as pilot in command; and

- (c) at least 15 hours of cross-country flight time that includes at least 5 hours of flight time as pilot in command.
- (4) For the purposes of paragraph (1) (c), the flight time must include:
 - (a) at least 40 hours of flight time in dual flying; and
 - (b) at least 25 hours of general flight time as pilot in command; and
 - (c) at least 25 hours of cross-country flight time that includes at least 10 hours of flight time as pilot in command.
- (5) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) in dual flying;
 must be halved in calculating the person's flight time for the purposes of this regulation.
- (6) In this regulation:

special training course means a training course:

 - (a) conducted in accordance with the relevant helicopter syllabus; and
 - (b) in which no more than 2 types of helicopters are used; and
 - (c) in which the first 15 hours of training are conducted in one type of helicopter; and
 - (d) in which at least 20 hours of training are conducted in each type of helicopter used during the course.

5.128 How and when may a commercial pilot (helicopter) licence flight test be attempted?

- (1) A commercial pilot (helicopter) licence flight test must be conducted only by an approved testing officer or a CASA flying operations inspector in a helicopter:
 - (a) for which the person attempting the test holds an aircraft endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) if the helicopter has wheel brakes—dual control brakes.
- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a commercial pilot (helicopter) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.
Penalty: 25 penalty units.
- (3) A chief flying instructor may recommend a person for a commercial pilot (helicopter) licence flight test only if the person:
 - (a) satisfies the requirements of paragraphs 5.120 (1) (b), (c), (e) and (f); and

(b) is at least 16 years old.

Penalty: 25 penalty units.

[*Note* Under paragraph 5.120 (1) (a), a person must be 18 years old to qualify for a commercial pilot (helicopter) licence.]

(3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) If:

- (a) a person attempts a commercial pilot (helicopter) licence flight test; and
- (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;

the person is taken not to have been awarded a pass in the test.

Division 10 Commercial Pilot (Gyroplane) Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|-----------------------------|
| approved testing officer | gyroplane pilot licence |
| CASA flying operations inspector | gyroplane pilot rating |
| cross-country flight time | gyroplane proficiency check |
| dual flying | overseas pilot licence |
| flight crew rating | personal log book |
| flight test | recognised aeroplane |
| flight time | registered |
| flying school | responsible authority |
| flying training | synthetic flight trainer |
| gyroplane flight review | theory examination. |

[*Note 2* The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|------------------------|------------------------|
| command endorsement | single place gyroplane |
| multi-pilot gyroplane | type |
| single pilot gyroplane | type endorsement. |

[*Note 3* The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.129 What are the qualifications for a commercial pilot (gyroplane) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a commercial pilot (gyroplane) licence if the person:
- is at least 18 years old; and
 - holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - holds a private pilot (gyroplane) licence; and
 - has been awarded a pass in a commercial pilot (gyroplane) licence theory examination; and
 - has been awarded a pass in a commercial pilot (gyroplane) licence flight test; and
 - has the aeronautical experience set out in regulation 5.136.

[*Note 1* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

[*Note 2* Details of the private pilot (gyroplane) licence are set out in Division 7.]

- (2) In spite of subregulation (1), a person is qualified to hold a commercial pilot (gyroplane) licence if the person:
- satisfies the requirements of paragraphs (1) (a), (b) and (f); and
 - holds, or has held, a pilot qualification:
 - that CASA is satisfied is at least equivalent to a commercial pilot (gyroplane) licence; and
 - that was issued by the Defence Force of Australia.

- (3) In spite of subregulation (1), a person is qualified to hold a commercial pilot (gyroplane) licence if:
- (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the commercial pilot (gyroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the commercial pilot (gyroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed a gyroplane proficiency check required by regulation 217.
- (4) For the purposes of subparagraph (3) (b) (iv), a person is not taken to have satisfactorily completed a gyroplane proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (5) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (gyroplane) licence if it authorises the holder of the licence to fly gyroplanes as pilot in command in commercial operations.

5.130 What does a commercial pilot (gyroplane) licence authorise a person to do?

- (1) A commercial pilot (gyroplane) licence authorises the holder of the licence:
- (a) to fly a single pilot gyroplane as pilot in command while the gyroplane is engaged in any operations; and
 - (b) to fly a multi-pilot gyroplane as pilot in command while the gyroplane is engaged in any operation other than a regular public transport operation; and
 - (c) to fly a gyroplane as co-pilot while the gyroplane is engaged in any operation.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulation 5.131, 5.132, 5.133, 5.134 and 5.135.

5.131 What kind of gyroplane may a commercial (gyroplane) pilot fly?

- (1) Subject to subregulation (2), a commercial pilot (gyroplane) licence does not authorise the holder of the licence to fly a gyroplane as pilot in command, or co-pilot, unless the holder also holds a type endorsement that authorises the holder to fly the gyroplane in that capacity.
- (2) A commercial pilot (gyroplane) licence authorises the holder to fly a gyroplane without holding a type endorsement for the gyroplane:
 - (a) in dual flying—for the purpose of satisfying the requirements for the issue of a type endorsement for the gyroplane; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the gyroplane; or
 - (ii) carrying out an experiment in relation to the gyroplane; if CASA has given the holder permission under subregulation 5.50 (1) to fly the gyroplane in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the gyroplane if:
 - (i) the gyroplane is a single place gyroplane; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the gyroplane.

5.132 Commercial (gyroplane) pilot: rating required

- (1) Subject to subregulation (2), a commercial pilot (gyroplane) licence does not authorise the holder of the licence, in the course of flying a gyroplane, to carry out any activity for which a flight crew rating is required:
 - (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the gyroplane; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.

- (2) A commercial pilot (gyroplane) licence authorises the holder of the licence to give flying training in relation to a gyroplane pilot rating without holding a flight instructor (gyroplane) rating if the holder is approved under regulation 5.20 to give the training.

5.133 Commercial (gyroplane) pilot: regular flight reviews required

- (1) On and after 1 December 1994, a commercial (gyroplane) pilot must not fly a gyroplane as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a gyroplane flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies gyroplanes for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) A gyroplane flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:

- (a) a gyroplane:
- (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of gyroplane mentioned in subparagraph (i) is a single place gyroplane—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of gyroplane mentioned in subparagraph (i) is a single place gyroplane or is not fitted with wheel brakes—that is fitted with dual control brakes; or
- (b) an approved synthetic flight trainer appropriate to the type of gyroplane mentioned in subparagraph (a) (i).

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
- (a) a commercial (gyroplane) pilot undertakes a gyroplane flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a commercial (gyroplane) pilot satisfactorily completes a gyroplane flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the gyroplane flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) A commercial (gyroplane) pilot who has within the period of 2 years immediately before the day of the proposed flight:
- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a gyroplane pilot licence; or
 - (ii) the issue, or renewal, of a gyroplane pilot rating; or
 - (b) satisfactorily completed a gyroplane proficiency check;
- is taken to have satisfactorily completed a gyroplane flight review.
- (6) For the purposes of paragraph (5) (b), a commercial (gyroplane) pilot is not taken to have satisfactorily completed a gyroplane proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.
- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).
- (8) In this regulation:
- appropriate person** means:
- (a) an authorised flight instructor who holds a grade of flight instructor (gyroplane) rating that authorises him or her to conduct flight reviews in gyroplanes; or
 - (b) an approved testing officer; or
 - (c) a CASA flying operations inspector.

5.134 **Commercial (gyroplane) pilot: recent experience requirements**

- (1) A commercial (gyroplane) pilot must not fly a gyroplane as pilot in command if the gyroplane is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits while flying a gyroplane as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed a gyroplane proficiency check; or
 - (iii) passed a flight test conducted for the purpose of the issue of a gyroplane pilot licence, or the issue, or renewal, of a gyroplane pilot rating;
 - (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits at night while flying a gyroplane as pilot in command or as pilot acting in command under supervision, or in dual flying; or

- (ii) satisfactorily completed a gyroplane proficiency check that was conducted at night; or
- (iii) passed a flight test that was conducted at night for the purpose of the issue of a gyroplane pilot licence, or the issue, or renewal, of a gyroplane pilot rating.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) For the purposes of this regulation, a person carries out a circuit while flying a gyroplane if the person:
- (a) takes-off in the gyroplane from an aerodrome; and
 - (b) flies the gyroplane around the aerodrome in accordance with the traffic pattern for the aerodrome; and
 - (c) lands the gyroplane at the aerodrome.
- (3) In this regulation:
- aerodrome** means a place that aircraft may land at, or take off from, in accordance with regulation 92.

5.135 **Commercial (gyroplane) pilot: requirements if over 60 years old**

- (1) A commercial (gyroplane) pilot who is at least 60 years old must not fly as pilot in command of a gyroplane:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to a commercial (gyroplane) pilot if:
- (a) the pilot flies a gyroplane:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot has satisfactorily completed a gyroplane proficiency check or a gyroplane flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot has satisfactorily completed a gyroplane proficiency check or a gyroplane flight review.

- (3) In this regulation:

qualified pilot means a commercial (gyroplane) pilot who:

- (a) holds a command endorsement for the gyroplane; and

- (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the gyroplane; and
- (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

5.136 Commercial (gyroplane) pilot: aeronautical experience required

- (1) For the purposes of paragraph 5.129 (1) (f), a person's aeronautical experience must consist of at least 150 hours of flight time as a pilot that includes:
 - (a) at least 20 hours of flight time in a gyroplane in dual flying; and
 - (b) at least 35 hours of flight time as pilot in command of a gyroplane; and
 - (c) at least 20 hours of cross-country flight time as pilot in command of any 1 or more of the following:
 - (i) a registered aeroplane;
 - (ii) a recognised aeroplane;
 - (iii) a helicopter;
 - (iv) a gyroplane.
- (2) The 150 hours of flight time mentioned in subregulation (1) must include at least 75 hours of flight time in a gyroplane.
- (3) For the purposes of subregulations (1) and (2), the same flight time may be counted towards as many of paragraphs (1) (a), (b) and (c) and subregulation (2), as describe the flight time.
- (4) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) as pilot acting in command under supervision; or
 - (c) in dual flying;

must be halved in calculating the person's flight time for the purposes of this regulation.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

5.137 How and when may a commercial pilot (gyroplane) licence flight test be attempted?

- (1) A commercial pilot (gyroplane) licence flight test must be conducted only by an approved testing officer or a CASA flying operations inspector in a gyroplane:
- (a) for which the person attempting the test holds a type endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic intercommunication system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) dual control brakes.

- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a commercial pilot (gyroplane) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a commercial pilot (gyroplane) flight test only if the person:
- (a) satisfies the requirements of paragraphs 5.129 (1) (b), (c), (e) and (f); and
 - (b) is at least 16 years old.

Penalty: 25 penalty units.

[Note Under paragraph 5.129 (1) (a) a person must be 18 years old to qualify for a commercial pilot (gyroplane) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a commercial pilot (gyroplane) licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.

Division 11 Commercial Pilot (Balloon) Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|--------------------------------------|
| balloon flight instructor | flying training |
| balloon flight review | overseas pilot licence |
| balloon proficiency check | personal log book |
| CASA flying operations inspector | private pilot certificate (balloons) |
| commercial (balloon) pilot | responsible authority |
| current certificate holder | syllabus |
| dual flying | tethered |
| flight test | tethered flight time |
| free flight time | theory examination. |
| flight time | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|----------------------|------------------------------|
| aircraft endorsement | balloon conversion training. |
|----------------------|------------------------------|

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.138 What are the qualifications for a commercial pilot (balloon) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a commercial pilot (balloon) licence if the person:
 - (a) is at least 18 years old; and
 - (b) is a current certificate holder; and
 - (c) has held:
 - (i) a private pilot certificate (balloons); or
 - (ii) a certificate, or licence, issued by the competent authority of a country other than Australia that is at least equivalent to a private pilot certificate (balloons);
 for a period of at least 1 year; and
 - (d) has been awarded a pass in a commercial pilot (balloon) licence theory examination; and
 - (e) has been awarded a pass in a commercial pilot (balloon) licence flight test; and
 - (f) has completed a course of flying training in accordance with regulation 5.146; and
 - (g) has the aeronautical experience set out in regulation 5.145.
- (2) In spite of subregulation (1), a person is qualified to hold a commercial pilot (balloon) licence if:
 - (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the commercial pilot (balloon) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (c), (d), (e) and (g); or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the commercial pilot (balloon) licence; and

- (ii) satisfies the requirements of paragraphs (1) (a), (b), (c), (d) and (g); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed a balloon proficiency check required by regulation 217.
- (3) For the purposes of subparagraph (2) (b) (iv), a person is not taken to have satisfactorily completed a balloon proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (4) For the purposes of this regulation, a certificate, or licence, issued by the competent authority of a country other than Australia is equivalent to a private pilot certificate (balloons) if it authorises the holder of the certificate, or licence, to fly balloons as pilot in command in private operations.
- (5) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (balloon) licence if it authorises the holder of the licence to fly balloons as pilot in command in aerial work, or charter, operations.
- (6) In this regulation:
competent authority, in relation to a country other than Australia, means the body that has responsibility for the licensing of persons to fly balloons in private operations in that country.

5.139 What does a commercial pilot (balloon) licence authorise a person to do?

- (1) A commercial pilot (balloon) licence authorises the holder of the licence to fly a balloon that is engaged in aerial work, or charter, operations:
- (a) as pilot in command; or
 - (b) as co-pilot for the purposes of acting as pilot in command under supervision.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.140, 5.141, 5.142, 5.143 and 5.144.

[*Note* The requirements for private balloon operations are set out in section 95.54 of the Civil Aviation Orders.]

5.140 What class of balloon may a commercial (balloon) pilot fly?

A commercial pilot (balloon) licence does not authorise the holder of the licence to fly as pilot in command of a balloon that is engaged in aerial work, or charter, operations unless the holder also holds an aircraft endorsement for the class of balloon in which the balloon that is to be flown is included.

5.141 What type of balloon may a commercial (balloon) pilot fly?

- (1) A commercial (balloon) pilot must not fly as pilot in command of a balloon that is engaged in aerial work, or charter, operations if he or she has not undertaken at least 2 flights as pilot in command or as pilot acting in command under supervision, of a balloon:
- (a) that has a fuel system of the same design; and
 - (b) that has a deflation system of the same design; and
 - (c) that has an envelope of equal or greater capacity;
- as the balloon that the pilot proposes to fly.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) For the purposes of subregulation (1), each flight must include:
- (a) at least 1 inflation of the balloon envelope; and
 - (b) at least 30 minutes of free flight time; and
 - (c) at least 1 deflation of the balloon envelope.

5.142 Commercial (balloon) pilot: rating required

- (1) A commercial pilot (balloon) licence does not authorise the holder of the licence, in the course of flying a balloon, to carry out any activity for which a flight crew rating is required:
- (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the balloon; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
- (2) A commercial pilot (balloon) licence authorises the holder of the licence to fly a tethered balloon at night under the V.F.R. without holding a balloon grade of night V.F.R. rating.

5.143 Commercial (balloon) pilot: regular flight reviews required

- (1) A commercial (balloon) pilot must not fly as pilot in command of a balloon that is engaged in aerial work, or charter, operations if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a balloon flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies balloons for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) A balloon flight review must be conducted only by an appropriate person:
- (a) in a balloon for which the pilot holds an aircraft endorsement; and
 - (b) include at least:
 - (i) 1 inflation of the balloon envelope; and
 - (ii) 30 minutes of flight time; and
 - (iii) 1 deflation of the balloon envelope.

[*Note* For **appropriate person** see subregulation (6).]

- (3) If:
- (a) a commercial (balloon) pilot undertakes a balloon flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If:
- (a) a commercial (balloon) pilot satisfactorily completes a balloon flight review; and
 - (b) the appropriate person conducting the review is satisfied that the pilot is able to safely fly a balloon in aerial work, or charter operations;

the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the balloon flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) A commercial (balloon) pilot who has, within the period of 2 years immediately before the day of the proposed flight:
- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a commercial (balloon) pilot licence; or
 - (ii) the issue, or renewal, of a flight instructor (balloon) rating;or
 - (b) satisfactorily completed a balloon proficiency check; or

(c) satisfactorily completed balloon conversion training given by the holder of a flight instructor (balloon) rating;

is taken to have satisfactorily completed a balloon flight review.

(6) In this regulation:

appropriate person means:

(a) an authorised flight instructor who holds a grade of flight instructor (balloon) rating that authorises him or her to conduct flight reviews in balloons; or

(b) a CASA flying operations inspector; or

(c) an authorised person.

5.144 Commercial (balloon) pilot: recent experience requirements

(1) A commercial (balloon) pilot must not fly as pilot in command of a balloon that is engaged in charter operations if the pilot has not, within the period of 90 days immediately before the day of the proposed flight, undertaken at least 1 flight as pilot in command, or pilot acting in command under supervision of a balloon.

Penalty: 25 penalty units.

(1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

(2) For the purposes of subregulation (1), the flight must include:

(a) at least 1 inflation of the balloon envelope; and

(b) at least 30 minutes of free flight time; and

(c) at least 1 deflation of the balloon envelope.

5.145 Commercial (balloon) pilot: aeronautical experience required

For the purposes of paragraph 5.138 (1) (g), a person's aeronautical experience must consist of at least 75 hours flight time as pilot in command of a balloon that includes at least:

(a) 60 hours of free flight time; and

(b) 5 hours of tethered flight time.

5.146 Commercial (balloon) pilot: flying training required

For the purposes of paragraph 5.138 (1) (f), a course of flying training must:

(a) consist of at least 8 hours of flying training that:

(i) is undertaken by a person within the period of 1 year immediately before the day on which the person attempts the commercial pilot (balloon) licence flight test; and

(ii) includes at least 3 flights in a free balloon and 1 flight in a tethered balloon; and

(iii) includes at least 3 inflations, and 3 deflations, of a balloon envelope; and

(b) be conducted in accordance with the relevant balloon syllabus; and

- (c) be conducted by a person who is an authorised flight instructor for balloons.

5.147 **How and when may a commercial pilot (balloon) licence flight test be attempted?**

- (1) A commercial pilot (balloon) licence flight test must be conducted only by a CASA flying operations inspector or an approved person in a balloon for which the person attempting the test is qualified to hold an aircraft endorsement.

[Note Requirements to qualify for aircraft endorsements are set out in the Civil Aviation Orders.]

- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a commercial pilot (balloon) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a commercial pilot (balloon) licence flight test only if the person:

- (a) satisfies the requirements of paragraphs 5.138 (1) (b), (c), (d), (f) and (g); and
- (b) is at least 17 years old.

Penalty: 25 penalty units.

[Note Paragraph 5.138 (1) (a) requires a person to be 18 years old to qualify for the licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
 - (a) a person attempts a commercial pilot (balloon) licence flight test; and
 - (b) the requirements of subregulation (1), (2) and (3) are not satisfied in relation to the attempt;the person is taken not to have been awarded a pass in the test.
- (5) CASA may approve a person to conduct a commercial pilot (balloon) flight test.

5.148 **Classes of balloons**

For the purposes of these Regulations, balloons are classified in accordance with the following table:

TABLE
CLASSIFICATION OF BALLOONS

| Column 1 Class of balloon | Column 2 Description of balloon |
|------------------------------|--|
| Class 1 | hot air balloons with a volume that is not more than 120,000 cubic feet |
| Class 2 | hot air balloons with a volume that is more than 120,000 cubic feet but not more than 180,000 cubic feet |
| Class 3 | hot air balloons with a volume that is more than 180,000 cubic feet but not more than 260,000 cubic feet |
| Class 4 | hot air balloons with a volume that is more than 260,000 cubic feet |
| Class 5 | gas balloons |

Division 12 Commercial Pilot (Airship) Licence**5.149 Interpretation**

In this Division:

commercial flying school means a school for which there is an Air Operator's Certificate that authorises flying training for the issue of a commercial pilot (airship) licence;

commercially trained person means a person who has successfully completed a training course conducted by a commercial flying school in accordance with the relevant airship syllabus.

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|--------------------------|
| airship ground party | flying training |
| airship proficiency check | instrument flight time |
| approved testing officer | instrument ground time |
| CASA flying operations inspector | overseas pilot licence |
| chief flying instructor | personal log book |
| commercial (airship) pilot | recognised aeroplane |
| cross-country flight time | recognised flight time |
| dual flying | registered |
| flight crew rating | syllabus |
| flight test | synthetic flight trainer |
| flight time | theory examination. |
| flying school | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|-----------------------------|----------------------|
| aircraft endorsement | single place airship |
| airship conversion training | type |
| command endorsement | type endorsement. |
| multi-pilot airship | |

Note 3 The term **pilot acting in command under supervision** is defined in subregulation 5.01 (3).]

5.150 What are the qualifications for a commercial pilot (airship) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a commercial pilot (airship) licence if the person:
- (a) is at least 18 years old; and
 - (b) holds, or is qualified to hold, a radiotelephone operator licence; and
 - (c) has been awarded a pass in a commercial pilot (airship) licence theory examination; and
 - (d) has been awarded a pass in a commercial pilot (airship) licence flight test; and
 - (e) meets the standards set out in the aeroplane syllabus that are relevant to the commercial pilot (airship) licence; and
 - (f) has the aeronautical experience set out in:
 - (i) if the person is a commercially trained person—regulation 5.158; or

- (ii) if the person is not a commercially trained person—
regulation 5.160.

[*Note* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.]

- (2) In spite of subregulation (1), a person is qualified to hold a commercial pilot (airship) licence if:
 - (a) the person:
 - (i) holds, or has held, an overseas pilot licence that is at least equivalent to the commercial pilot (airship) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (c) and (d) and subparagraph (1) (f) (ii); or
 - (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the commercial pilot (airship) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b) and (c) and subparagraph (1) (f) (ii); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed an airship proficiency check required by regulation 217.
- (3) For the purposes of subparagraph (2) (b) (iv), a person is not taken to have satisfactorily completed an airship proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (4) For the purposes of this regulation, an overseas pilot licence is equivalent to a commercial pilot (airship) licence if it authorises the holder of the licence to fly airships as pilot in command in commercial operations.

5.151 What does a commercial pilot (airship) licence authorise a person to do?

- (1) A commercial pilot (airship) licence authorises the holder of the licence to fly an airship as pilot in command or co-pilot while the airship is engaged in any operation.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.152, 5.153, 5.154, 5.155, 5.156 and 5.157.

5.152 What kind of airship may a commercial (airship) pilot fly?

- (1) Subject to subregulation (2), a commercial pilot (airship) licence does not authorise the holder of the licence to fly an airship as pilot in command or co-pilot unless the holder also holds a type endorsement that authorises the holder to fly the airship in that capacity.

- (2) A commercial pilot (airship) licence authorises the holder of the licence to fly an airship without holding a type endorsement for the airship:
- (a) in dual flying—for the purpose of satisfying the requirements for the issue of a type endorsement for the airship; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the airship; or
 - (ii) carrying out an experiment in relation to the airship; if CASA has given the holder permission under subregulation 5.50 (1) to fly the airship in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the airship if:
 - (i) the airship is a single place airship; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the airship.

5.153 Commercial (airship) pilot: rating required

A commercial pilot (airship) licence does not authorise the holder of the licence, in the course of flying an airship, to carry out any activity for which a flight crew rating is required:

- (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the airship; or
- (b) in dual flying—unless the holder is receiving training in carrying out the activity from an airship instructor.

5.154 Commercial (airship) pilot: regular flight reviews required

- (1) A commercial (airship) pilot must not fly an airship as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed an airship flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies airships for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) An airship flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
- (a) an airship:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command of an airship immediately before the flight review; and
 - (ii) unless the type of airship mentioned in subparagraph (i) is a single place airship—that is fitted with fully functioning dual controls; or

- (b) an approved synthetic flight trainer appropriate to the type of airship mentioned in subparagraph (a) (i).

[*Note* For **appropriate person** see subregulation (8).]

(3) If:

- (a) a commercial (airship) pilot undertakes an airship flight review; and
 (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If a commercial (airship) pilot satisfactorily completes an airship flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the airship flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

(5) A commercial (airship) pilot who has:

- (a) passed a flight test conducted for the purpose of the issue, or renewal, of an airship grade of night V.F.R. rating; or
 (b) satisfactorily completed an airship proficiency check; or
 (c) satisfactorily completed airship conversion training;

is taken to have satisfactorily completed an airship flight review.

- (6) For the purposes of paragraph (5) (b), a commercial (airship) pilot is not taken to have satisfactorily completed an airship proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.

- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).

(8) In this regulation:

appropriate person means:

- (a) an airship instructor; or
 (b) an approved testing officer; or
 (c) a CASA flying operations inspector.

5.155 Commercial (airship) pilot: recent experience requirements

- (1) A commercial (airship) pilot must not fly an airship as pilot in command if the airship is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings while flying an airship as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed an airship proficiency check; or
 - (iii) passed a flight test conducted for the purpose of the issue of a commercial pilot (airship) licence, or the issue, or renewal, of an airship grade of night V.F.R. rating;
 - (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings at night while flying an airship as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed an airship proficiency check that was conducted at night; or
 - (iii) passed a flight test that was conducted at night for the purpose of the issue of a commercial pilot (airship) licence, or the issue, or renewal, of an airship grade of night V.F.R. rating.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) For the purposes of this regulation, an airship lands when it is under the control of an airship ground party.

5.156 Commercial (airship) pilot: recent experience for commercial operations

- (1) A commercial (airship) pilot must not fly an airship as pilot in command if the airship is carrying any other person in commercial operations, and, within the 60 days immediately before the day of the proposed flight, the pilot has not:
- (a) flown 5 hours of flight time as pilot in command of an airship; or
 - (b) satisfactorily completed an airship proficiency check.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.157 Commercial (airship) pilot: requirements if over 60 years old

- (1) Subject to subregulation (2), a commercial (airship) pilot who is at least 60 years old must not fly as pilot in command of an airship:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to a commercial (airship) pilot if:
- (a) the pilot flies an airship:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot has satisfactorily completed an airship proficiency check or an airship flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot has satisfactorily completed an airship proficiency check or an airship flight review.
- (3) In this regulation:
- qualified pilot** means a commercial (airship) pilot who:
- (a) holds a command endorsement for the airship; and
 - (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the airship; and
 - (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

5.158 Aeronautical experience: commercially trained persons

- (1) For the purposes of subparagraph 5.150 (1) (f) (i), a commercially trained person's aeronautical experience must consist of 150 hours of flight time as a pilot flown during the person's training course.
- (2) For the purposes of subregulation (1), the 150 hours must be flown in an airship and must include:
- (a) 50 hours of flight time as pilot in command; and
 - (b) 20 hours of cross-country flight time as pilot in command; and
 - (c) 10 hours of instrument flight time.

- (3) For the purposes of subregulation (2), the same flight time may be counted towards as many of paragraphs (a), (b) and (c) as describe the flight time.
- (4) For the purposes of this regulation, flight time flown by a person as pilot acting in command under supervision in a multi-pilot airship may be treated as if it were flight time flown as pilot in command.

5.159 Commercially trained persons: time spent in synthetic flight trainers

- (1) A period of 10 hours or less spent by a commercially trained person practising simulated flight in an approved synthetic flight trainer may be treated as if it were part of the 150 hours mentioned in subregulation 5.158 (1).
- (2) The period in an approved synthetic flight trainer must not be treated as if it were part of any of the periods mentioned in paragraphs 5.158 (2) (a) or (b).
- (3) If the period in an approved synthetic flight trainer includes instrument ground time, that time may be treated as part of the 10 hours of instrument flight time required by paragraph 5.158 (2) (c), but not more than 5 hours of instrument ground time may be treated in that way.
- (4) CASA may approve a synthetic flight trainer for the purposes of this regulation.

5.160 Aeronautical experience: persons other than commercially trained persons

- (1) For the purposes of subparagraph 5.150 (1) (f) (ii), the aeronautical experience of a person who is not a commercially trained person must consist of:
 - (a) at least 100 hours of flight time as pilot in command; and
 - (b) at least 75 hours of flight time in an airship; and
 - (c) at least 20 hours of cross-country flight time as pilot in command of an airship; and
 - (d) at least 10 hours of instrument flight time in an airship.
- (2) For the purposes of subregulation (1), the same flight time may be counted towards as many of the paragraphs of each subregulation as describe the flight time.
- (3) For the purposes of this regulation, flight time flown by a person as pilot acting in command under supervision in a multi-pilot airship may be treated as if it were flight time flown as pilot in command.

- (4) If a person complies with subregulation (1) by flying a total flight time of less than 200 hours, the person's aeronautical experience for the purposes of subparagraph 5.150 (1) (f) (ii) must include a period of additional flight time equal to the difference between 200 hours and that total flight time.
- (5) In this regulation:
additional flight time means recognised flight time as a pilot of any 1 or more of the following:
- (a) a registered aeroplane;
 - (b) a recognised aeroplane;
 - (c) a helicopter;
 - (d) a gyroplane;
 - (e) a glider (other than a hang glider).

5.161 Persons other than commercially trained persons: time spent in synthetic flight trainer

- (1) A period of 10 hours or less spent by a person who is not a commercially trained person practising simulated flight in an approved synthetic flight trainer may be treated as if it were part of the additional flight time mentioned in subregulation 5.160 (4).
- (2) If the period in an approved synthetic flight trainer includes instrument ground time, that time may be treated as part of the 10 hours of instrument flight time required by paragraph 5.160 (1) (d), but not more than 5 hours of instrument ground time may be treated in that way.
- (3) If a period of instrument ground time is treated as part of the 10 hours of instrument flight time required by paragraph 5.160 (1) (d), the period must not be treated as part of the additional flight time mentioned in subregulation 5.160 (4).
- (4) CASA may approve a synthetic flight trainer for the purposes of this regulation.

5.162 Cross-country flight time

- (1) For the purposes of paragraphs 5.158 (2) (b) and 5.160 (1) (c) the cross-country flight time must include a flight of at least 300 miles that includes:
 - (a) at least 1 landing at; and
 - (b) at least 1 take-off from;
2 or more aerodromes that are not the aerodrome from which the flight commenced.
- (2) For the purposes of this regulation, an airship lands when it is under the control of an airship ground party.

5.163 Aeronautical experience: calculation of flight time

Each period of flight time flown by a person as a pilot, but not flown:

- (a) as pilot in command; or
- (b) as pilot acting in command under supervision; or
- (c) in dual flying;

must be halved in calculating the person's flight time for the purposes of regulations 5.158 and 5.160.

[*Note* Under regulation 5.40, a person must not fly as pilot acting in command under supervision unless he or she holds a commercial pilot licence or an air transport pilot licence.]

5.164 How and when may a commercial pilot (airship) licence flight test be attempted?

- (1) A commercial pilot (airship) licence flight test must be conducted only by an approved testing officer or a CASA flying operations inspector in an airship:
 - (a) for which the person attempting the test holds a type endorsement; and
 - (b) that is fitted with:
 - (i) fully functioning dual controls; and
 - (ii) an electronic system for communication between the person conducting the test and the person attempting the test that is serviceable when the test begins; and
 - (iii) dual control brakes; and
 - (c) that has a suitable means of simulating instrument flight conditions.
- (2) An approved testing officer, or a CASA flying operations inspector, must not conduct a commercial pilot (airship) licence flight test if the person attempting the test has not been recommended for the test by the chief flying instructor of the flying school where the person attempts the test.

Penalty: 25 penalty units.

- (3) A chief flying instructor may recommend a person for a commercial pilot (airship) licence flight test only if the person:
- (a) satisfies the requirements of paragraphs 5.150 (1) (b), (c), (e) and (f); and
 - (b) is at least 16 years old.

Penalty: 25 penalty units.

[*Note* Under paragraph 5.150 (1) (a) a person must be 18 years old to qualify for a commercial pilot (airship) licence.]

- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a commercial pilot (airship) licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.

Division 13 Air Transport Pilot (Aeroplane) Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|---------------------------------|--------------------------|
| aeroplane flight review | instrument flight time |
| aeroplane pilot licence | instrument ground time |
| aeroplane pilot rating | overseas pilot licence |
| aeroplane proficiency check | personal log book |
| air law examination | recognised aeroplane |
| air transport (aeroplane) pilot | recognised flight time |
| cross-country flight time | registered |
| dual flying | synthetic flight trainer |
| flight time | theory examination. |
| flying training | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1)

| | |
|-------------------------------|------------------------------------|
| aeroplane conversion training | special design feature |
| aircraft endorsement | special design feature endorsement |
| class endorsement | type |
| single place aeroplane | type endorsement. |

Note 3 The term *pilot acting in command under supervision* is defined in subregulation 5.01 (3).]

5.165 What are the qualifications for an air transport pilot (aeroplane) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold an air transport pilot (aeroplane) licence if the person:
- is at least 21 years old; and
 - holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - holds a commercial pilot (aeroplane) licence; and
 - holds, or has held, a command (multi-engine aeroplane) grade of instrument rating; and
 - has been awarded a pass in an air transport pilot (aeroplane) licence theory examination; and
 - has the aeronautical experience set out in regulation 5.172.

[*Note 1* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.

Note 2 Details of the commercial pilot (aeroplane) licence are set out in Division 8—Commercial pilot (aeroplane) licence.

Note 3 Details of instrument ratings are set out in the Civil Aviation Orders.]

- (2) In spite of subregulation (1), a person is qualified to hold an air transport pilot (aeroplane) licence if:
- the person:
 - holds, or has held, an overseas pilot licence that is at least equivalent to the air transport pilot (aeroplane) licence; and
 - satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and

- (iii) has been awarded a pass in an air transport pilot (aeroplane) licence overseas conversion examination; or
- (b) the person:
 - (i) holds a current overseas pilot licence that is at least equivalent to the air transport pilot (aeroplane) licence; and
 - (ii) satisfies the requirements of paragraphs (1) (a), (b), (d) and (f); and
 - (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed an aeroplane proficiency check required by regulation 217; and
 - (v) has been awarded a pass in an air transport pilot (aeroplane) licence overseas conversion examination.
- (3) For the purposes of subparagraph (2) (b) (iv), a person is not taken to have satisfactorily completed an aeroplane proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (4) For the purposes of this regulation, an overseas pilot licence is equivalent to an air transport pilot (aeroplane) licence if it authorises the holder of the licence to fly aeroplanes as pilot in command in air transport operations.

5.166 What does an air transport pilot (aeroplane) licence authorise a person to do?

- (1) An air transport pilot (aeroplane) licence authorises the holder of the licence to fly an aeroplane as pilot in command, or co-pilot, while the aeroplane is engaged in any operation.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.167, 5.168, 5.169, 5.170 and 5.171.

5.167 What kind of aeroplane may an air transport (aeroplane) pilot fly?

- (1) Subject to subregulation (2), an air transport pilot (aeroplane) licence does not authorise the holder of the licence to fly an aeroplane as pilot in command, or co-pilot, unless the holder also holds:
 - (a) a type endorsement or class endorsement; and
 - (b) if the aeroplane has a special design feature—a special design feature endorsement;
 that authorises the holder to fly the aeroplane in that capacity.
- (2) An air transport pilot (aeroplane) licence authorises the holder of the licence to fly an aeroplane without holding an aircraft endorsement for the aeroplane:
 - (a) in dual flying—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane; or

- (b) in any capacity—for the purpose of:
 - (i) testing the aeroplane; or
 - (ii) carrying out an experiment in relation to the aeroplane; if CASA has given the holder permission under subregulation 5.50 (1) to fly the aeroplane in those circumstances; or
- (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the aeroplane if:
 - (i) the aeroplane is a single place aeroplane; and
 - (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the aeroplane.

5.168 Air transport (aeroplane) pilot: rating required

- (1) Subject to subregulations (2) and (3), an air transport pilot (aeroplane) licence does not authorise the holder of the licence, in the course of flying an aeroplane, to carry out any activity for which a flight crew rating is required:
 - (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the aeroplane; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
 - (2) An air transport pilot (aeroplane) licence authorises the holder of the licence:
 - (a) if the holder is approved under regulation 5.21 to give aeroplane conversion training—to give the training without holding a flight instructor (aeroplane) rating:
 - (i) in an aeroplane for which the holder also holds an aircraft endorsement; and
 - (ii) to a person who holds an aeroplane pilot licence; and
 - (b) if the holder is approved under regulation 5.20 to give flying training in relation to an aeroplane pilot rating—to give the training without holding a flight instructor (aeroplane) rating.
- [*Note* Under subregulation 5.01 (2), flying training is an activity for which a flight crew rating is required.]
- (3) The holder of an air transport pilot (aeroplane) licence may fly as pilot in command of an aeroplane at night under the V.F.R. without holding an aeroplane grade of night V.F.R. rating, if:
 - (a) the aeroplane is flying in a traffic pattern; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and

- (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has met the night V.F.R. handling requirements in an aeroplane; and
- (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying an aeroplane under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in an aeroplane under the V.F.R.; and
- (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
- (f) there are no passengers in the aeroplane.

5.169 Air transport (aeroplane) pilot: regular flight reviews required

- (1) An air transport (aeroplane) pilot must not fly an aeroplane as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed an aeroplane flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies aeroplanes for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) An aeroplane flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
 - (a) an aeroplane:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of aeroplane mentioned in subparagraph (i) is a single place aeroplane or is not fitted with wheel brakes—that is fitted with dual control brakes; or
 - (b) an approved synthetic flight trainer appropriate to the type of aeroplane mentioned in subparagraph (a) (i).

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
- (a) an air transport (aeroplane) pilot undertakes an aeroplane flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If an air transport (aeroplane) pilot satisfactorily completes an aeroplane flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the aeroplane flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) An air transport (aeroplane) pilot who has, within the period of 2 years immediately before the day of the proposed flight:

- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of an aeroplane pilot licence; or
 - (ii) the issue, or renewal, of an aeroplane pilot rating; or
- (b) satisfactorily completed an aeroplane proficiency check; or
- (c) satisfactorily completed aeroplane conversion training given by the holder of a grade of flight instructor (aeroplane) rating that authorises him or her to conduct aeroplane flight reviews;

is taken to have satisfactorily completed an aeroplane flight review.

[*Note* Conversion training given by a person who does not hold a flight instructor (aeroplane) rating must not be substituted for a flight review.]

- (6) For the purposes of paragraph (5) (b), an air transport (aeroplane) pilot is not taken to have satisfactorily completed an aeroplane proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.

- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).

- (8) In this regulation:

appropriate person means:

- (a) an authorised flight instructor who holds a grade of flight instructor (aeroplane) rating that authorises him or her to conduct flight reviews in aeroplanes; or
- (b) an approved testing officer; or
- (c) a CASA flying operations inspector.

5.170 Air transport (aeroplane) pilot: recent experience requirements

- (1) An air transport (aeroplane) pilot must not fly an aeroplane as pilot in command if the aeroplane is carrying any other person, and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings while flying an aeroplane as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed an aeroplane proficiency check; or
 - (iii) passed a flight test conducted for the purpose of the issue, or renewal, of an aeroplane pilot rating;
 - (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 take-offs and 3 landings at night while flying an aeroplane as pilot in command or as pilot acting in command under supervision or in dual flying; or
 - (ii) satisfactorily completed an aeroplane proficiency check that was conducted at night; or
 - (iii) passed a flight test conducted at night for the purpose of the issue, or renewal, of an aeroplane pilot rating.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.171 Air transport (aeroplane) pilot: requirements if over 60 years old

- (1) An air transport (aeroplane) pilot who is at least 60 years old must not fly as pilot in command of an aeroplane:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to an air transport (aeroplane) pilot if:
- (a) the pilot flies an aeroplane:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot has satisfactorily completed an aeroplane proficiency check or an aeroplane flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot has satisfactorily completed an aeroplane proficiency check or an aeroplane flight review.
- (3) In this regulation:
- qualified pilot** means an air transport (aeroplane) pilot or a commercial (aeroplane) pilot who:
- (a) holds a command endorsement for the aeroplane; and
 - (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the aeroplane; and
 - (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

[*Note* The activities for which a flight crew rating is required are set out in subregulation 5.01 (2).]

5.172 **Aeronautical experience: minimum requirements**

- (1) For the purposes of paragraph 5.165 (1) (f), a person's aeronautical experience must consist of at least 1,500 hours of flight time that includes 750 hours as pilot of a registered aeroplane, or a recognised aeroplane.
- (2) The 750 hours must include:
- (a) at least 250 hours of flight time as pilot in command; and
 - (b) at least 200 hours of cross-country flight time; and
 - (c) at least 75 hours of instrument flight time; and
 - (d) at least 100 hours of flight time at night.
- (3) For the purposes of paragraph (2) (b), the cross-country flight time must include at least 100 hours as pilot in command or pilot acting in command under supervision.
- (4) The balance of the 1,500 hours of flight time must consist of any 1 or more of the following:
- (a) not more than 750 hours of flight time as pilot of a registered aeroplane, or a recognised aeroplane;

- (b) not more than 750 hours of recognised flight time as pilot of:
 - (i) a powered aircraft; or
 - (ii) a glider (other than a hang glider);
- (c) not more than 200 hours of flight time as a flight engineer or a flight navigator calculated in accordance with subregulation 5.173 (7) and the balance of the flight time under paragraph (a) or (b).

5.173 Aeronautical experience: calculation of flight time

- (1) For the purposes of subregulation 5.172 (2), the same flight time may be counted towards as many of paragraphs 5.172 (2) (a), (b), (c) and (d) as describe the flight time.
- (2) For the purposes of paragraph 5.172 (2) (a), the flight time as pilot in command may include up to 150 hours as pilot acting in command under supervision.
- (3) For the purposes of paragraph 5.172 (2) (c), not more than 30 hours of instrument ground time may be substituted for an equal amount of the 75 hours of instrument flight time.
- (4) For the purposes of subregulation 5.172 (4), not more than 100 hours in an approved synthetic flight trainer may be substituted for an equal amount of the flight time required under subregulation 5.172 (4).
- (5) The 100 hours mentioned in subregulation (4) must not include more than 25 hours in a synthetic flight trainer that is not a flight simulator.
- (6) CASA may approve a synthetic flight trainer for the purposes of subregulation (4).
- (7) In calculating the hours of flight time for the purposes of paragraph 5.172 (4) (c):
 - (a) each 3 hours of flight engineer time in regular public transport operations is counted as 1 hour of flight time; and
 - (b) each 4 hours of flight navigator time in regular public transport operations is counted as 1 hour of flight time.
- (8) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) as pilot acting in command under supervision; or
 - (c) in dual flying;
 must be halved in calculating the person's flight time for the purposes of regulation 5.172.

Division 14 Air Transport Pilot (Helicopter) Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|----------------------------------|------------------------------|
| air law examination | helicopter pilot rating |
| air transport (helicopter) pilot | helicopter proficiency check |
| dual flying | overseas pilot licence |
| flight time | personal log book |
| flying training | recognised flight time |
| helicopter flight review | synthetic flight trainer |
| helicopter pilot licence | theory examination. |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|--------------------------------|-------------------------|
| aircraft endorsement | single place helicopter |
| helicopter conversion training | type. |

Note 3 The term pilot acting in command under supervision is defined in subregulation 5.01 (3).]

5.174 What are the qualifications for an air transport pilot (helicopter) licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold an air transport pilot (helicopter) licence if the person:
- is at least 21 years old; and
 - holds, or is qualified to hold, a flight radiotelephone operator licence; and
 - holds a commercial pilot (helicopter) licence; and
 - has been awarded a pass in an air transport pilot (helicopter) licence theory examination; and
 - has the aeronautical experience set out in regulation 5.181.

[*Note 1* Details of the flight radiotelephone operator licence are set out in Division 3—Flight radiotelephone operator licence.

Note 2 Details of the commercial pilot (helicopter) licence are set out in Division 9—Commercial pilot (helicopter) licence.]

- (2) In spite of subregulation (1), a person is qualified to hold an air transport pilot (helicopter) licence if:
- the person:
 - holds, or has held, an overseas pilot licence that is at least equivalent to the air transport pilot (helicopter) licence; and
 - satisfies the requirements of paragraphs (1) (a), (b) and (e); and
 - has been awarded a pass in an air transport pilot (helicopter) licence overseas conversion examination; or
 - the person:
 - holds a current overseas pilot licence that is at least equivalent to the air transport pilot (helicopter) licence; and
 - satisfies the requirements of paragraphs (1) (a), (b) and (e); and

- (iii) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (iv) has satisfactorily completed a helicopter proficiency check required by regulation 217; and
 - (v) has been awarded a pass in an air transport pilot (helicopter) licence overseas conversion examination.
- (3) For the purposes of subparagraph (2) (b) (iv), a person is not taken to have satisfactorily completed a helicopter proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.
- (4) For the purposes of this regulation, an overseas pilot licence is equivalent to an air transport pilot (helicopter) licence if it authorises the holder of the licence to fly helicopters as pilot in command in air transport operations.

5.175 What does an air transport pilot (helicopter) licence authorise a person to do?

- (1) An air transport pilot (helicopter) licence authorises the holder of the licence to fly a helicopter as pilot in command or co-pilot while the helicopter is engaged in any operation.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.176, 5.177, 5.178, 5.179 and 5.180.

5.176 What kind of helicopter may an air transport (helicopter) pilot fly?

- (1) Subject to subregulation (2), an air transport pilot (helicopter) licence does not authorise the holder of the licence to fly a helicopter as pilot in command, or co-pilot, unless the holder also holds an aircraft endorsement that authorises the holder to fly the helicopter in that capacity.
- (2) An air transport pilot (helicopter) licence authorises the holder of the licence to fly a helicopter without holding an aircraft endorsement for the helicopter:
 - (a) in dual flying—for the purpose of satisfying the requirements for the issue of for an aircraft endorsement for the helicopter; or
 - (b) in any capacity—for the purpose of:
 - (i) testing the helicopter; or
 - (ii) carrying out an experiment in relation to the helicopter; if CASA has given the holder permission under subregulation 5.50 (1) to fly the helicopter in those circumstances; or
 - (c) as pilot in command—for the purpose of satisfying the requirements for the issue of an aircraft endorsement for the helicopter if:
 - (i) the helicopter is a single place helicopter; and

- (ii) CASA has given the holder permission under subregulation 5.23 (5) to fly the helicopter.

5.177 Air transport (helicopter) pilot: rating required

- (1) Subject to subregulation (2) and (4), an air transport pilot (helicopter) licence does not authorise the holder of the licence, in the course of flying a helicopter, to carry out any activity for which a flight crew rating is required:
 - (a) as pilot in command, or co-pilot—unless the holder also holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity in that capacity in the helicopter; or
 - (b) in dual flying—unless the holder is receiving training in carrying out the activity from a person approved by CASA under regulation 5.20 to give flying training in relation to the rating, or grade of rating.
- (2) An air transport pilot (helicopter) licence authorises the holder of the licence:
 - (a) subject to subregulation (3), if the holder is approved under regulation 5.21 to give helicopter conversion training—to give the training without holding a flight instructor (helicopter) rating:
 - (i) in a helicopter for which the holder also holds an aircraft endorsement; and
 - (ii) to a person who holds a helicopter pilot licence; and
 - (b) if the holder is approved under regulation 5.20 to give flying training in relation to a helicopter pilot rating—to give the training without holding a flight instructor (helicopter) rating.

[*Note* Under subregulation 5.01 (2), flying training is an activity for which a flight crew rating is required.]
- (3) An air transport pilot (helicopter) licence does not authorise the holder of the licence to give helicopter conversion training in a type of helicopter that is powered by 1 piston engine unless the person receiving the training holds an aircraft endorsement for another type of helicopter that is powered by 1 piston engine.
- (4) The holder of an air transport pilot (helicopter) licence may fly as pilot in command of a helicopter at night under the V.F.R. without holding a helicopter grade of night V.F.R. rating, if:
 - (a) the helicopter is flying in a traffic pattern; and
 - (b) weather conditions in the traffic pattern are such that the flight can be conducted as a V.F.R. flight; and
 - (c) an authorised flight instructor has made an entry in the holder's personal log book to the effect that the holder has met the night V.F.R. handling requirements in a helicopter; and

- (d) the holder has, within 90 days before the day of the flight, carried out:
 - (i) at least 3 take-offs and 3 landings at night while flying a helicopter under the V.F.R. as pilot in command; or
 - (ii) at least 1 take-off and 1 landing at night while dual flying in a helicopter under the V.F.R.; and
- (e) the holder conducts the flight under the direct supervision of an authorised flight instructor; and
- (f) there are no passengers in the helicopter.

5.178 Air transport (helicopter) pilot: regular flight reviews required

- (1) On and after 1 December 1994, an air transport (helicopter) pilot must not fly a helicopter as pilot in command if the pilot has not, within the period of 2 years immediately before the day of the proposed flight, satisfactorily completed a helicopter flight review.

Penalty: 50 penalty units.

[*Note* A pilot who flies helicopters for an operator to whom regulation 217 applies will be required to undertake proficiency checks at more frequent intervals.]

- (2) A helicopter flight review must be conducted only by an appropriate person and, unless the person otherwise approves having regard to the circumstances of the case, must be conducted in:
 - (a) a helicopter:
 - (i) of the type in which the pilot flew the greatest amount of flight time during the 10 flights the pilot undertook as pilot in command immediately before the flight review; and
 - (ii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter—that is fitted with fully functioning dual controls; and
 - (iii) unless the type of helicopter mentioned in subparagraph (i) is a single place helicopter or is not fitted with wheel brakes—that is fitted with dual control brakes; or
 - (b) an approved synthetic flight trainer appropriate to the type of helicopter mentioned in subparagraph (a) (i).

[*Note* For *appropriate person* see subregulation (8).]

- (3) If:
- (a) an air transport (helicopter) pilot undertakes a helicopter flight review; and
 - (b) the requirements of subregulation (2) are not satisfied in relation to the review;

the pilot is taken not to have satisfactorily completed the review.

- (4) If an air transport (helicopter) pilot satisfactorily completes a helicopter flight review, the person conducting the review must make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the helicopter flight review.

Penalty: 10 penalty units.

- (4A) An offence against subregulation (1) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) An air transport (helicopter) pilot who has, within the period of 2 years immediately before the day of the proposed flight:

- (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a helicopter pilot licence; or
 - (ii) the issue, or renewal, of a helicopter pilot rating; or
- (b) satisfactorily completed a helicopter proficiency check; or
- (c) satisfactorily completed helicopter conversion training given by the holder of a grade of flight instructor (helicopter) rating that authorises him or her to conduct helicopter flight reviews;

is taken to have satisfactorily completed a helicopter flight review.

[*Note* Conversion training given by a person who does not hold a flight instructor (helicopter) rating must not be substituted for a flight review.]

- (6) For the purposes of paragraph (5) (b), an air transport (helicopter) pilot is not taken to have satisfactorily completed a helicopter proficiency check unless the organisation that conducted the check has made an entry in the pilot's personal log book to that effect.

- (7) CASA may approve a synthetic flight trainer for the purposes of paragraph (2) (b).

- (8) In this regulation:

appropriate person means:

- (a) an authorised flight instructor who holds a grade of flight instructor (helicopter) rating that authorises him or her to conduct flight reviews in helicopters; or
- (b) an approved testing officer; or
- (c) a CASA flying operations inspector.

5.179 Air transport (helicopter) pilot: recent experience requirements

- (1) An air transport (helicopter) pilot must not fly a helicopter as pilot in command if the helicopter is carrying any other person and the pilot has not satisfied whichever of the following requirements is applicable:
- (a) if the proposed flight is to be undertaken in daylight—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits while flying a helicopter as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed a helicopter proficiency check; or
 - (iii) passed a flight test conducted for the purpose of the issue, or renewal, of a helicopter pilot rating;
 - (b) if the proposed flight is to be undertaken at night—the pilot has, within the period of 90 days immediately before the day of the proposed flight:
 - (i) carried out at least 3 circuits at night while flying a helicopter as pilot in command or as pilot acting in command under supervision, or in dual flying; or
 - (ii) satisfactorily completed a helicopter proficiency check that was conducted at night; or
 - (iii) passed a flight test conducted at night for the purpose of the issue, or renewal, of a helicopter pilot rating.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) For the purposes of this regulation, a person carries out a circuit while flying a helicopter if the person:
- (a) takes-off in the helicopter from an aerodrome; and
 - (b) flies the helicopter around the aerodrome in accordance with the traffic pattern for the aerodrome; and
 - (c) lands the helicopter at the aerodrome.
- (3) In this regulation:
- aerodrome** means a place that aircraft may land at, or take off from, in accordance with regulation 92.

5.180 Air transport (helicopter) pilot: requirements if over 60 years old

- (1) An air transport (helicopter) pilot who is at least 60 years old must not fly as pilot in command of a helicopter:
- (a) that is engaged in commercial operations; and
 - (b) that is carrying passengers.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Subregulation (1) does not apply to an air transport (helicopter) pilot if:
- (a) the pilot flies a helicopter:
 - (i) that is fitted with fully functioning dual controls; and
 - (ii) that has an operating crew that includes a qualified pilot who is not the pilot in command; or
 - (b) in the case of a pilot who is less than 65 years old—within the period of 1 year immediately before the day of the proposed flight the pilot satisfactorily completed a helicopter proficiency check or a helicopter flight review; or
 - (c) in the case of a pilot who is at least 65 years old—within the period of 6 months immediately before the day of the proposed flight the pilot satisfactorily completed a helicopter proficiency check or a helicopter flight review.
- (3) In this regulation:
- qualified pilot** means an air transport (helicopter) pilot or a commercial (helicopter) pilot who:
- (a) holds a command endorsement for the helicopter; and
 - (b) if an activity for which a flight crew rating is required is to be carried out during the flight—holds a flight crew rating, or grade of flight crew rating, that authorises him or her to carry out the activity as pilot in command of the helicopter; and
 - (c) either:
 - (i) is less than 60 years old; or
 - (ii) satisfies the requirements of paragraph (2) (b) or (c).

5.181 Aeronautical experience: minimum requirements

- (1) For the purposes of paragraph 5.174 (1) (e), a person's aeronautical experience must consist of at least 1,500 hours of flight time that includes 750 hours as pilot of a helicopter.
- (2) The 750 hours mentioned in subregulation (1) must include at least 450 hours of flight time as pilot in command.
- (3) The balance of the 1,500 hours of flight time mentioned in subregulation (1) must consist of any 1 or more of the following:
- (a) up to 750 hours of flight time as pilot of a helicopter;
 - (b) up to 750 hours of recognised flight time as pilot of:
 - (i) a powered aircraft; or
 - (ii) a glider (other than a hang glider);
 - (c) up to 200 hours flight time as a flight engineer or a flight navigator calculated in accordance with subregulation 5.182 (5) and the balance of the flight time under paragraph (a) or (b).

5.182 Aeronautical experience: calculation of flight time

- (1) For the purposes of subregulation 5.181 (2), the flight time as pilot in command may include not more than 150 hours as pilot acting in command under supervision.
- (2) For the purposes of subregulation 5.181 (3), not more than 100 hours in an approved synthetic flight trainer may be substituted for an equal amount of the flight time mentioned in that subregulation.
- (3) The 100 hours mentioned in subregulation (2) must not include more than 25 hours in a synthetic flight trainer that is not a flight simulator.
- (4) CASA may approve a synthetic flight trainer for the purposes of subregulation (2).
- (5) In calculating the hours of flight time for the purposes of paragraph 5.181 (3) (c):
 - (a) each 3 hours of flight engineer time in regular public transport operations is counted as 1 hour of flight time; and
 - (b) each 4 hours of flight navigator time in regular public transport operations is counted as 1 hour of flight time.
- (6) Each period of flight time flown by a person as a pilot, but not flown:
 - (a) as pilot in command; or
 - (b) as pilot acting in command under supervision; or
 - (c) in dual flying;must be halved in calculating the person's flight time for the purposes of regulation 5.181.

Division 15 Student Flight Engineer Licence

[*Note* The following terms used in this Division are defined in regulation 2:

| | |
|---------------------------|----------------------------|
| check flight engineer | student flight engineer |
| flight time | theory examination |
| overseas engineer licence | training flight engineer.] |

5.183 What are the qualifications for a student flight engineer licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a student flight engineer licence if the person:
 - (a) is at least 18 years old; and
 - (b) has been awarded a pass in a basic flight engineer theory examination.
- (2) In spite of subregulation (1), a person is qualified to hold a student flight engineer licence if the person:
 - (a) is at least 21 years old; and
 - (b) has been awarded a pass in the flight rules and procedures section of a basic flight engineer theory examination; and
 - (c) holds, or has held, a flight engineer qualification that was issued by the Defence Force of Australia.
- (3) In spite of subregulation (1), a person is qualified to hold a student flight engineer licence if the person:
 - (a) holds, or has held, an overseas engineer licence that is at least equivalent to the student flight engineer licence; and
 - (b) satisfies the requirements of paragraph (1) (a); and
 - (c) has been awarded a pass in an overseas examination; and
 - (d) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies.
- (4) For the purposes of this regulation, an overseas engineer licence is equivalent to a student flight engineer licence if it authorises the holder of the licence to perform, under supervision, the duties of a flight engineer in an aircraft during flight time.
- (5) In this regulation:

overseas examination means an examination of a person's theoretical knowledge that must be passed by the person to qualify for an overseas engineer licence that authorises the holder of the licence to perform, without supervision, the duties of a flight engineer in an aircraft during flight time.

5.184 What does a student flight engineer licence authorise a person to do?

- (1) A student flight engineer licence authorises the holder of the licence, under the supervision of a check flight engineer, or a training flight engineer, to perform the duties of a flight engineer in an aircraft during flight time.
- (2) A student flight engineer must not perform the duties of a flight engineer in an aircraft during flight time if the student does not carry out the duties under the supervision of a check flight engineer, or a training flight engineer.
Penalty: 50 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.185 When may an owner, operator or pilot in command allow a student flight engineer to perform duties?

- (1) The owner, operator or pilot in command of an aircraft must not allow a student flight engineer to perform the duties of a flight engineer in the aircraft during flight time if the student does not carry out the duties under the supervision of:
 - (a) a check flight engineer; or
 - (b) a training flight engineer.
 Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.186 Supervision of student flight engineer

- (1) In supervising a student flight engineer, a check flight engineer or a training flight engineer must take all reasonable steps to ensure that the student carries out the duties of a flight engineer in a way that will not adversely affect the safety of air navigation.
Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.187 When may a student perform the duties of a flight engineer?

- (1) A check flight engineer, or a training flight engineer, may allow a student flight engineer to perform the duties of a flight engineer in an aircraft during flight time only if:
 - (a) the student has received instruction in the duties of a flight engineer in accordance with an approved syllabus of training; and
 - (b) the student has sufficient knowledge of:
 - (i) the aircraft's engine; and

- (ii) if the aircraft has a propeller—the aircraft’s propeller controls; and
 - (iii) the aircraft’s systems and accessories; and
 - (iv) fuel management procedures for the aircraft; and
 - (v) the aircraft’s normal operating procedures; and
 - (vi) systems malfunction analysis, alternate, abnormal and emergency operating procedures for the aircraft; and
 - (vii) performance data for the aircraft; and
 - (viii) the weight and balance of the aircraft;
- to enable the student, under supervision, to perform safely the duties of a flight engineer in the aircraft.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) CASA may approve a syllabus of training for the purposes of paragraph (1) (a).

Division 16 Flight Engineer Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|-----------------------------------|---------------------------|
| CASA flying operations inspector | operator |
| check flight engineer | overseas engineer licence |
| flight engineer proficiency check | route sector |
| flight engineer time | synthetic flight trainer |
| flight test | training flight engineer. |
| flight time | |

Note 2 The following terms used in this Division are defined in subregulation 5.01 (1):

| | |
|----------------------|---------------|
| aircraft endorsement | endorsement.] |
|----------------------|---------------|

5.188 What are the qualifications for a flight engineer licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a flight engineer licence if the person:
 - (a) is at least 18 years old; and
 - (b) is qualified to hold a student flight engineer licence; and
 - (c) has the aeronautical experience set out in regulation 5.193; and
 - (d) has been awarded a pass in a flight engineer licence flight test.
- (2) In spite of subregulation (1), a person is qualified to hold a flight engineer licence if the person:
 - (a) satisfies the requirements of paragraph (1) (a); and
 - (b) holds, or has held, a flight engineer qualification:
 - (i) that was issued by the Defence Force of Australia; and
 - (ii) that authorises, or authorised, the person to perform the duties of a flight engineer without supervision in aircraft that have a flight deck design that includes a dedicated flight engineer duty station.
- (3) In spite of subregulation (1), a person is qualified to hold a flight engineer licence if the person:
 - (a) holds a current overseas engineer licence that is at least equivalent to a flight engineer licence; and
 - (b) satisfies the requirements of paragraph (1) (a); and
 - (c) is employed by, or is working under an arrangement with, an operator to whom regulation 217 applies; and
 - (d) has satisfactorily completed a flight engineer proficiency check required by regulation 217.
- (4) For the purposes of this regulation, an overseas engineer licence is equivalent to a flight engineer licence if it authorises the holder to perform, without supervision, the duties of a flight engineer in an aircraft during flight time.

- (5) For the purposes of paragraph (3) (d), a person is not taken to have satisfactorily completed a flight engineer proficiency check unless the operator who employs, or arranges the work of, the person gives CASA written notice that the person has satisfactorily completed the check.

5.189 What does a flight engineer licence authorise a person to do?

- (1) Subject to subregulation (2), a flight engineer licence authorises the holder of the licence to perform the duties of a flight engineer in an aircraft during flight time.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.190, 5.191 and 5.192.

5.190 What kind of aircraft may a flight engineer operate?

- (1) Subject to subregulation (2), a flight engineer licence does not authorise the holder of the licence to perform the duties of a flight engineer in an aircraft unless the holder also holds an aircraft endorsement for the aircraft.
- (2) A flight engineer licence authorises the holder of the licence to perform the duties of a flight engineer in an aircraft without holding an aircraft endorsement for the aircraft:
- (a) under the supervision of a check flight engineer, or a training flight engineer, for the purpose of qualifying for an aircraft endorsement for the aircraft; or
 - (b) for the purpose of:
 - (i) testing the aircraft; or
 - (ii) carrying out an experiment in relation to the aircraft;if CASA has given the holder permission under subregulation 5.50 (1) to perform the duties of a flight engineer in the aircraft in those circumstances.

5.191 Flight engineer to undertake proficiency check

- (1) A flight engineer must not perform the duties of a flight engineer in an aircraft during flight time if the engineer has not, within the period of 1 year immediately before the day of the proposed flight, satisfactorily completed a flight engineer proficiency check for the type of aircraft in which the engineer proposes to conduct the flight.

Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) A flight engineer proficiency check must be conducted only by an approved training and checking organisation.

(3) In this regulation:

approved training and checking organisation means an organisation approved under subregulation 217 (3).

5.192 Flight engineer: recent experience requirements

(1) A flight engineer must not perform the duties of a flight engineer in a type of aircraft during flight time if the engineer has not satisfied each of the following requirements:

(a) within the period of 70 days immediately before the day of the proposed flight, the engineer:

- (i) has performed the duties of a flight engineer in the type of aircraft during flight time for a total of at least 15 hours; or
- (ii) has satisfactorily completed at least 2 route sectors under the supervision of a check flight engineer, or a training flight engineer;

(b) within the period of 42 days immediately before the day of the proposed flight, the engineer:

- (i) has performed the duties of a flight engineer in the type of aircraft during flight time for a total of at least 4 hours; or
- (ii) has, under the supervision of a check flight engineer, or a training flight engineer, satisfactorily completed at least 2 hours flight time that includes performing the duties of a flight engineer during 2 take-offs and 2 landings; or
- (iii) has, under the supervision of a check flight engineer, a training flight engineer or a synthetic flight trainer instructor, satisfactorily completed at least 2 hours in an approved synthetic flight trainer that includes performing the duties of a flight engineer during 2 take-offs and 2 landings.

Penalty: 25 penalty units.

(1A) An offence against subregulation (1) is an offence of strict liability.

Note For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2) CASA may approve a synthetic flight trainer for the purposes of subparagraph (1) (b) (iii).

(3) In this regulation:

synthetic flight trainer instructor means a person appointed by an operator to supervise training in the duties of a flight engineer carried out in a synthetic flight trainer.

5.193 Flight engineer licence: aeronautical experience required

- (1) For the purpose of paragraph 5.188 (1) (c), a person's aeronautical experience must consist of at least 100 hours of flight engineer time that includes a total of 25 hours flown within the period of 60 days immediately before the day on which the person attempts a flight engineer licence flight test.
- (2) A period of 30 hours or less spent by a person in an approved synthetic flight trainer under the supervision of a check flight engineer, training flight engineer or synthetic flight trainer instructor may be treated as if it were part of the 100 hours mentioned in subregulation (1).
- (3) CASA may approve a synthetic flight trainer for the purposes of subregulation (2).
- (4) In this regulation:
synthetic flight trainer instructor has the same meaning as in regulation 5.192.

5.194 How and when may a flight engineer licence flight test be attempted?

- (1) A flight engineer licence flight test must be conducted only by a check flight engineer, or a CASA flying operations inspector, in an aircraft, or in an approved flight simulator, that is fitted with:
 - (a) a fully functioning flight engineer panel; and
 - (b) an electronic system for communication among the person conducting the test, the person attempting the test and the pilot in command, being a system that is serviceable when the test begins.
- (2) A check flight engineer, or a CASA flying operations inspector, must not conduct a flight engineer licence flight test if the person attempting the test has not been recommended for the test by the manager (however called) of the approved training and checking organisation where the person undertakes the test.
Penalty: 25 penalty units.
- (3) A manager must not recommend a person for a flight engineer licence flight test if the person does not satisfy the requirements of paragraphs 5.188 (1) (a), (b), and (c).
Penalty: 25 penalty units.
- (3A) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) If:
- (a) a person attempts a flight engineer licence flight test; and
 - (b) the requirements of subregulations (1), (2) and (3) are not satisfied in relation to the attempt;
- the person is taken not to have been awarded a pass in the test.
- (5) In this regulation:
- approved training and checking organisation*** means an organisation approved under subregulation 217 (3).

5.195 Supervision of flight engineer

- (1) In supervising a flight engineer, a check flight engineer or a training flight engineer must take all reasonable steps to ensure that the engineer being supervised carries out the duties of a flight engineer in a way that will not adversely affect the safety of air navigation.
- Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
- Note* For ***strict liability***, see section 6.1 of the *Criminal Code*.

Division 17 Restricted Flight Engineer Licence

[*Note 1* The following terms used in this Division are defined in regulation 2:

| | |
|--|---------------------------|
| check flight engineer | synthetic flight trainer |
| operator | training flight engineer. |
| restricted flight engineer | |
| restricted flight engineer proficiency check | |

Note 2 The following terms used in this Division are defined in regulation 5.01:

| | |
|------|--------------------|
| type | type endorsement.] |
|------|--------------------|

5.195A What are the qualifications for a restricted flight engineer licence?

- (1) For the purposes of subregulation 5.09 (1), a person is qualified to hold a restricted flight engineer licence only if the person:
 - (a) holds a commercial pilot (aeroplane) licence or an air transport pilot (aeroplane) licence; and
 - (b) is employed by, or works under an arrangement with, an operator whose training and checking organisation has been approved under regulation 217; and
 - (c) has received training in the duties of a restricted flight engineer in accordance with an approved syllabus of training; and
 - (d) has satisfactorily completed a restricted flight engineer proficiency check.
- (2) For the purposes of paragraph (1) (d), a person is not taken to have satisfactorily completed a restricted flight engineer proficiency check unless the operator has given CASA written notice that the person has done so.

5.195B What does a restricted flight engineer licence authorise the holder to do?

- (1) A restricted flight engineer licence authorises the holder of the licence to perform the duties of a flight engineer in an aircraft while the aircraft is in the cruise phase of a flight.
- (2) The authority given by subregulation (1) is subject to the limitations set out in regulations 5.195C, 5.195D and 5.195E.
- (3) In this regulation:

air traffic control organisation means:

 - (a) in relation to Australia—air traffic control; and
 - (b) in relation to a country other than Australia—the organisation in that country that has responsibility for air traffic control services;

cruise phase of flight means the part of an aircraft's flight:

 - (a) that starts when the aircraft reaches its first planned cruise level, or that level as amended by an air traffic control organisation; and

(b) that ends when the aircraft reaches the point at which the aircraft first starts its descent for the purpose of landing; and includes flight level changes made during that part of the flight; *first planned cruise level*, in relation to an aircraft's flight, means the first cruising level stated in the aircraft's flight plan as submitted to the relevant air traffic control organisation before the flight.

5.195C What kind of aircraft may a restricted flight engineer operate?

The holder of a restricted flight engineer licence must not perform the duties authorised by the licence in an aircraft unless he or she also holds an aircraft endorsement for the aircraft authorising the holder to fly the aircraft for purposes authorised under his or her commercial pilot (aeroplane) licence or air transport pilot (aeroplane) licence, as the case may be.

[*Note* See subsection 20AB (1) of the *Civil Aviation Act 1988* for offences relating to flying and performing other duties that are essential to the operation of an aircraft during flight time without a licence, certificate, rating or endorsement.]

5.195D Restricted flight engineer to undertake regular proficiency checks

(1) The holder of a restricted flight engineer licence must not perform the duties authorised by the licence in an aircraft during flight time if he or she has not, within the period of 8 calendar months immediately before the day of the proposed flight, satisfactorily completed a restricted flight engineer proficiency check for the type of aircraft in which he or she proposes to perform the duties.

Penalty: 50 penalty units.

(2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.195E Restricted flight engineer: recent experience requirements

(1) The holder of a restricted flight engineer licence must not perform the duties authorised by the licence in a type of aircraft if he or she has not, within the period of 70 days immediately before the day of the proposed flight:

- (a) performed the duties of a flight engineer during flight in an aircraft of that type; or
- (b) under the supervision of a check flight engineer, or of a training flight engineer, or of a synthetic flight trainer instructor, satisfactorily completed at least 2 hours in a synthetic flight trainer approved for the purposes of subregulation 5.193 (3).

Penalty: 25 penalty units.

(1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to the holder of a restricted flight engineer licence who is undertaking a restricted flight engineer proficiency check under regulation 5.195D.
- (3) In this regulation:
synthetic flight trainer instructor has the same meaning as in regulation 5.192.

5.195F When may an unlicensed person perform the duties of a restricted flight engineer?

A person who:

- (a) meets the requirements of paragraphs 5.195A (1) (a) and (b); and
- (b) does not hold a restricted flight engineer licence;

may perform the duties of a restricted flight engineer if:

- (c) the person is undertaking a restricted flight engineer proficiency check; or
- (d) the person:
 - (i) is accompanied by a check flight engineer or by a training flight engineer; and
 - (ii) is undertaking training as a restricted flight engineer.

- (5) In subregulation (4), strict liability applies to the physical element that CASA must take a matter into account under subregulation (3).

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (6) If CASA decides not to issue the licence, it must give the applicant notice of the reasons for that decision.
- (7) For the purposes of this regulation, an overseas pilot licence is the equivalent of a pilot licence if, in the country in which it was issued, the overseas pilot licence would authorise the holder to perform the same duties in aircraft of the same category in the same operations as the pilot licence authorises.

5.199 Licence may be subject to conditions

- (1) CASA may issue a special pilot licence subject to any condition that is necessary in the interests of the safety of air navigation.
- (2) A condition must be set out:
- (a) on the licence; or
 - (b) in Civil Aviation Orders under regulation 303.
- (3) A person must not contravene a condition subject to which his or her licence is issued.

Penalty: 50 penalty units.

- (3A) An offence against subregulation (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) Nothing in this Part limits the effect of a condition to which a licence is subject under subregulation (3).

5.200 Aircraft endorsements

- (1) If CASA issues a special pilot licence to a person, it must also issue to the person the aircraft endorsements that authorise the person to fly the types of aircraft that he or she is authorised to fly by the overseas pilot licence or an associated qualification.

- (2) In this regulation:

associated qualification means a qualification (whether it is called a qualification, authorisation, rating or endorsement or is known by some other name) that:

- (a) was issued by the responsible authority of a Contracting State; and
- (b) when held in association with an overseas pilot licence, authorises the holder to fly specified types of aircraft.

5.201 Offence in relation to application under regulation 5.197

A person must not make an application under regulation 5.197 if, at the time the application is made, the person's overseas pilot licence:

- (a) is not valid; or

- (b) is not current; or
- (c) is suspended or cancelled.

Penalty: 50 penalty units.

5.202 What does a special pilot licence authorise a person to do?

Subject to regulations 5.203 and 5.204, a special pilot licence:

- (a) authorises the holder of the licence to perform the duties that would be authorised by the licence; and
- (b) is subject to the limitations that would apply to the licence; if the licence had been issued under subregulation 5.09 (1).

5.203 Special pilot licence only to be used in private operations

- (1) Despite regulation 5.202, the holder of a special pilot licence may fly an aircraft only in private operations.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

5.204 Special pilot licence may be used without flight review

- (1) In spite of regulation 5.202, the holder of a special pilot licence may exercise the authority given by the licence without undertaking an Australian flight review if, within the period of 2 years immediately before the day on which the holder proposes to exercise the authority, the holder:

- (a) passed a practical flying test conducted:
 - (i) by the responsible authority of the Contracting State that issued the holder's overseas pilot licence; and
 - (ii) in an aircraft of the category that the special pilot licence authorises the holder to fly; or
- (b) satisfactorily completed an overseas flight review.

- (2) In this regulation:

Australian flight review means:

- (a) an aeroplane flight review; or
- (b) an airship flight review; or
- (c) a gyroplane flight review; or
- (d) a helicopter flight review;

overseas flight review, in relation to the holder of a special pilot licence, means a test of the aeronautical skills and aeronautical knowledge of the person undertaking the review conducted:

- (a) by the responsible authority of the Contracting State that issued the holder's overseas pilot licence; and
- (b) in an aircraft of the category that the special pilot licence authorises the holder to fly.

5.205 Offence if overseas licence not in force

The holder of a special pilot licence must not exercise the authority given by the licence if the holder's overseas pilot licence is not valid and current, or is suspended or cancelled.

Penalty: 50 penalty units.

NOTE

Part 6 of CAR 1988 was revoked by Statutory Rule 2003 No. 232

PAGES 287 TO 296 HAVE BEEN OMITTED INTENTIONALLY

PART 7 NAVIGATION LOGS

78 Navigation logs

- (1) The pilot in command of an aircraft shall keep a log of such navigational data as is required to enable him or her to determine the geographical position of the aircraft at any time while the aircraft is in flight.

Penalty: 10 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) The log shall be kept in chronological order and, in the case of an Australian aircraft engaged on an international flight, shall include the following information:

- (a) points of departure and destination;
- (b) required track;
- (c) wind velocity used for calculations;
- (d) headings flown;
- (e) true airspeed;
- (f) position lines, fixes and pinpoints obtained;
- (g) times of alteration of headings;
- (h) estimated times of arrival at turning points and destination; and
- (i) such other information relevant to the navigation of the aircraft as CASA directs.

79 Form of logs

- (1) A log kept under this Part shall be kept in accordance with such form, and in such manner, as CASA directs.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

80 Retention of logs

- (1) CASA may give directions specifying the period during which a log kept under this Part is to be retained by the person keeping it.
- (2) The person keeping the log must not contravene a direction.
Penalty: 5 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) It is a defence to a prosecution under subregulation (2) if the defendant had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

81 Directions under this Part

A direction given under this Part does not have effect in relation to a person until it has been served on the person.

PART 8 RADIO SYSTEMS FOR USE IN, OR IN CONNECTION WITH, AIRCRAFT

82 Equipment of Australian aircraft with radiocommunication systems

(1) An Australian aircraft engaged in a regular public transport service, and such other Australian aircraft as CASA directs, shall be equipped with such radiocommunication systems as CASA approves to ensure the safety of air navigation.

Penalty: 25 penalty units.

(1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(2) In approving a radiocommunication system for the purposes of subregulation (1), CASA shall have regard to:

(a) the suitability and efficiency of the system for use in conjunction with the air route and airway facilities provided under the *Air Services Act 1995*; and

(b) in the case of a system installed, or to be installed, in an aircraft engaged in international air navigation—the suitability and efficiency of the system in the conditions in which it is likely to be used.

(3) CASA may, subject to such conditions as CASA considers necessary, exempt an aircraft (other than an aircraft engaged in an international public transport service) from any requirement of this regulation.

82A Use of radiocommunication systems: words and phrases to be used

(1) CASA may give directions in relation to the words and phrases to be used in communicating with, or in relation to, aircraft, using radiocommunication systems approved under subregulation 82 (1).

(2) A direction must be published in AIP or NOTAMS.

83 Use and operation of radiocommunication systems by Australian aircraft

(1) Subject to subregulation (1A), the pilot in command of an Australian aircraft in which a radiocommunication system approved under subregulation 82 (1) is installed, other than an aircraft that is in a foreign country, must not do any of the following:

- (a) use, or permit the use of, the radiocommunication system if the use is not in accordance with the directions of CASA;
- (c) permit the operation of the radiocommunication system during flight time in the aircraft by a person who does not hold a flight radiotelephone operator licence or a student pilot licence;
- (d) operate the radiocommunication system while the aircraft is on the ground if the pilot does not hold:
 - (i) an aircraft radiotelephone operator certificate of proficiency; or
 - (ii) a flight radiotelephone operator licence; or
 - (iii) a licence issued under the *Radiocommunications Act 1992* that authorises the holder of the licence to operate a radiocommunication system of the kind concerned; or
 - (iv) a student pilot licence;
- (e) permit the operation of the radiocommunication system while the aircraft is on the ground by a person who is not the holder of a certificate or licence of a kind referred to in paragraph (d).

Penalty: 10 penalty units.

(1A) Subregulation (1) does not apply to the operation of a radiocommunication system under subregulation 5.66 (1).

- (2) The owner of a radiocommunication system used to ensure the safety of air navigation, but not installed in, or carried on an aircraft:
 - (a) must not operate the radiocommunication system if he or she is not the holder of a certificate or licence of a kind referred to in paragraph (1) (d); and
 - (b) must not permit the operation of the radiocommunication system by a person who is not the holder of a certificate or licence of a kind referred to in paragraph (a).

Penalty: 10 penalty units.

(3) Subject to subregulation 5.66 (1), a person must not operate, for the purpose of ensuring the safety of air navigation, a radiocommunication system that is:

- (a) not installed in, or carried on, an aircraft; or
- (b) installed in, or carried on, an aircraft that is on the ground;

if the person does not hold:

- (c) an aircraft radiotelephone operator certificate of proficiency; or
- (d) a flight radiotelephone operator licence; or
- (e) a licence issued under the *Radiocommunications Act 1992* that authorises the holder of the licence to operate a radiocommunication system of the kind concerned.

Penalty: 10 penalty units.

(4) The pilot in command of an Australian aircraft:

- (a) in which a radiocommunication system approved under subregulation 82 (1) is installed or carried; and
- (b) that is in a foreign country;

must not use, or permit the use of, the radiocommunication system except in accordance with the law of that country.

Penalty: 10 penalty units.

(5) An offence against subregulation (1), (2), (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

83A Aircraft radiotelephone operator certificate of proficiency: issue

- (1) A person may apply to CASA, in writing, for the issue of an aircraft radiotelephone operator certificate of proficiency.
- (2) Subject to subregulation (3), CASA must issue an aircraft radiotelephone certificate of proficiency to an applicant if, and only if:
 - (a) the applicant possesses a knowledge of the English language that is sufficient to enable him or her to safely exercise the authority given by the certificate; and
 - (b) the applicant is qualified to hold the certificate.
- (3) CASA must not issue an aircraft radiotelephone operator certificate of proficiency to an applicant if the applicant:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the application; or
 - (b) does not satisfy the requirements of subregulation (2).

83B Aircraft radiotelephone operator certificate of proficiency: notice of decision

- (1) CASA must, in writing, notify an applicant for an aircraft radiotelephone operator certificate of proficiency of CASA's decision in relation to the application.

- (2) If CASA decides not to issue the certificate, CASA must include in the notice required by subregulation (1), a statement of the reasons for that decision.

83C Aircraft radiotelephone operator certificate of proficiency: conditions

- (1) CASA may issue an aircraft radiotelephone operator certificate of proficiency subject to any condition that is necessary in the interests of the safety of air navigation.
- (2) A person must not contravene a condition subject to which his or her certificate is issued.
Penalty: 10 penalty units.
- (3) A condition must be set out in:
 - (a) the notice under subregulation 83B (1); or
 - (b) the certificate; or
 - (c) Civil Aviation Orders under regulation 303.
- (4) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

83D Aircraft radiotelephone operator certificate of proficiency: duration

An aircraft radiotelephone operator certificate of proficiency remains in force until it is suspended or cancelled.

83E Aircraft radiotelephone operator certificate of proficiency: qualifications

- (1) For the purposes of subregulation 83A (2), a person is qualified to hold an aircraft radiotelephone operator certificate of proficiency if:
 - (a) an approved check radio operator or a CASA flying operations inspector is satisfied that the person can use and understand radiotelephonic language safely in:
 - (i) a normal situation; and
 - (ii) an emergency situation; and
 - (b) the person has received instruction in all operating and fault finding procedures relating to a radiocommunication system used for the purpose of ensuring the safety of air navigation; and
 - (c) the person has been awarded a pass in:
 - (i) an aircraft radiotelephone certificate oral examination; and
 - (ii) an aircraft radiotelephone certificate practical test.
- (2) In spite of subregulation (1), a person is qualified to hold an aircraft radiotelephone operator certificate of proficiency if the person holds or has held:
 - (a) a flight radiotelephone operator licence; or
 - (b) an overseas radio licence.

- (3) CASA may set and conduct:
 - (a) an aircraft radiotelephone certificate oral examination; and
 - (b) an aircraft radiotelephone certificate practical test.

83F Aircraft radiotelephone operator certificate of proficiency: conduct of examination and test

- (1) An aircraft radiotelephone operator oral examination and an aircraft radiotelephone operator practical test must be conducted only by a CASA flying operations inspector or an approved check radio operator.
- (2) If:
 - (a) a person attempts an aircraft radiotelephone certificate oral examination or an aircraft radiotelephone certificate practical test; and
 - (b) the requirements of subregulation (1) are not satisfied in relation to the examination or test;the person is taken not to have been awarded a pass in the examination or test.

84 Use and operation of radiocommunication systems by foreign aircraft

- (1) The pilot in command of a foreign aircraft in which a radiocommunication system is installed and that is in Australian territory:
 - (a) must not use, or permit the use of, the radiocommunication system if there is not in force a licence to install and operate the radiocommunication system issued by the appropriate authority of the country of nationality of the aircraft;
 - (b) must not operate the radiocommunication system if the pilot is not the holder of an appropriate licence issued by the appropriate authority of the country of nationality of the aircraft; and
 - (c) must not permit the operation of the radiocommunication system by a person who is not the holder of a licence of a kind referred to in the last preceding paragraph.

Penalty: 10 penalty units.

- (2) Subregulation (1) applies only to a radio communication system installed or carried for the purpose of ensuring the safe navigation of the aircraft .
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

85 Directions under Part 8

A direction given under this Part does not have effect in relation to a person until it has been served on the person.

PART 9 AERODROMES**Division 8 Use of Aerodromes****90 Access of official aircraft to aerodromes**

Notwithstanding anything contained in this Part, all aircraft belonging to or employed in the service of the Crown shall have access, at all times, to any licensed aerodrome.

91 Use of aerodromes by aircraft of Contracting States

- (1) Aerodromes established under the Air Navigation Regulations or licensed under this Part and open to public use shall be open to any aircraft which possesses the nationality of a Contracting State.
- (2) Subject to these Regulations, an aircraft which possesses the nationality of a Contracting State shall be entitled to use the aerodromes and all air navigation facilities, including radio and meteorological services, which are provided for public use for the safety and expedition of air navigation.

92 Use of aerodromes

- (1) A person must not land an aircraft on, or engage in conduct that causes an aircraft to take off from, a place that does not satisfy one or more of the following requirements:
 - (a) the place is an aerodrome established under the Air Navigation Regulations;
 - (b) the use of the place as an aerodrome is authorised by a certificate granted, or registration, under Part 139 of CASR;
 - (c) the place is an aerodrome for which an arrangement under section 20 of the Act is in force and the use of the aerodrome by aircraft engaged in civil air navigation is authorised by CASA under that section;
 - (d) the place (not being a place referred to in paragraph (a), (b) or (c)) is suitable for use as an aerodrome for the purposes of the landing and taking-off of aircraft;and, having regard to all the circumstances of the proposed landing or take-off (including the prevailing weather conditions), the aircraft can land at, or take-off from, the place in safety.

Penalty: 25 penalty units.
- (2) CASA may, in relation to an aerodrome, issue directions relating to the safety of air navigation.

- (3) A person must not contravene a direction.
Penalty: 25 penalty units.
- (4) An offence against subregulation (1) or (3) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

92A Use of aerodromes in regular public transport operations

- (1) Subject to subregulation (2), the pilot in command of an aircraft that:
- (a) is employed in a regular public transport operation; and
 - (b) has a maximum carrying capacity, for that operation, that exceeds 30 seats or 3,400 kilograms;
- must not engage in conduct that causes the aircraft to land at, or take off from, a place that is not a licensed aerodrome.
Penalty: 10 penalty units.
- (2) The aircraft may land at, or take-off from, an aerodrome that is not a licensed aerodrome, if:
- (a) the aircraft does so in accordance with subregulation (4); and
 - (b) the aerodrome is:
 - (i) a military aerodrome; or
 - (ii) an aerodrome outside Australian territory; or
 - (iii) an alternate aerodrome.
- (3) Except in an emergency, an aircraft that:
- (a) is employed in a regular public transport operation; and
 - (b) has a maximum carrying capacity, for that operation, equal to, or less than, 30 seats or 3,400 kilograms;
- must not land at, or take-off from, an aerodrome, except in accordance with subregulation (4) or (4A).
- (4) The pilot in command of an aircraft must not land the aircraft at, or engage in conduct that causes the aircraft to take off from, an aerodrome that is not a licensed aerodrome if each of the following requirements is not satisfied:
- (a) the aerodrome meets the requirements of subregulation (5);
 - (b) the aerodrome operator has arrangements to warn the aircraft operator or pilot in command of any occurrence of the kind referred to in subregulation 139.155 (1) of CASR.
- Penalty: 10 penalty units.

- (4A) The operator of an aircraft must not permit the aircraft to land at or take off from an aerodrome that is not a licensed aerodrome if each of the following requirements is not satisfied:
- (a) the aerodrome meets the requirements of subregulation (5);
 - (b) the aerodrome operator has arrangements to warn the aircraft operator or pilot in command of any occurrence of the kind referred to in subregulation 139.155 (1) of CASR.

Penalty: 10 penalty units.

- (5) For the purposes of paragraphs (4) (a) and (4A) (a), despite the repeal of Division 4 of this Part by the *Civil Aviation Amendment Regulations 2003 (No. 1)*, the requirements are those of subregulation 92A (5), as in force on 1 May 2003.

Note The text of that subregulation, as in force on 1 May 2003, is available on SCALEplus at <http://scaleplus.law.gov.au/html/histreg/6/3203/rtf/CivilAviation1988Vol2.rtf>.

- (5A) An aerodrome or an aerodrome operator is taken to comply with a requirement of subregulation 92A (5) (as in force on 1 May 2003) if:
- (a) the aerodrome or the operator complies with a requirement of Part 139 of CASR that corresponds to the requirement of that subregulation; or
 - (b) under Subpart 202.GA of CASR, the aerodrome or the operator is taken to so comply.

Note Regulation 202.705 of CASR provides for the continuation in force of certain exemptions granted under regulation 89ZD.

- (6) This regulation does not affect the operation of regulation 224 or any other provision with which the operator or pilot in command of an aircraft landing at, or taking off from, an aerodrome is required to comply.
- (7) An offence against subregulation (1), (4) or (4A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (8) It is a defence to a prosecution under subregulation (1) if the landing or take-off occurred in an emergency.

Note A defendant bears an evidential burden in relation to the matter in subregulation (8) (see subsection 13.3 (3) of the *Criminal Code*).

93 Protection of certain rights

Nothing in these Regulations shall be construed as conferring on any aircraft, as against the owner of any land or any person interested therein, the right to alight on that land, or as prejudicing the rights or remedies of any person in respect of any injury to persons or property caused by the aircraft.

Division 9 Removal or Marking of Obstructions or Other Hazards

94 Dangerous lights

(1) Whenever any light is exhibited at or in the neighbourhood of an aerodrome, or in the neighbourhood of an air route or airway facility on an air route or airway, and the light is likely to endanger the safety of aircraft, whether by reason of glare, or by causing confusion with, or preventing clear reception of, the lights or signals prescribed in Part 13 or of air route or airway facilities provided under the *Air Services Act 1995*, CASA may authorise a notice to be served upon the owner of the place where the light is exhibited or upon the person having charge of the light directing that owner or person, within a reasonable time to be specified in the notice, to extinguish or to screen effectually the light and to refrain from exhibiting any similar light in the future.

(2) An owner or person on whom a notice is served under this regulation must comply with the directions contained in the notice.

Penalty: 25 penalty units.

(2A) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(2B) It is a defence to a prosecution under subregulation (2) if the defendant had a reasonable excuse.

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

(3) If any owner or person on whom a notice under this regulation is served fails, within the time specified in the notice, to extinguish or to screen effectually the light mentioned in the notice, CASA may authorise an officer, with such assistance as is necessary and reasonable, to enter the place where the light is and extinguish or screen the light, and may recover the expenses incurred by CASA in so doing from the owner or person on whom the notice has been served.

95 Removal or marking of objects which constitute obstructions or potential hazards to air navigation

(1) Subject to subregulation (6), whenever any object which is located on or within the defined limits of an aerodrome open to public use by aircraft engaged in international air navigation or air navigation within a Territory and which projects above the surfaces specified in subregulation (5) constitutes an obstruction or a potential hazard to aircraft moving in the navigable air space in the vicinity of an aerodrome, CASA may authorise a notice to be served upon the owner of the property in which the object is located directing the owner, within such reasonable time as is specified in the notice:

- (a) to remove the object or such portion of it specified in the notice as is practicable and necessary; or
 - (b) to install and operate lights on the object and mark it in accordance with the requirements of the Convention.
- (2) The notice may be served either personally or by post or by affixing it in some conspicuous place near to the object to which the notice relates.
- (3) A person is guilty of an offence if:
- (a) CASA serves on the person a notice under this regulation; and
 - (b) the person fails to comply with the directions contained in the notice.

Penalty: 25 penalty units.

- (3A) If CASA serves a notice on a person under this regulation and the person does not comply with the directions in the notice, CASA may authorise an officer, with such assistance as is necessary and reasonable:
- (a) to enter the place where the object is located; and
 - (b) to carry out the directions contained in the notice.
- (3B) An offence against subregulation (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) All reasonable expenses and the amount of any actual loss or damage incurred and suffered by any person in complying with the directions contained in a notice served upon him in pursuance of this regulation may be recovered from CASA.
- (5) For the purposes of this regulation, **the defined limits** of an aerodrome means the area enclosed by the perimeter of the surface specified in paragraph (a), and the surfaces referred to in subregulation (1) are:
- (a) the surface 45 metres above the elevation of the nearest limit of the landing area and extending horizontally outward for a distance of 3,000 metres;
 - (b) the surface extending outward from the end of a landing strip having the following dimensions and slopes:
 - (i) in the case of an aerodrome open only to aircraft making non-instrument approaches—the width of the landing strip at the landing strip end; a width of 750 metres at a point 3,000 metres outward from the end of the landing strip and a slope of 1 in 40 rising outward from the end of the landing strip; or
 - (ii) in the case of an aerodrome open to aircraft making instrument approaches—the width of the landing strip at the landing strip end, a width of 1,200 metres at a point 3,000 metres outward from the end of the landing strip and a slope of 1 in 50 rising outward from the end of the landing strip;

- (c) the surface sloping upwards and outwards from the edge of the surface specified in paragraph (b) to the intersection with the surface specified in paragraph (a) and having a slope of 1 in 7; and
 - (d) the surface sloping upwards and outwards from the boundary of the landing area to the intersection with the surface specified in paragraph (a) and having a slope of 1 in 7.
- (6) This regulation does not apply to or in relation to an aerodrome referred to in a plan in a Schedule to the Civil Aviation (Buildings Control) Regulations.

96 Dumping of rubbish

- (1) In this regulation, *aerodrome* means:
- (a) an aerodrome established under the Air Navigation Regulations;
 - (b) a place the use of which as an aerodrome is authorised by a certificate granted, or registration, under Part 139 of CASR; or
 - (c) an aerodrome in respect of which an arrangement under section 20 of the Act is in force.
- (2) Where CASA is satisfied that the presence of waste foodstuffs in the vicinity of an aerodrome constitutes or may constitute such an attraction to birds as to create a hazard or a potential hazard to aircraft using that aerodrome or flying in the vicinity of that aerodrome, CASA may, by notice in the *Gazette*, declare that area to be an area of land to which this regulation applies.
- (3) A person shall not leave waste foodstuffs on, or bring waste foodstuffs onto, an area of land to which this regulation applies.
Penalty: 50 penalty units.
- (4) CASA may, by notice in writing, require the owner of land on which waste foodstuffs are, being land within an area of land to which this regulation applies, to remove, within a time specified in the notice, the waste foodstuffs from his or her land to a place outside an area of land to which this regulation applies, or to deal, within a time, and in a manner, specified in the notice, with the waste foodstuffs.
- (5) A notice under subregulation (4) may be served personally or by post.
- (6) A person shall not fail to comply with the requirements of a notice served on him or her under subregulation (4).
Penalty: 50 penalty units.
- (6A) An offence against subregulation (3) or (6) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (7) If a person on whom a notice under subregulation (4) is served fails to comply with the requirements of the notice, an officer authorised for the purpose by CASA may, with such assistance as is necessary and reasonable, enter upon the land and remove or deal with the waste foodstuffs.

PART 10 AIR TRAFFIC SERVICES AND OTHER SERVICES

Division 1 Air Traffic Services

99AA Air Traffic—Services, directions and instructions

- (3) A pilot in command of an aircraft must not engage in a V.F.R. flight in airspace designated as belonging to Class A airspace without CASA's approval.

Penalty: 50 penalty units.

- (5) CASA may give directions or instructions about the use of a class of airspace, a controlled aerodrome, a control area or a control zone by either or both of the following:

- (a) aircraft engaged in I.F.R. flights;
- (b) aircraft engaged in V.F.R. flights.

- (5A) If:

- (a) an area of Australian territory has been declared to be a restricted area or a danger area; and
- (b) the airspace above that area is, or is part of, a class of airspace;

CASA may give directions or instructions about the use of the airspace above that area that are different from instructions it gives under subregulation (5) about the use of the class of airspace.

- (6) A direction, instruction or particulars of a service must be given by means of Civil Aviation Orders or published in AIP or NOTAMS.

- (6A) A direction or an instruction under subregulation (5) or (5A) that is not given by means of a Civil Aviation Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

- (7) A pilot in command of an aircraft must not engage in a flight, or part of a flight, in contravention of a direction or instruction under subregulation (5) or (5A).

Penalty: 50 penalty units.

- (8) An offence against subregulation (3) or (7) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

99A Broadcasts to be made at certain aerodromes

- (1) CASA may:

- (a) designate an aerodrome as an aerodrome at which broadcast requirements apply; and
- (b) designate airspace within defined horizontal and vertical limits as an area in which broadcast requirements apply.

- (3) CASA may give directions specifying:

- (a) the broadcast requirements that apply; and
- (b) the radio frequency on which broadcasts must be made;

at a particular aerodrome, or in a particular area, designated under subregulation (1).

- (4) If CASA gives a direction, it must publish a notice setting out the details of the direction in AIP or NOTAMS.
- (5) A pilot in command of an aircraft that is operating at an aerodrome or area designated under subregulation (1) must not contravene a direction that applies to that aerodrome or area.
- Penalty: 50 penalty units.
- (6) An offence against subregulation (5) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (7) It is a defence to a prosecution under subregulation (5) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (7) (see subsection 13.3 (3) of the *Criminal Code*).

100**Compliance with air traffic control clearances and air traffic control instructions**

- (1) The pilot in command of an aircraft must comply with air traffic control instructions.
- Penalty: 50 penalty units.
- (2) The pilot in command of an aircraft must not allow the aircraft to:
- (a) enter, operate in, or leave a control area;
 - (b) operate outside a control area as a result of a diversion out of that control area in accordance with air traffic control instructions; or
 - (c) enter, operate in, or leave a control zone or operate at a controlled aerodrome;
- if the movement or operation is not in accordance with an air traffic control clearance in respect of the aircraft.
- Penalty: 50 penalty units.
- (2A) Subregulation (2) does not apply if the movement or operation:
- (a) is authorised by:
 - (i) air traffic control; or
 - (ii) a notification in Aeronautical Information Publications or NOTAMS; or
 - (b) is made in an emergency in accordance with subregulation (3).
- (3) If an emergency arises that, in the interests of safety, necessitates a deviation from the requirements of an air traffic control clearance or Air Traffic Control instructions, the pilot in command may make such deviation as is necessary but shall forthwith inform air traffic control of the deviation.
- Penalty: 5 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

101 Procedure when air traffic control not in operation

An aircraft operating in a control zone or at a controlled aerodrome shall not be required to comply with the provisions of paragraph 100 (2) (c) during any period in which air traffic control is not in operation in respect of that control zone or controlled aerodrome.

105 Temporary medical unfitness of holder of licence

- (1) If:
- (a) the holder of an air traffic controller licence; or
 - (b) a person referred to in paragraph 65.035 (3) (a) or (d) of CASR;
- suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

115 Medical unfitness of holder of licence

Where a person, being:

- (a) the holder of a flight service licence; or
 - (b) a person referred to in paragraph 65.050 (3) (a) or (d) of CASR;
- suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

Division 2 *Meteorological Services*

120 **Weather reports not to be used if not made with authority**

- (1) The operator or pilot in command of an aircraft must not use weather reports of actual or forecasted meteorological conditions in the planning, conduct and control of a flight if the meteorological observations, forecasts or reports were not made with the authority of:
 - (a) the Director of Meteorology; or
 - (b) a person approved for the purpose by CASA.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 3 **Statistical Returns****132** **Statistical returns**

- (1) The owner of any aircraft shall furnish to CASA, or to an authorised officer, such statistical returns or other information relating to the aircraft and the crew thereof, the goods carried, other work performed by the aircraft, the journeys made by the aircraft, and the development of defects or failures in the aircraft, its engines or its accessories as CASA from time to time directs.

Penalty: 10 penalty units.

- (2) An airline, or the owner of an aircraft engaged in public transport service, which uses any air route or airway facility maintained and operated by AA must give CASA or an authorised officer any traffic reports as CASA requires.

Penalty: 5 penalty units.

- (3) A person must not disclose information received under subregulation (2) if the disclosure is not:

- (a) in the course of duty to another person performing duties under these Regulations;
- (b) with the consent of the airline or owner of the aircraft; or
- (c) in pursuance of subregulation (4).

Penalty: 5 penalty units.

- (3A) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) In accordance with Article 67 of the Convention, CASA shall transmit to the Council of the International Civil Aviation Organisation such of the particulars supplied in accordance with subregulation (2) as relate to the international operations of Australian airlines engaged in such operations.

PART 11 CONDITIONS OF FLIGHT**Division 1 General****133 Conditions to be met before Australian aircraft may fly**

- (1) Subject to regulation 317 and regulation 21.197 of CASR, the pilot in command of an Australian aircraft must not commence a flight if each of the following requirements is not satisfied:
- (a) the aircraft has a nationality mark and a registration mark painted on, or affixed to, it in accordance with Part 45 of CASR;
 - (c) the flight is not in contravention of any condition that:
 - (i) is set out or referred to in the maintenance release or in any other document approved for use as an alternative to the maintenance release for the purposes of regulation 49, or subregulation 43 (10); or
 - (ii) is applicable to the maintenance release by virtue of a direction given under regulation 44;
 - (d) any maintenance that is required to be carried out before the commencement of the flight, or that will be required to be carried out before the expiration of the flight, to comply with any requirement or condition imposed under these Regulations with respect to the aircraft has been certified, in accordance with regulation 42ZE or 42ZN, to have been completed;
 - (e) the aircraft complies with these Regulations in respect of the number and description of, and the holding of licences and ratings by, the operating crew.

Penalty: 50 penalty units.

- (2) Paragraph (1) (d) does not apply to any maintenance that was required to be carried out before:
- (a) the issue of the maintenance release in force, or the last maintenance release that was in force, for the aircraft; or
 - (b) if the maintenance release was not a maintenance release issued because of paragraph 43 (7) (a)—the issue of the last maintenance release for the aircraft issued because of that paragraph.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

135 Foreign aircraft of Contracting States

- (1) Subject to regulation 135A, the pilot in command of an aircraft possessing the nationality of a Contracting State must not allow the aircraft to fly within, or depart from, Australian territory if the aircraft does not comply with the provisions of these Regulations that are expressed to apply to such aircraft and the requirements of the Convention in respect of:
- (a) its nationality mark and registration mark;

- (b) its certificate of airworthiness;
- (c) the number and description of, and the holding of licences and ratings by, the operating crew;
- (d) the documents to be carried;
- (e) the flight and manoeuvre of aircraft; and
- (f) the provision of radio apparatus.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

135A Special flight authorisation

- (1) An aircraft to which regulation 135 applies may be operated without the certificate of airworthiness mentioned in paragraph 135 (b) if a special flight authorisation for the operation is issued under this regulation.
- (2) A person may apply to CASA for a special flight authorisation for an aircraft that possesses the nationality of a Contracting State.
- (3) An application for a special flight authorisation must be in a form and manner acceptable to CASA.
- (4) CASA may issue the authorisation subject to the conditions (if any) that CASA considers necessary for the safety of other airspace users and persons on the ground or water.
- (5) Any conditions imposed under this regulation must be in writing and set out in, or attached to, the authorisation.
- (6) A person must not contravene a condition of a special flight authorisation.

Penalty: 50 penalty units.

- (7) An offence against subregulation (6) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Source FARs section 91.715 modified.

136 Foreign state aircraft

A state aircraft other than an Australian military aircraft shall not fly over or land on Australian territory except on the express invitation or with the express permission of CASA, but any aircraft so flying or landing on such invitation or with such permission shall be exempt from the provisions of these Regulations except to such extent as is specified in the invitation or permission.

138 Pilot to comply with requirements, etc of aircraft's flight manual, etc

- (1) If a flight manual has been issued for an Australian aircraft, the pilot in command of the aircraft must comply with a requirement, instruction, procedure or limitation concerning the operation of the aircraft that is set out in the manual.

Penalty: 50 penalty units.

- (2) If a flight manual has not been issued for an Australian aircraft and, under the relevant airworthiness standards for the aircraft, the information and instructions that would otherwise be contained in an aircraft's flight manual are to be displayed either wholly on a placard, or partly on a placard and partly in another document, the pilot in command of the aircraft must comply with a requirement, instruction, procedure or limitation concerning the operation of the aircraft that is set out:

- (a) on the placard; or
- (b) on the placard or in the other document.

Penalty: 50 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

139 Documents to be carried in Australian aircraft

- (1) Subject to subregulation (2), the pilot in command of an aircraft, when flying, must carry on the aircraft:

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (a) its certificate of registration;
- (b) its certificate of airworthiness;
- (c) unless CASA otherwise approves, its maintenance release and any other document approved for use as an alternative to the maintenance release for the purposes of a provision of these Regulations;
- (d) unless CASA otherwise approves, the licences and medical certificates of the operating crew ;
- (e) the flight manual (if any) for the aircraft ;
- (f) any licence in force with respect to the radio equipment in the aircraft;
- (g) if the aircraft is carrying passengers—a list of the names, places of embarkation and places of destination of the passengers;
- (h) if the aircraft is carrying cargo—the bills of lading and manifests with respect to the cargo.

Penalty: 10 penalty units.

- (2) An aircraft operating wholly within Australian Territory is not required, when flying, to carry a document specified in paragraph (1) (a), (b), (f) or (g).
- (3) An aircraft that is operated under an AOC need not carry its flight manual when flying if it carries on board an operations manual that:
 - (a) contains the information and instructions that are required, under the relevant airworthiness standards for the aircraft, to be included in the flight manual; and
 - (b) does not contain anything that conflicts with the information or instructions.
- (4) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) It is a defence to a prosecution under subregulation (1) if the flight was authorised by:
 - (a) a permission to fly under regulation 317; or
 - (b) a special flight permit issued under regulation 21.197 of CASR.
Note A defendant bears an evidential burden in relation to the matters in subregulation (5) (see subsection 13.3 (3) of the *Criminal Code*).

140**Prohibited, restricted and danger areas**

- (4) The pilot in command of an aircraft must not fly the aircraft over a prohibited area.
Penalty: 25 penalty units.
- (5) The pilot in command of an aircraft must not fly the aircraft over a restricted area if the flight is not in accordance with conditions specified in the notice declaring the area to be a restricted area.
Penalty: 25 penalty units.

- (6) If the pilot in command of an aircraft finds that the aircraft is over a prohibited area or a restricted area in contravention of subregulation (4) or (5), the pilot must:
- (a) immediately have the aircraft flown to a position where it is not over the area; and
 - (b) when the aircraft reaches a position where it is not over the area, report the circumstances to air traffic control; and
 - (c) land at such aerodrome as is designated by air traffic control and, for that purpose, obey any instructions given by air traffic control as to the movement of the aircraft.

Penalty: 25 penalty units.

- (7) An offence against subregulation (4), (5) or (6) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

141 Low flying etc in flying training areas

- (1) CASA may authorise low flying or acrobatic flying over a specified part of a flying training area for the purposes of flying training.
- (2) A person must not engage in low flying or acrobatic flying in a flying training area for the purposes of flying training if the flying is not in accordance with an authorisation issued under subregulation (1).

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

143 Carriage of firearms

- (1) A person, including a flight crew member, must not carry a firearm in, or have a firearm in his or her possession in, an aircraft other than an aircraft engaged in charter operations or regular public transport operations.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the person had the written permission of CASA to have the firearm in the aircraft.

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

144 Discharge of firearms in or from an aircraft

- (1) A person, including a flight crew member, must not discharge a firearm while on board an aircraft.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if:

- (a) the person had the written permission of CASA to discharge the firearm while on board the aircraft; and
- (b) the firearm was discharged in accordance with the conditions (if any) specified in the permission.

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

145 Emergency authority

In conforming with the rules contained in the provisions of Division 2 of this Part and in the provisions of Parts 12 and 13, the pilot in command of an aircraft shall pay due regard to all dangers of navigation and collision and to any special circumstances which may render a departure from those rules necessary in order to avoid immediate danger.

146 Liability as to neglect of rules regarding lights etc.

Nothing in the rules contained in the provisions of Division 2 of this Part and in the provisions of Parts 12 and 13 shall exonerate any aircraft or the owner or hirer or pilot in command or crew thereof from the consequence of any neglect in the use of lights and signals, of any neglect to keep a proper lookout, or of the neglect of any precaution required by the ordinary practice of the air or the special circumstances of the case.

147 Australian aircraft in or over territory of a State which is not a Contracting State

When an Australian aircraft is in or over the territory of a State which is not a Contracting State, the rules contained in the provisions of Division 2 of this Part and the provisions of Parts 12 and 13 shall apply to the aircraft only in so far as those rules do not conflict with the laws of that State.

Division 2 Flight Rules**149 Towing**

- (1) Subject to this regulation, the pilot in command of an aircraft in flight shall not permit anything to be towed by the aircraft.

Penalty: 50 penalty units.

- (2) Nothing in this regulation shall prevent the reasonable use or display from an aircraft in flight of radio aerials, or any signal apparatus, equipment or article required or permitted to be displayed or used by or from an aircraft in flight in accordance with the rules contained in the provisions of this Division and in the provisions of Parts 12 and 13.

- (3) Instruments for experimental purposes may be towed if the prior approval of CASA has been given.

- (4) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) It is a defence to a prosecution under subregulation (1) if:

- (a) the pilot in command had the written permission of CASA for the towing; and
- (b) the towing was done in accordance with the directions (if any) specified in the permission.

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

150 Dropping of articles

- (1) Subject to this regulation, the pilot in command of an aircraft in flight shall not permit anything to be dropped from the aircraft.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Nothing in this regulation shall prevent:

- (a) the dropping of packages or other articles or substances:
 - (i) in the course of agricultural operations; or
 - (ii) in the course of cloud seeding operations; or
 - (iii) in the course of firefighting operations; or
 - (iv) to initiate controlled burning; or
 - (v) in the course of search and rescue operations; or
 - (vi) to deliver emergency medical supplies; or
 - (vii) to deliver emergency food supplies; or
 - (viii) in the course of other operations; in accordance with directions issued by CASA;
 - (ix) to ensure the safety of the aircraft as far as practicable; and
 - (x) to minimise hazard to persons, animals or property;
- (b) the dropping of ballast in the form of fine sand or water;

- (c) the use of apparatus solely for the purpose of navigating an aircraft where the approval of CASA to the type of apparatus and the method of use has previously been notified; or
- (d) in an emergency, the jettisoning of liquid fuel or cargo over areas where hazard to persons or property on the ground or water is not created.

151 Picking up of persons or objects

- (1) The pilot in command of an aircraft in flight must not allow persons or objects to be picked up by the aircraft.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if:
 - (a) CASA gave prior written authority for the person or object to be picked up while the aircraft was in flight; and
 - (b) the person or object was picked up in accordance with the conditions (if any) specified in the authority.

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

152 Parachute descents

- (1) A person must not make a parachute descent if the descent is not:
 - (a) authorised in writing by CASA; and
 - (b) conducted in accordance with the written specifications of CASA.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the parachute descent was a necessary emergency descent.

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

153 Flight under simulated instrument flying conditions

- (1) The pilot must not fly an aircraft under simulated instrument flying conditions if each of the following requirements is not satisfied:
 - (a) fully functioning dual controls are installed in the aircraft;
 - (b) a competent pilot occupies a control seat to act as safety pilot for the person who is flying under simulated instrument conditions and:
 - (i) the safety pilot has adequate vision forward and to each side of the aircraft; or
 - (ii) if the safety pilot's field of vision is limited, a competent observer in communication with the safety pilot occupies a position in the aircraft from which his or her field of vision supplements that of the safety pilot.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

155 Acrobatic flight

- (1) A pilot in command of an aircraft must not do any of the following:
 - (a) fly the aircraft in acrobatic flight at night;
 - (b) fly the aircraft in acrobatic flight that is not in V.M.C.;
 - (c) fly the aircraft in a particular kind of acrobatic flight if the certificate of airworthiness, or the flight manual, for the aircraft does not specify that the aircraft may perform that kind of acrobatic flight.

Penalty: 25 penalty units.

- (2) For the purposes of subregulation (1), straight and steady stalls or turns in which the angle of bank does not exceed 60 degrees shall be deemed not to be acrobatic flight.
- (3) A person must not engage in acrobatic flight in an aircraft:
 - (a) at a height lower than 3,000 feet above the highest point of the terrain, or any obstacle thereon, within a radius of 600 metres of a line extending vertically below the aircraft; or
 - (b) over a city, town, populous area, regatta, race meeting or meeting for public games or sports.

Penalty: 25 penalty units.

- (4) Before engaging in acrobatic flight, the pilot of an aircraft shall take such action as is necessary to ensure that:
 - (a) any loose articles are removed from the aircraft or made secure in the aircraft;
 - (b) all locker and compartment doors of the aircraft are fastened;
 - (c) the safety harness or seat belt of any vacant seat is made secure so as to avoid the fouling of the controls of the aircraft;

- (d) the dual controls (if any) of the aircraft are removed from the aircraft or rendered inoperative, unless the control seats are occupied in accordance with regulation 226 or the dual control seat is vacant; and
- (e) every person in the aircraft is secured with correctly adjusted safety harness or seat belt.

Penalty: 25 penalty units.

- (5) An offence against subregulation (1), (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) It is a defence to a prosecution under paragraph (3) (a) if CASA gave written permission for the acrobatic flight at that height.
- (7) It is a defence to a prosecution under paragraph (3) (b) if CASA gave written permission for the acrobatic flight over that place.

Note A defendant bears an evidential burden in relation to the matters in subregulations (6) and (7) (see subsection 13.3 (3) of the *Criminal Code*).

156 Flying over public gatherings

- (1) The pilot in command of an aircraft must not fly the aircraft over a regatta, race meeting or public gathering if:
 - (a) the pilot does not have the written permission of CASA for the flight; and
 - (b) the flight is not in accordance with the conditions specified in the permit.

Penalty: 10 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Nothing in subregulation (1) shall apply to an aircraft passing over a regatta, race meeting or public gathering in the process of:
 - (a) arriving at or departing from an aerodrome in the course of its normal navigation for so doing; or
 - (b) passing from place to place in the ordinary course of navigation.

157 Low flying

- (1) The pilot in command of an aircraft must not fly the aircraft over:
 - (a) any city, town or populous area, at a height lower than 1000 feet;
 - or
 - (b) any other area at a height lower than 500 feet.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A height specified in subregulation (1) is the height above the highest point of the terrain, and any object on it, within a radius of:

- (a) in the case of an aircraft other than a helicopter—600 metres; or
 - (b) in the case of a helicopter—300 metres;
- from a point on the terrain vertically below the aircraft .
- (3A) Paragraph 1 (a) does not apply in respect of a helicopter flying at a designated altitude within an access lane details of which have been published in the AIP or NOTAMS for use by helicopters arriving at or departing from a specified place.
- (4) Subregulation (1) does not apply if:
- (a) through stress of weather or any other unavoidable cause it is essential that a lower height be maintained; or
 - (b) the aircraft is engaged in private operations or aerial work operations, being operations that require low flying, and the owner or operator of the aircraft has received from CASA either a general permit for all flights or a specific permit for the particular flight to be made at a lower height while engaged in such operations; or
 - (c) the pilot of the aircraft is engaged in flying training and flies over a part of a flying training area in respect of which low flying is authorised by CASA under subregulation 141 (1); or
 - (d) the pilot of the aircraft is engaged in a baulked approach procedure, or the practice of such procedure under the supervision of a flight instructor or a check pilot; or
 - (e) the aircraft is flying in the course of actually taking-off or landing at an aerodrome; or
 - (f) the pilot of the aircraft is engaged in:
 - (i) a search; or
 - (ii) a rescue; or
 - (iii) dropping supplies;in a search and rescue operation; or
 - (g) the aircraft is a helicopter:
 - (i) operated by, or for the purposes of, the Australian Federal Police or the police force of a State or Territory; and
 - (ii) engaged in law enforcement operations; or
 - (h) the pilot of the aircraft is engaged in an operation which requires the dropping of packages or other articles or substances in accordance with directions issued by CASA.

158**Reports at designated points or intervals**

- (1) If radio apparatus is fitted to an aircraft, and a Flight Plan has been submitted in respect of the flight, the time and altitude of passing each reporting point designated by air traffic control, together with any other required information, shall be reported by the pilot in command by radio as soon as possible to air traffic control, and, in the absence of designated reporting points, position reports shall be made at intervals specified by air traffic control.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

159 Procedure on radio failure

- (1) If a radio failure or failure of radio navigation aid equipment precludes compliance with these Regulations, the pilot in command of the aircraft must comply with any relevant instructions issued by CASA under regulation 159A .

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

159A Power of CASA to issue instructions

CASA must issue written instructions specifying the procedures to be followed by a pilot in command of an aircraft in the event of the failure of the aircraft's radio or radio navigation aid equipment.

159B Manner of notifying instructions

Instructions issued under regulation 159A must be published in the AIP and NOTAMS.

PART 12 RULES OF THE AIR

Division 1 General

160 Interpretation

In this Division, an *overtaking aircraft* means an aircraft that approaches another aircraft from the rear on a line forming an angle of less than 70° with the plane of symmetry of the latter, that is to say, an aircraft that is in such a position with reference to another aircraft that at night it would be unable to see either of the forward navigation lights of the other aircraft.

161 Right of way

- (1) An aircraft that is required by the rules in this Division to keep out of the way of another aircraft shall avoid passing over or under the other, or crossing ahead of it, unless passing well clear.
- (2) The pilot in command of an aircraft that has the right of way must maintain its heading and speed, but nothing in the rules in this Division shall relieve the pilot in command of an aircraft from the responsibility of taking such action as will best avert collision.
Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

162 Rules for prevention of collision

- (1) When 2 aircraft are on converging headings at approximately the same height, the aircraft that has the other on its right shall give way, except that:
 - (a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons;
 - (b) airships shall give way to gliders and balloons;
 - (c) gliders shall give way to balloons; and
 - (d) power-driven aircraft shall give way to aircraft that are seen to be towing other aircraft or objects.
- (2) When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its heading to the right.
- (3) An aircraft that is being overtaken has the right-of-way and the overtaking aircraft, whether climbing, descending, or in horizontal flight, shall keep out of the way of the other aircraft by altering its heading to the right, and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from this obligation until it is entirely past and clear.
- (4) An overtaking aircraft shall not pass the aircraft that it is overtaking by diving or climbing.

- (5) An aircraft in flight, or operating on the ground or water, shall give way to other aircraft landing or on final approach to land.
- (6) When two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing, aircraft at the greater height shall give way to aircraft at the lesser height, but the latter shall not take advantage of this rule to cut-in in front of another that is on final approach to land, or overtake that aircraft.
- (7) Notwithstanding anything contained in subregulation (6), power-driven heavier-than-air aircraft shall give way to gliders.
- (8) An aircraft that is about to take-off shall not attempt to do so until there is no apparent risk of collision with other aircraft.
- (9) The pilot in command of an aircraft must give way to another aircraft that is compelled to land.
Penalty: 25 penalty units.
- (10) The pilot in command of an aircraft must comply with the rules in subregulations (1) to (8).
Penalty: 25 penalty units.
- (11) An offence against subregulation (10) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

163 Operating near other aircraft

- (1) The pilot in command of an aircraft must not fly the aircraft so close to another aircraft as to create a collision hazard.
Penalty: 50 penalty units.
- (2) The pilot in command of an aircraft must not operate the aircraft on the ground in such a manner as to create a hazard to itself or to another aircraft.
Penalty: 50 penalty units.
- (3) An offence against subregulation (1) or (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

163AA Formation flying

- (1) A pilot must not fly an aircraft in formation if each of the following requirements is not satisfied:
 - (a) each of the pilots in command is qualified to fly in formation;
 - (b) the formation is pre-arranged between the pilots in command;
 - (c) the formation flight is conducted either:
 - (i) under the Visual Flight Rules by day; or
 - (ii) under an approval given by CASA.
Penalty: 50 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Unless otherwise approved by CASA, a pilot in command is qualified for the purposes of paragraph (1) (a) only if:
- (a) the pilot has been certified by the holder of a flight instructor rating as being competent to fly in formation, being a rating that is appropriate to the category of aircraft to be flown in the formation; and
 - (b) the certification is entered in the pilot's log book.
- (3) For the purposes of this regulation, 2 or more aircraft are flown in formation if:
- (a) they are flown in close proximity to each other; and
 - (b) they operate as a single aircraft with regard to navigation, position reporting and control.
- (4) In determining whether aircraft are in close proximity to each other, regard is to be had to the type of aircraft in the formation and the speed of those aircraft.
- (5) In spite of subregulation (3), aircraft are to be taken to be in formation:
- (a) during any period when they are manoeuvring to achieve separation from each other in order to effect individual control; and
 - (b) during join-up and breakaway.

163A Responsibility of flight crew to see and avoid aircraft

When weather conditions permit, the flight crew of an aircraft must, regardless of whether an operation is conducted under the Instrument Flight Rules or the Visual Flight Rules, maintain vigilance so as to see, and avoid, other aircraft.

Division 2 Operation on and in the Vicinity of Aerodromes

164 Responsibility for compliance with rules of this Division

When operating an aircraft on or in the vicinity of an aerodrome the pilot in command shall be responsible for compliance by the aircraft with the rules contained in this Division.

165 Temporary suspension of rules

CASA may, in respect of any specified aerodrome, temporarily suspend, either wholly or in part, the application of the rules contained in this Division.

166 Operating in vicinity of a non-controlled aerodrome

- (1) For this regulation and regulation 166A, an aircraft is *in the vicinity of* a non-controlled aerodrome if it is within:
 - (a) airspace other than controlled airspace; and
 - (b) a horizontal distance of 10 miles from the aerodrome; and
 - (c) a height above the aerodrome reference point of the aerodrome that could result in conflict with operations at the aerodrome.
- (2) The pilot in command of an aircraft that is being operated in the vicinity of a non-controlled aerodrome must:
 - (a) maintain a look-out for other aerodrome traffic to avoid collision; and
 - (b) ensure that the aircraft does not cause a danger to other aircraft in the vicinity of the aerodrome; and
 - (c) conform with, or avoid, the circuit pattern; and
 - (d) unless subregulation (3) or (4) applies — when approaching the aerodrome to land, join the circuit pattern for the direction in which landing is to be undertaken on the upwind, crosswind or downwind leg; and

Note A circuit pattern has upwind, cross-wind, down-wind, base and final legs.

- (e) after joining the circuit pattern for a landing or after taking off:
 - (i) if CASA has directed for the aerodrome that all turns be made in a particular direction — make all turns in compliance with CASA's directions; or
 - (ii) if subparagraph (i) does not apply and visual signals are displayed at the aerodrome indicating a direction to make all turns — make all turns in compliance with the visual signals; or
 - (iii) in any other case — make all turns to the left; and
- (f) to the extent practicable, land and take off into the wind; and
- (g) before landing, descend in a straight line starting at least 500 metres from the threshold of the landing runway and at a distance common to the ordinary course of navigation for the aircraft type; and

- (h) after take-off, maintain the same track from the take-off until the aircraft is 500 feet above the terrain unless a change to the track is necessary for terrain avoidance.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft may carry out a straight-in approach to a non-controlled aerodrome only if:
 - (a) the aircraft is equipped with serviceable radio; and
 - (b) the pilot broadcasts the intention to do so on the VHF frequency in use at the aerodrome; and
 - (c) before starting the approach, the pilot determines wind direction and runways in use; and
 - (d) the pilot carries out all manoeuvring, to establish the aircraft on final approach, at least 5 miles from the threshold of the landing runway intended to be used; and
 - (e) the pilot gives way to any other aircraft established and flying in the circuit pattern at the aerodrome.

Penalty: 25 penalty units.

- (4) The pilot in command of an aircraft may join the circuit pattern at a non-controlled aerodrome on the base leg, for the direction in which landing is to be undertaken, only if:
 - (a) CASA has given approval to do so; and
 - (b) details of the approval have been published in AIP.

Penalty: 25 penalty units.

- (5) Paragraphs (2) (d) and (3) (b), (c) and (d) do not apply if:
 - (a) the pilot is conducting an instrument approach in I.M.C.; and
 - (b) the instrument approach procedure positions the aircraft to join the circuit other than on the upwind, cross-wind or down-wind leg of the circuit pattern.
- (6) A pilot in command may operate an aircraft in the vicinity of an uncontrolled aerodrome that is designated under regulation 166A only if:
 - (a) the aircraft has a serviceable VHF radio; or
 - (b) the operation is authorised in writing by CASA.

Penalty: 25 penalty units.

- (7) The pilot in command of an aircraft must not take the aircraft off from, or land the aircraft on, a part of a non-controlled aerodrome outside the landing area of the aerodrome.

Penalty: 25 penalty units.

- (8) An offence against subregulation (2), (3), (4), (6) or (7) is an offence of strict liability.

166A Designation — carriage of radio

- (1) CASA may designate a non-controlled aerodrome in the vicinity of which a serviceable aircraft VHF radio must be carried in aircraft.
- (2) CASA must ensure that details of a designation under subregulation (1) are published in AIP or NOTAMS.
- (3) A pilot in command of an aircraft that is operating in the vicinity of an aerodrome designated under subregulation (1) must broadcast on, and monitor, the VHF frequency in use for the aerodrome when inbound to land, before entering a runway and when in the vicinity of the aerodrome.

Penalty: 25 penalty units.

- (4) An offence against subregulation (3) is an offence of strict liability.
- (5) It is a defence to a prosecution under subregulation (4) if the defendant had a reasonable excuse.

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

167 Operation on or in the vicinity of a controlled aerodrome

- (1) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome must:
 - (a) maintain a lookout for other aerodrome traffic to avoid collision; and
 - (b) either:
 - (i) maintain a continuous listening watch on the radio frequency authorised for communications with aerodrome control service at the aerodrome; or
 - (ii) if that is not possible, keep a watch for any instructions given by visual signals; and
 - (c) obtain, either by radio or visual signals, prior authorisation from the air traffic control service for the aerodrome for any manoeuvre preparatory to, or associated with, taxiing, landing or taking off of the aircraft; and
 - (d) unless otherwise instructed by air traffic control:
 - (i) to the extent practical, land and take off into the wind; and
 - (ii) before landing, descend in a straight line starting at least 500 metres from the threshold of the landing runway and at a distance common to the ordinary course of navigation for the aircraft type; and
 - (iii) after take-off, maintain the same track from the take-off until the aircraft is 500 feet above the terrain unless a change to the track is necessary for terrain avoidance; and
 - (iv) make all turns to the left when approaching for a landing or after take-off.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

168 Aerodromes at which the operation of aircraft is not restricted to runways

- (1) Subject to this regulation, at aerodromes where the operation of aircraft is not restricted to prepared runways, the pilot in command of an aircraft must, as far as possible, observe the following rules when landing and taking off:
- (a) aircraft, when landing, shall land on the right of any aircraft which has already landed or is about to land, or which is taking-off or about to take-off;
 - (b) aircraft, when taking-off, shall take-off on the right of any aircraft which is already taking-off;
 - (c) aircraft, when landing or taking-off, shall leave a reasonable space on the right for other aircraft to land or take-off;
 - (d) aircraft, when manoeuvring on the ground, shall normally do so in the direction of landing, but aircraft may cross the landing area if, in the course of the crossing, all turns are made to the left and the aircraft gives free way to all aircraft landing and taking-off.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) The rules specified in paragraphs (1) (a), (b), (c) and (d) do not apply at an aerodrome at which they would otherwise apply:
- (a) where CASA has directed that those rules are not to apply at that aerodrome;
 - (b) where a person performing duty in air traffic control has, by radio, directed that those rules are not to apply at that aerodrome; or
 - (c) where a right-handed arrow of conspicuous colour is displayed in the signal area or at the end of the runway or strip in use at that aerodrome.
- (3) At an aerodrome at which a ground signal of the kind referred to in paragraph (2) (c) is displayed, aircraft, when landing and taking-off, as far as possible shall observe the rules specified in paragraphs (1) (a), (b) and (c) as if the references in those paragraphs to “the right” were references to “the left” and shall observe the rule specified in paragraph (1) (d) as if the reference in that paragraph to “the left” was a reference to “the right”.

169 Preventing collisions on water

- (1) The pilot in command of an aircraft in flight, or in the process of manoeuvring near the surface of the water, must, as far as possible:
- (a) keep clear of all vessels; and
 - (b) not impede their navigation.

Penalty: 25 penalty units.

- (2) Subject to this regulation, the pilot in command of an aircraft on the water must comply with the International Regulations for Preventing Collisions at Sea as set out in Schedule 3 to the *Navigation Act 1912*.

Penalty: 25 penalty units.

- (3) In conforming with the International Regulations for Preventing Collisions at Sea, the pilot in command of an aircraft must give due regard to the fact that in narrow channels stem vessels cannot manoeuvre to avoid collision, and must, as far as possible:

- (a) keep clear of such vessels; and
- (b) not impede their navigation.

Penalty: 25 penalty units.

- (4) Notwithstanding anything contained in the International Regulations for Preventing Collisions at Sea, the pilot in command of an aircraft must observe the following rules with respect to other aircraft and vessels:

- (a) when aircraft, or an aircraft and a vessel are approaching one another and there is a risk of collision, the aircraft shall proceed with careful regard to existing circumstances and conditions including the limitations of the respective craft;
- (b) an aircraft which is converging with another aircraft or a vessel on its right shall give way so as to keep well clear of that aircraft or vessel;
- (c) an aircraft approaching another aircraft or a vessel head-on, or approximately head-on, shall alter its heading to the right so as to keep well clear of that aircraft or vessel;
- (d) an aircraft or vessel which is being overtaken has the right of way, and the one overtaking shall alter its heading to keep well clear of the aircraft or vessel being overtaken.

Penalty: 25 penalty units.

- (5) At a water aerodrome which is a controlled aerodrome, the following additional rules shall apply :

- (a) the pilot in command of an aircraft must not take off or alight if the alighting area:
 - (i) has not been swept; or
 - (ii) is not clear of floating debris dangerous to the navigation of the aircraft;
- (b) the pilot in command of an aircraft shall ensure that operations are conducted on the swept part of a water aerodrome by commencing his or her take-off or landing run from such a position that the control launch is on his or her left at no greater distance than seventy-five yards.

Penalty: 25 penalty units.

- (5A) Paragraph (5) (a) does not apply in an emergency to an aircraft landing in the safest part of the alighting area without delay.

- (5B) An offence against subregulation (1), (2), (3), (4) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(6) At a water aerodrome which is a controlled aerodrome, the swept part of an alighting area shall be indicated by the control launch which shall take up position at the leeward and on the left side of the area and shall head into the direction of an aircraft taking-off or landing.

Division 3 Visual Flight Rules

170 Interpretation

In this Division, *flight level 200*, in relation to a time and place, means such a height above the ground or water that, if an aircraft were flying at that height at that time and place and had an altimeter adjusted to a reading on the sub-scale of 1013.2 millibars, the altimeter would show a height of 20,000 feet.

171 V.F.R. flight

- (1) A flight conducted in accordance with the provisions of this Division is classed as a flight under the Visual Flight Rules.
- (2) Where an aircraft cannot be flown in accordance with the Visual Flight Rules, the pilot in command shall comply with the Instrument Flight Rules contained in Division 4 of this Part or land at the nearest suitable aerodrome.
Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

172 Flight visibility and distance from cloud

- (1) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height of, or less than, 2 000 feet above ground or water if:
 - (a) the pilot is not able to navigate by reference to the ground or water; and
 - (b) CASA has not directed that the flight may be conducted at a height of 2 000 feet or less.
 Penalty: 50 penalty units.
- (2) Subject to subregulation (4), the pilot in command must not conduct a V.F.R. flight if:
 - (a) the flight visibility during that flight is not equal to or greater than the applicable distance determined by CASA; and
 - (b) the vertical and horizontal distances from cloud are not equal to or greater than the applicable distances determined by CASA.
 Penalty: 50 penalty units.
- (2AA) An offence against subregulation (1) or (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2A) CASA may determine applicable distances for the purposes of subregulation (2).
- (2B) CASA must notify the distances determined under subregulation (2A) in AIP or NOTAMS.

- (3) When determining applicable distances, CASA may do so by reference to a class of airspace.
- (4) In spite of subregulation (2), the pilot in command of an aircraft may conduct a special V.F.R. flight if:
 - (a) air traffic control gives permission for the flight; and
 - (b) the flight is conducted in accordance with any conditions to which the permission is subject.
- (5) In this regulation:

special V.F.R. flight means a V.F.R. flight:

 - (a) conducted in a control zone; or
 - (b) conducted in a control area next to a control zone for the purpose of entering or leaving the zone;when the flight visibility or distances from cloud are less than the applicable distances determined under subregulation (2).

173 Cruising level to be appropriate to magnetic track

- (1) When a V.F.R. flight is conducted at a height of 5,000 feet or more above mean sea level, the pilot in command must, subject to any contrary air traffic control instructions, ensure that the cruising level of the aircraft is appropriate to its magnetic track.

Penalty: 25 penalty units.
- (2) When a V.F.R. flight is conducted at a height less than 5,000 feet above mean sea level, the pilot in command must, subject to any contrary air traffic control instructions, ensure that the cruising level of the aircraft is, whenever practicable, appropriate to its magnetic track.

Penalty: 25 penalty units.
- (2A) CASA must notify in AIP or NOTAMS the cruising levels appropriate to an aircraft's magnetic track.
- (3) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height above flight level 200 if the pilot does not have CASA's approval to conduct the flight at a height above that level.

Penalty: 25 penalty units.
- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

174 Determination of visibility for V.F.R. flights

- (1) Flight visibility shall be determined by the pilot in command from the cockpit of the aircraft while in flight.
- (3) Subject to regulation 257, the pilot in command of an aircraft operating under the Visual Flight Rules is responsible for determining the visibility for the take-off and landing of the aircraft.

- (4) In determining visibility for the purposes of this regulation, the pilot in command shall take into account the meteorological conditions, sunglare and any other condition that may limit his or her effective vision through his or her windscreen.

174A Equipment of aircraft for V.F.R. flight

- (1) CASA may issue instructions specifying:
- (a) the radiocommunication systems; or
 - (b) the radio navigation systems; or
 - (c) the secondary surveillance radar transponder equipment;
- that must be carried on, or installed in, an aircraft before it undertakes a V.F.R. flight.

- (1A) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. if the aircraft is not equipped with:
- (a) suitable flight instruments as directed by CASA; and
 - (b) the equipment specified in instructions issued under subregulation (1) in relation to the aircraft.

Penalty: 25 penalty units.

- (1B) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
- (a) served on the person; or
 - (b) published in NOTAMS or AIP.

- (1C) An instruction under subregulation (1) that is not issued in the form of a Civil Aviation Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

- (2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. at night if, in addition to the equipment referred to in subregulation (1A), it is not also equipped with:

- (a) a landing light;
- (b) illumination for all instruments and equipment used by the flight crew, being instruments and equipment that are essential for the safe operation of the aircraft;
- (c) lights in all passenger compartments;
- (d) an electric torch for each crew member; and
- (e) such other equipment as CASA directs in the interests of safety.

Penalty: 25 penalty units.

- (3) In respect of an aircraft that is not equipped as referred to in subregulation (1A), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown under the V.F.R.
- (4) In respect of an aircraft that is not equipped as referred to in subregulation (2), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown at night under the V.F.R.
- (5) The pilot in command of an aircraft must not fly the aircraft in contravention of a condition of a permission given under this regulation.
Penalty: 25 penalty units.
- (6) An offence against subregulation (1A), (2) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

174B V.F.R. flights at night

- (1) The pilot in command of an aircraft must not fly the aircraft at night under the V.F.R. at a height of less than 1 000 feet above the highest obstacle located within 10 miles of the aircraft in flight if it is not necessary for take-off or landing.
Penalty: 25 penalty units.
- (2) The pilot in command of a single engine aircraft must not fly the aircraft at night under the V.F.R. if the flight is not in one of the following operations:
 - (a) private operations;
 - (b) aerial work operations;
 - (c) charter operations that do not involve the carrying of passengers for hire or reward;
 - (d) charter operations that involve the carrying of passengers for hire or reward, if:
 - (i) the operator is approved in writing by CASA to conduct the operations; and
 - (ii) the operations are conducted in a turbine powered aeroplane approved in writing by CASA for those operations.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) It is a defence to a prosecution under subregulation (1) if CASA gave permission for the flight.

Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

174C Qualifications for night flying under V.F.R.

- (1) Subject to this regulation, a person other than:
- (a) in the case of agricultural operations—the holder of a licence on which a night V.F.R. agricultural rating has been endorsed; or
 - (b) in the case of any other flight—the holder of a licence on which a night V.F.R. rating has been endorsed; or
 - (c) a student pilot, or holder of a private pilot licence, a commercial pilot licence or an air transport pilot licence, permitted under Part 5 to fly an aircraft in a traffic pattern at night under the V.F.R.;
- shall not fly an aircraft at night under the V.F.R.

Penalty: 25 penalty units.

- (1A) A pilot who holds a licence on which an instrument rating for a category of aircraft has been endorsed may fly an aircraft of the same category at night under the V.F.R.:

- (a) using the types of navigation aids endorsed in the pilot's log book for use with that rating; and
- (b) subject to compliance with any conditions that CASA issues in Civil Aviation Orders in relation to aeronautical experience and recent experience.

- (1B) CASA may give directions in Civil Aviation Orders setting out conditions for paragraph (1A) (b).

- (1C) A pilot must not contravene a direction under subregulation (1B).

Penalty: 25 penalty units.

- (2) CASA may give a pilot who does not hold a licence on which a night V.F.R. rating or a night V.F.R. agricultural rating has been endorsed permission to fly an aircraft at night under the V.F.R. on such terms and conditions as CASA may direct.

Penalty: 25 penalty units.

- (2A) A pilot to whom permission has been given must not contravene a term or condition of the permission.

Penalty: 25 penalty units.

- (3) In this regulation, a reference to flying an aircraft includes a reference to conducting a flight as pilot in command.

- (4) An offence against subregulation (1), (1C) or (2A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

174D Navigation of aircraft on V.F.R. flight

- (1) CASA may issue instructions in relation to V.F.R. flights specifying:
- (a) the method by which an aircraft is to be navigated; or
 - (b) how a positive position fix for an aircraft is to be obtained; or
 - (c) how often a positive position fix is to be obtained.
- (2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. if it is not equipped:
- (a) for navigation; and
 - (b) to obtain positive position fixes;
- in accordance with instructions issued under subregulation (1).
Penalty: 25 penalty units.
- (2A) An offence against subregulation (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
- (a) served on the person; or
 - (b) published in NOTAMS or AIP.
- (3A) An instruction under subregulation (1) that is not issued in the form of a Civil Aviation Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) CASA may give permission, subject to the conditions specified in the permission, for an aircraft to be flown under the V.F.R if the aircraft is not equipped as required under subregulation (2).

Division 4 Instrument Flight Rules**175 I.F.R. flight**

- (1) A flight conducted in accordance with the provisions of this Division is classed as a flight under the Instrument Flight Rules.
- (2) Subject to subregulation (3), the pilot in command of an aircraft that is flying in weather conditions other than V.M.C. must comply with the I.F.R.
Penalty: 25 penalty units.
- (3) Subregulation (2) does not apply to a pilot in command of an aircraft that is flying for the purpose of landing at the nearest suitable aerodrome under subregulation 171 (2).
- (4) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

175A Restriction on I.F.R. flights by single engine aircraft

- (1) The pilot in command of a single engine aircraft must not fly the aircraft under the I.F.R. if the flight is not in one of the following operations:
 - (a) private operations;
 - (b) aerial work operations;
 - (c) charter operations that do not involve the carrying of passengers for hire or reward;
 - (d) charter or regular public transport operations that involve the carrying of passengers for hire or reward, if:
 - (i) the operator is approved in writing by CASA to conduct the operations; and
 - (ii) the operations are conducted in a turbine powered aeroplane approved in writing by CASA for those operations.
Penalty: 25 penalty units.
- (2) CASA may issue directions to an operator to ensure that any of the following matters do not affect the safety of a regular public transport operation to which paragraph (1) (d) refers:
 - (a) seasonal influences;
 - (b) the conduct of operations by night;
 - (c) adverse weather patterns;
 - (d) the terrain below, or in the proximity of, the route used in the operation.
- (3) An operator who is bound by a direction must not contravene it.
Penalty: 10 penalty units.
- (4) A direction under subregulation (2) does not bind an operator until it is served on the operator.

- (5) An offence against subregulation (1) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

176 Qualification of pilot in command

- (1) The pilot in command of an aircraft must not fly the aircraft under the I.F.R. unless he or she holds:
- (a) an instrument rating; or
 - (b) a private I.F.R. rating.
- (2) Notwithstanding anything contained in this regulation, CASA may give the pilot in command of an aircraft who does not hold an instrument rating permission to conduct a flight under Instrument Flight Rules on such terms as CASA may designate.
- (2A) A pilot in command to whom permission has been given must not contravene a term of the permission.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) It is a defence to a prosecution under subregulation (2A) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

176A Determination of visibility and cloud base for I.F.R. flights

- (1) Subject to regulation 257, the pilot in command of an aircraft operating under the Instrument Flight Rules is responsible for determining the visibility and cloud base for the take-off and landing of the aircraft.
- (2) In determining visibility, the pilot in command of an aircraft must take into account the meteorological conditions, sun glare and any other condition that may limit his or her effective vision through the windscreen of the cockpit of the aircraft.
- (3) In determining the cloud base, the pilot in command of an aircraft must:
- (a) for take-off—take into account the current available weather forecasts and reports; and
 - (b) for landing—determine the cloud base from the cockpit of the aircraft while in flight.

177 Equipment of aircraft for I.F.R. flight

- (1) CASA may issue instructions specifying:
- (a) the radiocommunication systems; or
 - (b) the radio navigation systems; or
 - (c) the secondary surveillance radar transponder equipment; or

- (d) the airborne weather radar system; or
 - (e) the self-contained or long-range radio navigation systems;
- that must be carried on, or installed in, an aircraft before it undertakes an I.F.R. flight.
- (1A) Subject to subregulation (3), an aircraft must not be flown under the I.F.R. unless it is equipped with:
 - (a) suitable flight instruments as required by CASA; and
 - (b) the equipment specified under subregulation (1) in relation to the aircraft.
 - (1B) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
 - (a) served on the person; or
 - (b) published in NOTAMS or AIP.
 - (1C) An instruction under subregulation (1) that is not issued in the form of a Civil Aviation Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
 - (2) Subject to subregulation (4), an aircraft shall not be flown under the Instrument Flight Rules by night, unless, in addition to the equipment referred to in subregulation (1A), it is equipped with:
 - (a) 2 landing lights;
 - (b) illumination for all instruments and equipment, used by the flight crew, that are essential for the safe operation of the aircraft;
 - (c) lights in all passenger compartments;
 - (d) an electric torch for each crew member; and
 - (e) such other equipment as CASA requires in the interest of safety.
 - (3) In respect of an aircraft that is not equipped as referred to in subregulation (1A), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown under the I.F.R.
 - (4) In respect of an aircraft that is not equipped as referred to in subregulation (2), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown at night under the I.F.R.
 - (5) The pilot in command of an aircraft to which subregulation (3) or (4) applies must not fly the aircraft in contravention of a condition specified in the permission.
Penalty: 25 penalty units.
 - (6) An offence against subregulation (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

178 Minimum height for flight under I.F.R.

- (1) Subject to subregulation (4), the pilot in command of an aircraft flown along a route segment for which there is a published lowest safe altitude must not fly the aircraft at a height lower than the published lowest safe altitude.

Penalty: 50 penalty units.

- (2) Subject to subregulation (4), the pilot in command of an aircraft flown along a route segment for which there is no published lowest safe altitude must not fly the aircraft at a height lower than the lowest safe altitude calculated in accordance with a method for determining a lowest safe altitude that is determined by CASA under subregulation (6).

Penalty: 50 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

- (4) An aircraft may be flown along a route segment at a height less than the height that is applicable under subregulation (1) or (2):

- (a) during take-off or landing; or
- (b) during arrival or departure, if the aircraft is being flown:
 - (i) at a safe height above the terrain; and
 - (ii) in accordance with any instructions published in AIP; or
- (c) during an authorised instrument departure procedure or authorised instrument approach procedure; or
- (d) if the aircraft is being flown by day in V.M.C.; or
- (e) if the aircraft is being flown in accordance with instructions from air traffic control.

- (5) This regulation has effect subject to regulation 157.

- (6) For the purposes of these Regulations, CASA may, in writing, determine any or all of the following:

- (a) a method of calculating a lowest safe altitude;
- (b) an instrument approach procedure;
- (c) an instrument departure procedure.

- (7) In this regulation:

arrival means the time during which an aircraft is descending for a landing at a rate that is reasonable under the circumstances.

authorised instrument approach procedure means an instrument approach procedure that:

- (a) either:
 - (i) is designed by a certified designer or authorised designer; and
 - (ii) is published in the AIP or given to CASA under Part 173 of CASR; or
- (b) is determined by CASA under subregulation (6).

authorised instrument departure procedure means an instrument departure procedure that:

- (a) either:
 - (i) is designed by a certified designer or authorised designer; and
 - (ii) is published in the AIP or given to CASA under Part 173 of CASR; or
- (b) is determined by CASA under subregulation (6).

departure means the time during which an aircraft is climbing after take-off at a rate that is reasonable under the circumstances.

published lowest safe altitude means a lowest safe altitude that:

- (a) is calculated in accordance with a method determined by CASA under subregulation (6); and
- (b) is published in the AIP or NOTAMS.

179 Authorised instrument approach procedures to be used

- (1) The pilot in command of an aircraft when conducting an I.F.R. flight must follow the authorised instrument approach procedures (within the meaning of regulation 178) for the aerodromes used.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if air traffic control authorised the pilot not to follow the instrument approach procedures for the aerodrome.

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

179A Navigation of aircraft on I.F.R. flight

- (1) CASA may issue instructions in relation to I.F.R. flights specifying:
 - (a) the method by which an aircraft is to be navigated; or
 - (b) how a positive position fix for an aircraft is to be obtained; or
 - (c) how often a positive position fix is to be obtained.
- (2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the I.F.R. if it is not equipped:
 - (a) for navigation; and
 - (b) to obtain positive position fixes;in accordance with instructions issued under subregulation (1).
Penalty: 25 penalty units.
- (2A) An offence against subregulation (2) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
 - (a) served on the person; or
 - (b) published in NOTAMS or AIP.
- (3A) An instruction under subregulation (1) that is not issued in the form of a Civil Aviation Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) CASA may give permission, subject to the conditions specified in the permission, for an aircraft to be flown under the I.F.R. if the aircraft is not equipped as required under subregulation (2).

180 Cruising levels for I.F.R. flights

- (1) The pilot in command of an aircraft being flown under the I.F.R. must fly the aircraft:
 - (a) within controlled airspace—at a cruising level authorised for the flight by air traffic control; or
 - (b) outside controlled airspace—at a cruising level appropriate to its magnetic track as notified by CASA in Aeronautical Information Publications.Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

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181 Flight procedure for I.F.R. flight where cruising level cannot be maintained

- (1) If an aircraft conducting an I.F.R. flight is unable for any reason to comply with the requirements of paragraph 180 (b), the pilot in command shall:
- (a) notify air traffic control of the cruising level at which the aircraft is flying and of all subsequent changes of that level; and
 - (b) in the event of the risk of a collision with another aircraft which is complying with that regulation, give way to that aircraft or fly at a cruising level authorised by that regulation until the other aircraft is past and clear.

Penalty: 10 penalty units

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

Division 5 **Operations in RVSM airspace****Subdivision 1** **Preliminary****181A** **What this Division does**

This Division sets out the requirements for getting an RVSM airworthiness approval or an RVSM operational approval and provides for the administrative control of such approvals.

181B **Definitions for this Division**

In this Division:

Australian operator means an operator whose principal place of business, or whose place of permanent residence, is in Australian territory.

181C **What is an RVSM airworthiness approval?**

An RVSM airworthiness approval is an approval given, under regulation 181G, for an Australian aircraft indicating that it is suitable to be operated in RVSM airspace.

181D **What is an RVSM foreign airworthiness approval?**

An RVSM foreign airworthiness approval is an approval (however described) given for a foreign aircraft by the competent authority of the country in which the aircraft is registered indicating that the aircraft is suitable to be operated in RVSM airspace.

181E **What is an RVSM operational approval?**

An RVSM operational approval is an approval given, under regulation 181M, to an Australian operator approving the operator to operate the aircraft covered by the approval in RVSM airspace.

Subdivision 2 **RVSM airworthiness approvals****181F** **Application for RVSM airworthiness approval**

- (1) The operator of an Australian aircraft may apply to CASA for an RVSM airworthiness approval for the aircraft.
- (2) An application must be in writing and must be accompanied by:
 - (a) documents that identify the aircraft; and
 - (b) enough information to show that the aircraft is equipped with the following:
 - (i) 2 independent altitude measurement systems;
 - (ii) a secondary surveillance radar transponder that has an altitude-reporting system that can be switched to operate from either of the altitude measurement systems;
 - (iii) an altitude alert system;
 - (iv) an automatic altitude control system; and

- (c) enough information to show that the equipment mentioned in paragraph (b) meets the requirements of ICAO Doc. 9574-AN/934; and
 - (d) enough information to show that the aircraft is of a type that meets the requirements of ICAO Doc. 9574-AN/934.
- (3) If CASA reasonably needs more information to enable it to consider an application, CASA may give the applicant a written notice asking for the information that:
- (a) is described in the notice; and
 - (b) is in the possession, or control, of the applicant.
- (4) CASA may refuse or cease to consider the application until the applicant complies with the notice.

181G RVSM airworthiness approval

- (1) CASA must approve an application for an RVSM airworthiness approval for an Australian aircraft if:
- (a) the aircraft is equipped with the equipment mentioned in paragraph 181F (2) (b); and
 - (b) the equipment meets the requirements of ICAO Doc. 9574-AN/934; and
 - (c) the aircraft is of a type that meets the requirements of ICAO Doc. 9574-AN/934.
- (2) CASA must give the applicant written notice setting out:
- (a) its decision about the applicant's application; and
 - (b) any other information CASA thinks should be included.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181H How long RVSM airworthiness approvals remain in force

- (1) An RVSM airworthiness approval remains in force until it is cancelled.
- (2) However, an RVSM airworthiness approval is not in force during any period of suspension.

181I Notice to RVSM airworthiness approval holder to show cause

- (1) CASA may give the holder of an RVSM airworthiness approval a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the cancellation of the approval under regulation 181J.
- (2) A show cause notice must:
- (a) tell the holder of the facts and circumstances that, in CASA's opinion, would justify the cancellation of the approval under regulation 181J; and
 - (b) invite the holder to show in writing, within a reasonable time stated in the notice, why the approval should not be cancelled.

- (3) A show cause notice may state that the approval is suspended if CASA reasonably considers that there may be a serious risk to aviation safety if the approval were not suspended.
- (4) If a show cause notice states that the approval is suspended, the approval is suspended from when the notice is given to the holder.
- (5) CASA may at any time revoke the suspension.
- (6) If the approval is suspended and CASA has not dealt with it under regulation 181J within the period of 90 days after the day it is suspended, the suspension lapses at the end of that period.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181J Cancellation of RVSM airworthiness approval

- (1) CASA may cancel an RVSM airworthiness approval by written notice given to its holder if:
 - (a) CASA has given the holder a show cause notice under regulation 181I in relation to it; and
 - (b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and
 - (c) there are reasonable grounds for believing that the aircraft covered by the approval:
 - (i) does not meet, or continue to meet, a requirement of this Division for the approval; or
 - (ii) is no longer capable of being operated safely in RVSM airspace because of inaccurate or unreliable height-keeping caused by the failure, or malfunctioning, of any of the aircraft's equipment mentioned in paragraph 181F (2) (b).
- (2) If CASA has given a show cause notice under regulation 181I to the holder of an RVSM airworthiness approval and it decides not to cancel the approval, it:
 - (a) must tell the holder in writing of the decision; and
 - (b) must, if the approval is suspended under that regulation, revoke the suspension.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181K Cancellation at request of holder

- (1) Despite anything else in this Subdivision, CASA must cancel an RVSM airworthiness approval if asked, in writing, by its holder to do so.
- (2) The cancellation takes effect when the request is given to CASA, or if a later day is stated in the request, on the later day.

*Subdivision 3 RVSM operational approvals***181L Application for RVSM operational approval**

- (1) An Australian operator may apply to CASA for an RVSM operational approval.
- (2) An application must be in writing and must be accompanied by:
 - (a) a list of the RVSM airworthiness approved aircraft that are proposed to be covered by the approval; and
 - (b) a written description of the program proposed by the applicant to ensure the continued airworthiness for operations in RVSM airspace of the aircraft while they are used in those operations; and
 - (c) a written description of the training program proposed by the applicant for the members of the applicant's flight crew who will carry out operations in RVSM airspace.
- (3) If CASA reasonably needs more information to enable it to consider an application, CASA may give the applicant a written notice asking for the information that:
 - (a) is described in the notice; and
 - (b) is in the possession, or control, of the applicant.
- (4) CASA may refuse or cease to consider the application until the applicant complies with the notice.

181M RVSM operational approval

- (1) CASA must approve an application for an RVSM operational approval if:
 - (a) each aircraft to be covered by the approval is an RVSM airworthiness approved aircraft; and
 - (b) the applicant has a program for the continued airworthiness for operations in RVSM airspace of the aircraft to ensure that they will continue to meet the requirements of ICAO Doc. 9574-AN/934 while they are used in those operations; and
 - (c) the applicant has a training program for the members of the flight crew of the aircraft to ensure that the members are adequately trained to carry out operations in RVSM airspace.
- (2) CASA must give the applicant written notice setting out:
 - (a) its decision about the applicant's application; and
 - (b) any other information CASA thinks should be included.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181N How long RVSM operational approvals remain in force

- (1) An RVSM operational approval remains in force until it is cancelled.
- (2) However, an RVSM operational approval is not in force during any period of suspension.

181O Notice to RVSM operational approval holder to show cause

- (1) CASA may give the holder of an RVSM operational approval a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the cancellation of the approval under regulation 181P.
- (2) A show cause notice must:
 - (a) tell the holder of the facts and circumstances that, in CASA's opinion, would justify the cancellation of the approval under regulation 181P; and
 - (b) invite the holder to show in writing, within a reasonable time stated in the notice, why the approval should not be cancelled.
- (3) A show cause notice may state that the approval is suspended if CASA reasonably considers that there may be a serious risk to aviation safety if the approval were not suspended.
- (4) If a show cause notice states that the approval is suspended, the approval is suspended from when the notice is given to the holder.
- (5) CASA may at any time revoke the suspension.
- (6) If the approval is suspended and CASA has not dealt with it under regulation 181P within the period of 90 days after the day it is suspended, the suspension lapses at the end of that period.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181P Cancellation of RVSM operational approval

- (1) CASA may cancel an RVSM operational approval by written notice given to its holder if:
 - (a) CASA has given the holder a show cause notice under regulation 181O in relation to it; and
 - (b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and
 - (c) there are reasonable grounds for believing that the holder:
 - (i) has contravened regulation 181S, 181T, 181U or 181V; or
 - (ii) does not meet, or continue to meet, a requirement of this Division for getting the approval; or
 - (iii) is no longer able to operate an aircraft covered by the approval safely in RVSM airspace because of inaccurate or unreliable height-keeping caused by the failure, or malfunctioning, of any of the aircraft's equipment mentioned in paragraph 181F (2) (b); or

- (iv) is no longer able to carry out operations in RVSM airspace safely because of inaccurate or unreliable height-keeping by members of the holder's flight crew during those operations.
- (2) If CASA has given a show cause notice under regulation 181O to the holder of an RVSM operational approval and it decides not to cancel the approval, it:
 - (a) must tell the holder in writing of the decision; and
 - (b) must, if the approval is suspended under that regulation, revoke the suspension.

Note Regulation 297A provides for review of certain decisions by the Administrative Appeals Tribunal.

181Q Removal of aircraft from RVSM operational approval — cancellation of airworthiness approval

- (1) In this regulation:
 - airworthiness approval* means:
 - (a) an RVSM airworthiness approval; or
 - (b) an RVSM foreign airworthiness approval.
- (2) If an RVSM operational approval covers an aircraft whose airworthiness approval is cancelled by the issuing authority, CASA:
 - (a) must cancel the RVSM operational approval; and
 - (b) must (unless the airworthiness approvals of all the aircraft covered by the RVSM operational approval are cancelled) give a new RVSM operational approval covering the remaining aircraft.
- (3) A new RVSM operational approval given under paragraph (2) (b) takes effect on the cancellation of the replaced RVSM operational approval.
- (4) If CASA cancels an RVSM operational approval under paragraph (2) (a), it:
 - (a) must give written notice of the cancellation, setting out the date of the cancellation, to the holder of the approval; and
 - (b) must, if it replaces the approval under paragraph (2) (b), include in the notice a statement to that effect.

181QA Removal of aircraft from RVSM operational approval — holder ceasing to operate aircraft

- (1) If the holder of an RVSM operational approval ceases to be the operator of an aircraft covered by the RVSM operational approval, the holder must tell CASA, in writing, as soon as practicable.
- (2) After receiving information under subregulation (1), CASA:
 - (a) must cancel the RVSM operational approval; and
 - (b) must (unless no other aircraft are covered by the RVSM operational approval) give a new RVSM operational approval covering the remaining aircraft.

- (3) CASA must give the holder written notice of the cancellation, and the new approval (if any), setting out:
 - (a) the date of the cancellation; and
 - (b) any other information CASA thinks should be included.
- (4) A new RVSM operational approval given under paragraph (2) (b) takes effect on the cancellation of the replaced RVSM operational approval.

181R Cancellation at request of holder

- (1) Despite anything else in this Subdivision, CASA must cancel an RVSM operational approval if asked, in writing, by its holder to do so.
- (2) The cancellation takes effect when the request is given to CASA, or if a later day is stated in the request, on the later day.

181S Requirements of Australian operator using Australian aircraft

The holder of an RVSM operational approval must not permit an Australian aircraft used by the holder to begin a flight during which the aircraft may fly in RVSM airspace unless:

- (a) the approval covers the aircraft; and
- (b) an RVSM airworthiness approval is in force for the aircraft; and
- (c) the aircraft is equipped with the equipment mentioned in paragraph 181F (2) (b); and
- (d) the equipment is functioning properly; and
- (e) each member of the flight crew of the aircraft has satisfactorily completed the training program mentioned in paragraph 181M (1) (c).

181T Requirements of Australian operator using foreign aircraft

The holder of an RVSM operational approval must not permit a foreign aircraft used by the holder to fly into Australian territory on a flight, or begin a flight in Australian territory, during which the aircraft may fly in RVSM airspace over Australian territory unless:

- (a) the approval covers the aircraft; and
- (b) an RVSM foreign airworthiness approval is in force for the aircraft; and
- (c) the aircraft is equipped with the equipment mentioned in paragraph 181F (2) (b); and
- (d) the equipment is functioning properly; and
- (e) each member of the flight crew of the aircraft has satisfactorily completed the training program mentioned in paragraph 181M (1) (c).

181U Monitoring height-keeping

The holder of an RVSM operational approval must comply with the requirements for monitoring height-keeping in RVSM operations mentioned in the Pacific RVSM Minimum Monitoring Requirements issued by the Asia Pacific Approvals Registry and Monitoring Organisation and approved by decision of the Council of the International Civil Aviation Organisation, as in force from time to time.

181V Telling CASA about cancellation of RVSM foreign airworthiness approval

If the RVSM foreign airworthiness approval of a foreign aircraft used by an Australian operator is cancelled by the issuing authority, the operator must tell CASA in writing as soon as practicable.

Subdivision 4 Miscellaneous

181X New registration marks

If an RVSM airworthiness approval or RVSM operational approval identifies an Australian aircraft by reference to a registration mark (the *old registration mark*) that has been replaced with a new registration mark, the reference in the approval to the old registration mark is taken to be a reference to the new registration mark.

PART 13 SIGNALS FOR THE CONTROL OF AIR TRAFFIC

Division 1 Aerodrome Traffic

182 Use of prescribed signals

- (1) A person must not use a signal prescribed in this Part for a purpose that is not the purpose prescribed in this Part for that signal.

Penalty: 25 penalty units.

- (2) A person must not use a signal that is:
- (a) not prescribed in this Part; and
 - (b) likely to be confused with a signal prescribed in this Part.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

183 Responsibility for complying with this Part

- (1) The pilot in command of an aircraft being operated on or in the vicinity of an aerodrome shall comply with signals and instructions given in accordance with this Part and with the rules and other provisions contained in this Part.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

184 Two-way radiotelephony communication

- (1) Where aerodromes are equipped with two-way radiotelephony apparatus, air traffic control shall give control instructions by this means to all aircraft equipped to receive radiotelephony messages.

- (2) All such communication between aircraft and air traffic control shall be in the English language:

Provided that:

- (a) when authorised by CASA in exceptional cases and if air traffic control personnel are available who can intelligibly speak both the English language and the other language concerned; or
- (b) when the owner or operator of the aircraft has furnished properly qualified personnel who can intelligibly speak both the English language and the language concerned and they are available to assist air traffic control in communicating with the aircraft;

the communications may be made in the language concerned.

185 Visual signals

- (1) Where control by the means referred to in regulation 184 is not available, the appropriate visual signals prescribed by this Part may be used.
- (2) Nothing in this regulation shall prevent any combination of radiotelephony signals and visual signals being used at any aerodrome, but a visual signal shall not be used in any case where it is possible to use radiotelephony.

186 Pilot in command to maintain look out for visual signals

Where radio communication is being used, the pilot in command of an aircraft shall not thereby be relieved of the responsibility of keeping a look out for any instructions which may be issued by visual means.

187 Light signals

- (1) A light signal directed at a particular aircraft from air traffic control at an aerodrome has, both by day and by night, the meaning specified in relation to the signal in Aeronautical Information Publications.
- (2) Light signals directed from an aircraft to air traffic control at an aerodrome have the following meaning:
 - (a) a green light (made by signalling apparatus or pyrotechnics, but not by navigation lights) means:
 - (i) by day—that the aircraft wishes to land in other than the direction authorised; and
 - (ii) by night—that the aircraft wishes to land, although not compelled to do so;
 - (b) a steady white light directed downward until the landing is made means—acknowledgement of permission to land.

188 Pyrotechnic signals

A pyrotechnic signal made by air traffic control at an aerodrome has the meaning specified in relation to the signal in Aeronautical Information Publications.

189 Ground signals

When displayed at an aerodrome, ground signals shall take the form, and for all aircraft shall have the meaning, specified, in relation to the signal, in Aeronautical Information Publications.

*Division 2 Special Signals relating to Danger Areas, Prohibited Areas and
 Restricted Areas*

190 Warning signal

For the purpose of warning an aircraft that it is in the vicinity of a danger area, a prohibited area or a restricted area and should take remedial action, the signal used shall be, by day or by night, a series of projectiles, discharged at intervals of 10 seconds each, showing, on bursting, red and green lights or stars.

Division 3 Emergency Signals**191 Transmission of signals**

- (1) The pilot in command of an aircraft shall transmit or display the signals specified in this Division according to the degree of emergency being experienced.
- (2) The signals specified in relation to each successive degree of emergency may be sent either separately or together for any one degree of emergency.
- (3) Nothing in the rules contained in this Division shall prevent the use by an aircraft in distress of any means at its disposal to attract attention or make known its position for the purpose of obtaining help.

192 Distress signals

- (1) The distress signal shall be transmitted only when the aircraft is threatened with grave and immediate danger and requires immediate assistance.
- (2) In radio telegraphy, the distress signal shall take the form of SOS (... – – – ...), sent 3 times, followed by the group DE, sent once, and the call sign of the aircraft, sent 3 times.
- (3) The signal specified in subregulation (2) may be followed by the automatic alarm signal which consists of a series of 12 dashes, sent in one minute, the duration of each dash being 4 seconds, and the duration of the interval between consecutive dashes being one second.
- (4) In radiotelephony, the distress signal shall take the form of the word “MAYDAY”, pronounced 3 times, followed by the words “THIS IS”, followed by the call sign of the aircraft 3 times.
- (5) By other means the distress signal shall take one or more of the following forms:
 - (a) the Morse signal ... – – – ... with visual apparatus or with sound apparatus;
 - (b) a succession of pyrotechnical lights, fired at short intervals, each showing a single red light;
 - (c) the two-flag signal corresponding to the letters NC of the International Code of Signals;
 - (d) the distant signal, consisting of a square flag having, either above or below, a ball or anything resembling a ball;
 - (e) a parachute flare showing a red light;
 - (f) a gun or other explosive signal fired at intervals of approximately one minute.

193 Urgency signals

- (1) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice of difficulties which compel it to land without requiring immediate assistance:
 - (a) the repeated switching on and off of the landing lights;
 - (b) the repeated switching on and off of the navigation lights, in such a manner as to be distinctive from the flashing lights described in subregulation 196 (2);
 - (c) a succession of white pyrotechnical lights.
- (2) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice that the aircraft has a very urgent message to transmit concerning the safety of a ship, aircraft or vehicle, or of some person on board or within sight:
 - (a) in radiotelegraphy, 3 repetitions of the group XXX (– .. – – .. – – ..–), sent with the letters of each group, and the successive groups clearly separated from each other, and sent before the transmission of the message;
 - (b) in radiotelephony, 3 repetitions of the words PAN, PAN, sent before the transmission of the message;
 - (c) a succession of green pyrotechnical lights;
 - (d) a succession of green flashes with signal apparatus.

194 Safety signal

- (1) The safety signal shall be transmitted when an aircraft wishes to transmit a message concerning the safety of navigation or to give important meteorological warnings.
- (2) The safety signal shall be sent before the call and:
 - (a) in the case of radiotelegraphy shall consist of 3 repetitions of the group TTT (– – –), sent with the letters of each group and the successive groups clearly separated from each other; and
 - (b) in the case of radiotelephony shall consist of the word “SECURITY”, repeated 3 times.

Division 4 **Lights to be Displayed by Aircraft and Lights and Markings to be Displayed on Mooring Cables**

195 **Compliance with rules about lights**

- (1) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must comply with the rules in this Part requiring lights to be displayed in relation to the aircraft.

Penalty: 25 penalty units.

- (2) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must not allow to be displayed other lights that are likely to be mistaken for the lights required to be displayed under this Part.

Penalty: 25 penalty units.

- (3) The operator and the pilot in command of an aircraft must ensure that the lights displayed are not dazzling.

Penalty: 25 penalty units.

- (4) If a light, which the rules of this Part require to be displayed by an aircraft in flight, fails and the light cannot be repaired immediately, the pilot in command of the aircraft must:

- (a) notify air traffic control immediately; or
- (b) if this is not possible, land the aircraft as soon as it can be landed without danger.

Penalty: 25 penalty units.

- (5) An offence against subregulation (1), (2), (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

196 **Aeroplanes in flight or on the manoeuvring area of land aerodromes**

- (1A) The operator and the pilot in command of an aeroplane in flight, or operating on the manoeuvring area of a land aerodrome, must ensure that the lights required by this regulation to be displayed on the aeroplane are so displayed.

Penalty: 25 penalty units.

- (1) Unless CASA otherwise directs, an aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display the following navigation lights:

- (a) an unobstructed red light projected above and below the horizontal plane through an angle from dead ahead to 110° port;
- (b) an unobstructed green light projected above and below the horizontal plane through an angle from dead ahead to 110° starboard; and

- (c) an unobstructed white light projecting above and below the horizontal plane rearward through an angle of 140°, equally distributed on the port and starboard sides.
- (2) Unless CASA otherwise directs, navigation lights shall be steady lights.
- (3) Unless CASA otherwise directs, an aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display, in addition to the navigation lights, an anti-collision light consisting of a flashing red light visible in all directions within 30 degrees above and 30 degrees below the horizontal plane of the aeroplane.
- (4) Where the lights are flashing lights, the aircraft:
- (a) shall display an additional flashing white light visible in all directions; and
 - (b) may display an additional flashing red rear light;
- in accordance with such requirements as CASA, having regard to Annex 8 of the Convention, specifies in Civil Aviation Orders.
- (5) The colour specifications and minimum and maximum intensities of the navigation lights and the anti-collision light shall be such as CASA, having regard to Annex 8 of the Convention, specifies in Civil Aviation Orders.
- (6) Unless CASA otherwise directs, wing-tip clearance lights comprising steady lights of the appropriate colours must be displayed if the distance of the navigation lights from the wing-tip is more than 2 metres.
- (7) A person may park an aircraft on, or adjacent to, the movement area of an aerodrome used or available for use in night flying operations only if:
- (a) the aircraft is clearly illuminated or lighted; or
 - (b) the area that it occupies is marked by obstruction lights.
- Penalty: 25 penalty units.
- (8) An offence against subregulation (1A) or (7) is an offence of strict liability.
- Note* For **strict liability**, see section 6.1 of the *Criminal Code*.
- (9) It is a defence to a prosecution under subregulation (1A) if CASA directed lighting otherwise than as required by this regulation and the defendant used that lighting.
- Note* A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3 (3) of the *Criminal Code*).

197 Aeroplanes under way on the surface of water

- (1A) The pilot in command of an aeroplane on the surface of the water must display lights on the aeroplane in accordance with this regulation.

Penalty: 25 penalty units.

- (1) An aeroplane, when under way on the surface of the water shall display steady lights being:
- (a) the lights specified in subregulation 196 (1); and
 - (b) a white light visible forward throughout a dihedral angle of 220° bisected by a vertical plane through the longitudinal axis of the aeroplane and visible at a distance of at least 6 kilometres.
- (2) When towing another aircraft or vessel, an aeroplane shall display:
- (a) the lights specified in subregulation (1); and
 - (b) a second steady white light of the same construction and character as the light specified in paragraph (1) (b) placed not less than 2 metres vertically above or below that light.
- (3) When being towed an aeroplane shall display only the lights specified in subregulation 196 (1).
- (4) The pilot in command of an aeroplane on the surface of the water must ensure that, when the aeroplane is no longer under command, it displays:
- (a) the lights specified in subregulation (1) or, when not making way, the lights specified in that subregulation other than the red and green lights specified in paragraphs 196 (1) (a) and (b); and
 - (b) two steady red lights placed where they can best be seen, one vertically over the other and not less than 1 metre apart and visible at a distance of at least 4,000 metres.

Penalty: 25 penalty units.

- (5) An offence against subregulation (1A) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

198 Aeroplanes at anchor or moored on the surface of water

- (1) A person who anchors or moors an aeroplane on the surface of the water must ensure that the aeroplane displays:
- (a) if the aeroplane is less than 50 metres in length—a steady white light, where it can best be seen, visible all round the horizon at a distance of at least 4,000 metres;
 - (b) if the aeroplane is 50 metres or more in length—a steady white forward light and a steady white rear light, where they can best be seen, both visible all round the horizon at a distance of at least 6 kilometres; and

- (c) if the aeroplane is 50 metres or more in span—a steady white light on each side to demarcate the maximum span and visible, as far as practicable, all round the horizon at a distance of at least 2,000 metres.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

199 Aeroplanes aground on the surface of water

- (1) The pilot in command of an aeroplane must not allow the aeroplane to be on the surface of the water and aground if the aeroplane is not displaying:

- (a) the appropriate lights specified in regulation 198; and
 (b) 2 steady red lights in a vertical red line not less than 1 metre apart, placed so as to be visible all round the horizon.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

200 Gliders

- (1) In all circumstances in which the rules of this Division require an aeroplane to display lights, a person who flies or operates a glider must ensure that the glider displays a red light visible, as far as practicable, in all directions.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

203 Airships

- (1) CASA may give directions in writing specifying the lights that must be displayed in relation to an airship.

- (2) If CASA gives a direction under subregulation (1) to a person, the person must comply with the direction.

Penalty: 25 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

PART 14 AIR SERVICE OPERATIONS*Division 1 General***206 Commercial purposes (Act, s 27 (9))**

(1) For the purposes of subsection 27 (9) of the Act, the following commercial purposes are prescribed:

(a) aerial work purposes, being purposes of the following kinds (except when carried out by means of a UAV):

- (i) aerial surveying;
- (ii) aerial spotting;
- (iii) agricultural operations;
- (iv) aerial photography;
- (v) advertising;
- (vi) flying training, other than conversion training or training carried out under an experimental certificate issued under regulation 21.195A of CASR or under a permission to fly in force under subregulation 317 (1);

(vii) ambulance functions;

(viii) carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);

(ix) any other purpose that is substantially similar to any of those specified in subparagraphs (i) to (vii) (inclusive);

(b) charter purposes, being purposes of the following kinds:

(i) the carriage of passengers or cargo for hire or reward to or from any place, other than carriage in accordance with fixed schedules to and from fixed terminals or carriage for an operation mentioned in subregulation 262AM (7) or under a permission to fly in force under subregulation 317 (1);

(ii) the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally;

(c) the purpose of transporting persons generally, or transporting cargo for persons generally, for hire or reward in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.

(1A) However, the commercial purposes prescribed by subregulation (1) do not include:

(a) carrying passengers for hire or reward in accordance with subregulation 262AM (7); or

(b) carrying out an activity under paragraph 262AM (2) (g) or 262AP (2) (d).

(2) In this regulation:

aircraft endorsement has the same meaning as in regulation 5.01;

conversion training means flying training for the purpose of qualifying for the issue of an aircraft endorsement.

207 Requirements according to operations on which Australian aircraft used

(1) A person must not use an Australian aircraft in a class of operation if CASA has not authorised and approved the particular type of aircraft for that use.

Penalty: 50 penalty units.

(2) A person must not use an Australian aircraft in a class of operation if the aircraft is not:

(a) fitted with instruments; and

(b) fitted with, or carrying, equipment, including emergency equipment;

that CASA has approved and directed.

Penalty: 50 penalty units.

(3) Where CASA approves or directs that an instrument or item of equipment be fitted or carried on an aircraft, a person must fit, carry or use the instrument or item of equipment on the aircraft only in accordance with the directions (if any) of CASA.

Penalty: 50 penalty units.

(4) In giving an authorisation, approval or direction for the purposes of this regulation, CASA shall have regard only to the safety of air navigation.

(5) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

208 Number of operating crew

(1) The operator of an Australian aircraft must ensure that the minimum operating crew of the aircraft is not less in number than that specified in the certificate of airworthiness of, or the flight manual for, the aircraft, and that it is supplemented by such additional operating crew members, having such qualifications, as CASA considers necessary and directs, having regard to the safety of air navigation.

Penalty: 50 penalty units.

(2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

209 Private operations

(1) The operator and the pilot in command of an aircraft engaged in private operations shall comply with the provisions of these Regulations and such additional conditions as CASA from time to time directs in the interest of safety.

Penalty: 50 penalty units.

(2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

210 Restriction of advertising of commercial operations

- (1) A person must not give a public notice, by newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that a person is willing to undertake by use of an Australian aircraft any commercial operations if the last-mentioned person has not obtained an Air Operator's Certificate authorising the conduct of those operations.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 2 **Requirements to ensure the Safety of Commercial Operations****212** **Operator**

In this Division, *operator* means an operator engaging in commercial operations.

213 **Organisation**

- (1) An operator must provide an adequate organisation, including trained staff, together with workshop and other equipment and facilities in such quantities and at such places as CASA directs in order to ensure that airframes, engines, propellers, instruments, equipment and accessories are properly maintained at all times when they are in use.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

214 **Training of maintenance personnel**

- (1) An operator must ensure that provision is made for the proper and periodic instruction of all maintenance personnel, particularly in connection with the introduction into service of new equipment or equipment with which the maintenance personnel are not familiar, and the training programme shall be subject to the approval of CASA.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

215 **Operations manual**

- (1) An operator shall provide an operations manual for the use and guidance of the operations personnel of the operator.

Penalty: 25 penalty units.

- (2) The operator must ensure that the operations manual contains such information, procedures and instructions with respect to the flight operations of all types of aircraft operated by the operator as are necessary to ensure the safe conduct of the flight operations (other than information, procedures or instructions that are set out in other documents required to be carried in the aircraft in pursuance of these Regulations).

Penalty: 25 penalty units.

- (3) CASA may give a direction:

- (a) requiring the operator to include particular information, procedures and instructions in the operations manual; or
- (b) requiring the operator to revise or vary the information, procedures and instructions contained in the operations manual.

- (3A) An operator must not contravene a direction.
Penalty: 25 penalty units.
- (4) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.
- (5) The operator shall revise the operations manual from time to time where necessary as the result of changes in the operator's operations, aircraft or equipment, or in the light of experience.
Penalty: 25 penalty units.
- (6) An operator shall furnish copies of the operations manual to such of his or her or its personnel as the operator considers necessary, to CASA and to such other persons associated with the operator's operations as CASA considers necessary and directs.
Penalty: 25 penalty units.
- (7) The operator shall ensure that a copy of the manual is kept in a convenient and accessible place for use by all members of the operations personnel of the operator who have not been furnished with a copy in pursuance of subregulation (6).
Penalty: 10 penalty units.
- (8) The operator shall ensure that all amendments to the operations manual made in accordance with this regulation are incorporated in all copies of the operations manual kept within the operator's organisation and that copies of those amendments are forwarded to all persons to whom copies of the operations manual have been furnished in accordance with this regulation.
Penalty: 25 penalty units.
- (9) Each member of the operations personnel of an operator shall comply with all instructions contained in the operations manual in so far as they relate to his or her duties or activities.
Penalty: 25 penalty units.
- (10) In this regulation, a reference to the operations personnel of an operator shall be read as including a reference to a person undergoing flight training with that operator.
- (11) An offence against subregulation (1), (2), (3A), (5), (6), (7), (8) or (9) is an offence of strict liability.
Note For **strict liability**, see section 6.1 of the *Criminal Code*.
- (12) It is a defence to a prosecution under subregulation (3A) if the defendant had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (12) (see subsection 13.3 (3) of the *Criminal Code*).

216 Flight time records

- (1) An operator must maintain current records of the individual flight times of the members of the operating crews employed by the operator.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

217 Training and checking organisation

- (1) An operator of a regular public transport service, an operator of any aircraft the maximum take-off weight of which exceeds 5,700 kilograms and any other operator that CASA specifies shall provide a training and checking organisation so as to ensure that members of the operator's operating crews maintain their competency.

Penalty: 50 penalty units.

- (2) The operator must ensure that the training and checking organisation includes provision for the making in each calendar year, but not at intervals of less than four months, of two checks of a nature sufficient to test the competency of each member of the operator's operating crews.

Penalty: 50 penalty units.

- (2A) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) The training and checking organisation and the tests and checks provided for therein shall be subject to the approval of CASA.

- (4) A pilot may conduct tests or checks for the purposes of an approved training and checking organisation without being the holder of a flight instructor rating.

218 Route qualifications of pilot in command of a regular public transport aircraft

- (1) A pilot is qualified to act in the capacity of pilot in command of an aircraft engaged in a regular public transport service if the pilot is qualified for the particular route to be flown in accordance with the following requirements:

(a) the pilot shall have been certified as competent for the particular route by a pilot who is qualified for that route;

(b) the pilot shall have made at least one trip over that route within the preceding 12 months as a pilot member of the operating crew of an aircraft engaged in any class of operation;

- (c) the pilot shall have an adequate knowledge of the route to be flown, the aerodromes which are to be used and the designated alternate aerodromes, including a knowledge of:
 - (i) the terrain;
 - (ii) the seasonal meteorological conditions;
 - (iii) the meteorological, communication and air traffic facilities, services and procedures;
 - (iv) the search and rescue procedures; and
 - (v) the navigational facilities; associated with the route to be flown;
- (d) the pilot shall have demonstrated either in flight or by simulated means that he or she is proficient in the use of instrumental approach-to-land systems which he or she may utilise in operations on that route; and
- (e) the pilot possesses such other qualifications (if any) as CASA specifies in relation to that route having regard to any special difficulties of that route.

(1A) A pilot must not act in the capacity of pilot in command of an aircraft engaged in a regular public transport service if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

(1B) An operator must not permit a pilot to act in the capacity of pilot in command of an aircraft engaged in a regular public transport service if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

(2) CASA may grant an exemption from the requirements specified in paragraphs (1) (a) and (b) subject to such conditions as CASA considers necessary in the interests of safety.

(3) An operator shall maintain a record of the routes for which each of his or her pilots is qualified in accordance with this regulation.

Penalty: 5 penalty units.

(4) A person must not contravene a condition to which an exemption is subject.

Penalty: 50 penalty units.

(5) An offence against subregulation (1A), (1B), (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

219 Route qualifications of pilot in command of a charter aircraft

- (1) A pilot is qualified to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is qualified for the particular route to be flown in accordance with the following requirements:
- (a) the pilot shall have an adequate knowledge of the route to be flown, the aerodromes which are to be used and the designated alternate aerodromes, including a knowledge of:
 - (i) the terrain;
 - (ii) the seasonal meteorological conditions;
 - (iii) the meteorological, communication and air traffic facilities, services and procedures;
 - (iv) the search and rescue procedures; and
 - (v) the navigational facilities; associated with the route to be flown;
 - (b) if the flight is to be conducted under the Instrument Flight Rules, the pilot shall have demonstrated either in flight or by simulated means that he or she is proficient in the use of instrument approach-to-land systems which he or she may utilise in operations on that route.
- (2) A pilot must not act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).
Penalty: 50 penalty units.
- (3) An operator must not permit a pilot to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).
Penalty: 50 penalty units.
- (4) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

220 Fuel instructions and records

- (1) An operator shall include in the operator's operations manual specific instructions for the computation of the quantities of fuel to be carried on each route, having regard to all the circumstances of the operations, including the possibility of failure of an engine *en route*.
Penalty: 50 penalty units.

- (2) An operator shall maintain a record of the fuel remaining in the tanks at the end of each scheduled flight and shall review continuously the adequacy of the instructions in respect of the fuel to be carried in the light of that record, and shall make any such record available to CASA, upon request.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

221 Facilities and safety devices for public

- (1) An operator must provide such facilities and safety devices for the protection of the public at the aerodromes normally used by the operator as CASA considers adequate and directs.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

222 Proving tests

- (1) An aircraft of a new type shall not be used to carry passengers on a public transport service until it has completed proving tests under the supervision and in accordance with the requirements of CASA.

- (2) In the case of major changes to an aircraft previously in operation on public transport services or previously proved for such operations, or the use of such an aircraft in an operation different to that in which it was previously used, CASA may require the aircraft to undergo such proving tests as CASA considers necessary in the circumstances.

- (3) No persons other than those essential to the tests shall be carried in the aircraft during the tests required under subregulations (1) and (2), but mail or cargo may be carried with the permission of CASA.

- (4) The operator must not allow an aircraft that is required to undergo proving tests to be used to carry passengers on a public transport service, if the proving tests have not been passed in accordance with the requirements of CASA.

Penalty: 50 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 3 Conduct of Operations**223 Operator to ensure employees and flight crew familiar with local laws and regulations**

- (1) An operator of an Australian aircraft engaged in air navigation outside Australian territory shall ensure that:
- (a) his or her employees when abroad know that they must comply with the laws, regulations and procedures of the countries in which the aircraft is operated;
 - (b) the pilots of the aircraft are familiar with the regulations and procedures for the time being in force in the area in which the aircraft is operated, and, in particular, with such of those regulations and procedures as relate to the aerodromes and air navigation facilities to be used by the aircraft; and
 - (c) members of the flight crew, other than pilots, are familiar with such of the regulations and procedures of the countries in which the aircraft is operated as relate to the performance of their respective duties in the operation of the aircraft.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

224 Pilot in command

- (1) For each flight the operator shall designate one pilot to act as pilot in command.

Penalty: 5 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) A pilot in command of an aircraft is responsible for:
- (a) the start, continuation, diversion and end of a flight by the aircraft; and
 - (b) the operation and safety of the aircraft during flight time; and
 - (c) the safety of persons and cargo carried on the aircraft; and
 - (d) the conduct and safety of members of the crew on the aircraft.
- (2A) A pilot in command must discharge his or her responsibility under paragraph (2) (a) in accordance with:
- (a) any information, instructions or directions, relating to the start, continuation, diversion or end of a flight, that are made available, or issued, under the Act or these Regulations; and
 - (b) if applicable, the operations manual provided by the operator of the aircraft.

- (3) The pilot in command shall have final authority as to the disposition of the aircraft while he or she is in command and for the maintenance of discipline by all persons on board.

225 Pilots at controls

- (1) The pilot in command must ensure that 1 pilot is at the controls of an aircraft from the time at which the engine or engines is or are started prior to a flight until the engine or engines is or are stopped at the termination of a flight.

Penalty: 50 penalty units.

- (2) When, in accordance with these Regulations, 2 or more pilots are required to be on board an aircraft, the pilot in command must ensure that 2 pilots remain at the controls at all times when the aircraft is taking off, landing and during turbulent conditions in flight.

Penalty: 50 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

226 Dual controls

- (1) During flight, a person may occupy a control seat of an aircraft equipped with fully or partially functioning dual controls only if:
 - (a) the person holds an appropriate pilot licence for the type of aircraft and the class of operations in which the aircraft is flown; or
 - (b) the person is a student pilot assigned for instruction in the aircraft; or
 - (c) the person is authorised by CASA.

Penalty: 25 penalty units.

- (2) In authorising a person to occupy a control seat in pursuance of subregulation (1), CASA may grant the authority subject to such conditions as CASA considers necessary in the interests of safety.

- (3) A person authorised under paragraph (1) (b) must not contravene a condition subject to which the authority is granted.

Penalty: 25 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

227 Admission to crew compartment

- (1) A person may enter the crew compartment of an aircraft during flight only if:
- (a) the person is a member of the operating crew of the aircraft; or
 - (b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

- (1A) A member of the operating crew of an aircraft may permit a person to enter, or remain in, the crew compartment of an aircraft during flight only if:
- (a) the person is a member of the operating crew of the aircraft; or
 - (b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

- (2) A person may occupy the pilot seat or other operating crew position in an aircraft, only if:
- (a) the person is a member of the operating crew who is duly assigned for duty in the aircraft and is licensed for the duties associated with that seat or position; or
 - (b) the person is authorised to enter the crew compartment to conduct examinations, inspections or checks of the aircraft, its equipment, a member of the operating crew or the ground organisation provided for use by aircraft.

Penalty: 50 penalty units.

- (3) The pilot in command of an aircraft shall admit an authorised person to the crew compartment and allow that person to occupy the seat or position appropriate for the performance of his or her duties if the pilot in command is not of the opinion that the person's admission to the crew compartment or occupation of that seat or position, as the case may be, would endanger the safety of the aircraft.

Penalty: 10 penalty units.

- (4) Whenever the pilot in command has refused to permit an authorised person to enter the crew compartment or occupy the seat or position appropriate for the performance of his or her duties, the pilot in command shall, if so required by the authorised person, furnish a report in writing to CASA setting forth the reasons for his or her refusal.

Penalty: 5 penalty units.

- (4A) An offence against subregulation (1), (1A), (2), (3) or (4) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (5) An authorised person must produce his or her identity card for inspection:
- (a) while acting as an authorised person; and
 - (b) if asked to do so by the pilot in command of the aircraft.
- (6) Where an authorised person:
- (a) is acting as an authorised person; and
 - (b) seeks admission, or is admitted, to the crew compartment of an aircraft; and
 - (c) fails to produce his or her identity card for inspection when asked to do so;
- that person is not authorised to be admitted under that subregulation and, if that person has been admitted, he or she must leave the crew compartment immediately.

228 Unauthorised persons not to manipulate controls

- (1) A person must not manipulate the controls of an aircraft in flight if the person is not either:
- (a) the pilot assigned for duty in the aircraft; or
 - (b) a student pilot assigned for instruction in the aircraft.
- Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

229 Aircraft not to be taxied except by pilot

- (1) A person must not taxi an aircraft anywhere on an aerodrome if the person is not either a licensed pilot whose licence is endorsed for the particular type of aircraft concerned or a person approved by CASA in accordance with the terms and conditions of the approval.
- Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

230 Starting and running of engines

- (1) A person must not:
- (a) start the engine of an Australian aircraft; or
 - (b) permit the engine of an Australian aircraft to be run;
- if it is not permitted by this regulation.
- Penalty: 25 penalty units.
- (1A) An offence against subregulation (1) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) The engine may be started or run while the aircraft is inside or outside Australian territory if the control seat is occupied by an approved person or by a person who may, under Part 5, fly the aircraft.
- (3) If the aircraft is an aeroplane that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run if the control seat is occupied:
- (a) whether the aircraft is inside or outside Australian territory—by a person who:
 - (i) holds an aircraft maintenance engineer licence, or an airworthiness authority, covering maintenance of the aircraft's engine; and
 - (ii) has sufficient knowledge of the aircraft's controls and systems to ensure the starting or running does not endanger any person or damage the aircraft; or
 - (b) if the aircraft is outside Australian territory—by a person who:
 - (i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or
 - (ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.
- (4) If the aircraft is a rotorcraft or airship that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run:
- (a) whether the aircraft is inside or outside Australian territory—by a person authorised, in writing, by CASA or an authorised person to start and run the engine in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or

- (b) if the aircraft is outside Australian territory—by a person who:
 - (i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or
 - (ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.
- (5) CASA may approve a person for the purposes of subregulation (2).
- (6) CASA or an authorised person may authorise a person for the purposes of paragraph (4) (a).
- (7) In this regulation, *maintenance training* means training for the purpose of obtaining a qualification to carry out maintenance on aircraft.

231 Manipulation of propeller

- (1) In spite of regulations 225 and 230 and subregulation (2), the pilot in command of an aircraft which requires an operating crew of only one pilot may manipulate the propeller of the aircraft for the purposes of starting the aircraft if:
 - (a) assistance is not readily available for that purpose;
 - (b) adequate provision is made to prevent the aircraft moving forward; and
 - (c) no person is on board the aircraft.
- (2) The registration holder, or operator, or the pilot in command of an Australian aircraft must not permit a person to manipulate the propeller of the aircraft to start the engine if the registration holder, operator or pilot in command is not satisfied that the person who is to manipulate the propeller knows the correct starting procedures for the aircraft.
Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

232 Flight check system

- (1) The operator of an aircraft shall establish a flight check system for each type of aircraft, setting out the procedure to be followed by the pilot in command and other flight crew members prior to and on take-off, in flight, on landing and in emergency situations.
Penalty: 25 penalty units.

- (2) A flight check system shall be subject to the prior approval of CASA, and CASA may at any time require the system to be revised in such manner as CASA specifies.
- (3) The pilot in command must ensure that the check lists of the procedures are carried in the aircraft and are located where they will be available instantly to the crew member concerned.
Penalty: 10 penalty units.
- (4) The pilot in command shall ensure that the flight check system is carried out in detail.
Penalty: 25 penalty units.
- (5) The operator of an aircraft must not allow the aircraft to be flown if the following requirements have not been satisfied:
 - (a) the flight check system has been approved by CASA;
 - (b) if CASA has required the system to be revised — the system has been revised in the manner specified by CASA.Penalty: 25 penalty units.
- (6) An offence against subregulation (1), (3), (4) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

232A

Operational procedures in relation to computers

- (1) Where an aircraft is fitted with a computer for the provision of navigation or aircraft performance information to the flight crew or to an automatic pilot system, the operator of that aircraft shall establish in relation to that computer operational procedures in accordance with directions given by CASA in Civil Aviation Orders.
- (2) Without limiting the generality of subregulation (1), CASA may give directions in relation to any of the following matters:
 - (a) the duties or functions of the operator, pilot in command or other flight crew member in relation to:
 - (i) the operation of the computer; or
 - (ii) the entry of data into, and verification of data in, the computer;
 - (b) the qualifications of persons who:
 - (i) operate the computer; or
 - (ii) enter data into, or verify data in, the computer;
 - (c) the notification to the personnel of an operator or to a pilot in command or other flight crew member of operational procedures relating to the computer;
 - (d) the inclusion of the operational procedures in the operator's operations manual.
- (3) Where the operator of an aircraft has established operational procedures in relation to a computer under subregulation (1):
 - (a) each member of the personnel of the operator; and

(b) the pilot in command and other members of the flight crew of that aircraft;

shall, in relation to that computer, comply with those operational procedures.

- (4) A direction given under this regulation shall not take effect until:
- (a) the twenty-eighth day after the day on which the direction is given; or
 - (b) if a later day of effect is specified in the direction, that later day.

233

Responsibility of pilot in command before flight

- (1) The pilot in command of an aircraft must not commence a flight if he or she has not received evidence, and taken such action as is necessary to ensure, that:
- (a) the instruments and equipment required for the particular type of operation to be undertaken are installed in the aircraft and are functioning properly;
 - (b) the gross weight of the aircraft does not exceed the limitations fixed by or under regulation 235 and is such that flight performance in accordance with the standards specified by CASA for the type of operation to be undertaken is possible under the prevailing conditions; and
 - (c) any directions of CASA with respect to the loading of the aircraft given under regulation 235 have been complied with;
 - (d) the fuel supplies are sufficient for the particular flight;
 - (e) the required operating and other crew members are on board and in a fit state to perform their duties;
 - (f) the air traffic control instructions have been complied with;
 - (g) the aircraft is safe for flight in all respects; and
 - (h) the latest of the aeronautical maps, charts and other aeronautical information and instructions, published in AIP or by a person approved in writing, that are applicable:
 - (i) to the route to be flown; and
 - (ii) to any alternative route that may be flown on that flight;are carried in the aircraft and are readily accessible to the flight crew.

Penalty: 50 penalty units.

- (1A) An approval under paragraph (1) (h) may be given subject to such conditions as are specified in the instrument of approval.
- (2) The pilot in command of an aircraft engaged in international air navigation must not commence a flight if the pilot has not completed an approved flight preparation form certifying that the pilot is satisfied of the matters specified in subregulation (1).
Penalty: 5 penalty units.
- (3) An operator must keep a completed flight preparation form for a period of 6 months.
Penalty: 5 penalty units.
- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

234

Fuel requirements

- (1) The pilot in command of an aircraft must not commence a flight within Australian territory, or to or from Australian territory, if he or she has not taken reasonable steps to ensure that the aircraft carries sufficient fuel and oil to enable the proposed flight to be undertaken in safety.
Penalty: 50 penalty units.
- (2) An operator of an aircraft must take reasonable steps to ensure that an aircraft does not commence a flight as part of the operator's operations if the aircraft is not carrying sufficient fuel and oil to enable the proposed flight to be undertaken in safety .
Penalty: 50 penalty units.
- (3) For the purposes of these Regulations, in determining whether fuel and oil carried on an aircraft in respect of a particular flight was sufficient within the meaning of subregulations (1) and (2), a court must, in addition to any other matters, take into account the following matters:
- (a) the distance to be travelled by the aircraft on the flight to reach the proposed destination;
 - (b) the meteorological conditions in which the aircraft is, or may be required, to fly;
 - (c) the possibility of:
 - (i) a forced diversion to an alternative aerodrome; and
 - (ii) a delay pending landing clearance; and
 - (iii) air traffic control re-routing the flight after commencement of the flight; and
 - (iv) a loss of pressurisation in the aircraft; and
 - (v) where the aircraft is a multi-engined aircraft—an engine failure;
 - (d) any guidelines issued from time to time by CASA for the purposes of this regulation.

- (4) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

235

Take-off and landing of aircraft etc.

- (1) CASA may, for the purposes of these Regulations, give directions setting out the method of estimating, with respect to an aircraft at anytime:
- (a) the weight of the aircraft, together with the weight of all persons and goods (including fuel) on board the aircraft, at that time; and
 - (b) the centre of gravity of the aircraft at that time.
- (2) CASA may, for the purpose of ensuring the safety of air navigation, give directions setting out the manner of determining, with respect to a proposed flight of an aircraft:
- (a) a maximum weight, being a weight less than the maximum take-off weight of the aircraft; or
 - (b) a maximum weight, being a weight less than the maximum landing weight of the aircraft;
- that the gross weight of the aircraft at take-off or landing, as the case may be, is not to exceed.
- (2A) A person must not contravene a direction under subregulation (1) or (2).
- Penalty: 50 penalty units.
- (3) A manner of determining a maximum weight referred to in subregulation (2) shall be such as to take into account such of the following considerations as CASA considers appropriate:
- (a) the type of aircraft;
 - (b) the kind of operations to be carried out during the flight;
 - (c) the performance of the aircraft in configurations in which it is likely to be flown and with faults that are likely to occur;
 - (d) the meteorological conditions at the aerodrome at which the aircraft is to take off or land;
 - (e) the altitude of the aerodrome at which that aircraft is to take off or land;
 - (f) the aerodrome dimensions in the direction in which the aircraft is to take off or land;
 - (g) the material of which the surface of the aerodrome in the direction in which the aircraft is to take off or land is constituted and the condition and slope of that surface;
 - (h) the presence of obstacles in the vicinity of the flight path along which the aircraft is to take off, approach or land;
 - (i) the anticipated meteorological conditions over the intended route to be flown by the aircraft after take-off and over planned divergencies from that route; and

- (j) the altitude of the terrain along and on either side of the intended route to be flown by the aircraft after take-off and of planned divergencies from that route.
- (4) The pilot in command of an aircraft must not allow the aircraft to take off if its gross weight exceeds its maximum take-off weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the take-off, that lesser weight.
Penalty: 50 penalty units.
- (5) The pilot in command of an aircraft must not allow the aircraft to take off if its gross weight exceeds, by more than the weight of fuel that would normally be used in flying to its next landing place or planned alternative aerodrome, its maximum landing weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the landing at that place or aerodrome, that lesser weight.
Penalty: 50 penalty units.
- (6) The pilot in command of an aircraft, must not land the aircraft if its gross weight exceeds its maximum landing weight or, if a lesser weight determined in accordance with a direction under subregulation (2) is applicable to the landing, that lesser weight.
Penalty: 50 penalty units.
- (7) CASA may, for the purpose of ensuring the safety of air navigation, give directions with respect to the method of loading of persons and goods (including fuel) on aircraft.
- (7A) A person must not contravene a direction under subregulation (7).
Penalty: 50 penalty units.
- (8) The pilot in command of an aircraft must not allow the aircraft to take off or land if a direction given under this regulation, about the loading of the aircraft has not been complied with.
Penalty: 50 penalty units.
- (9) The pilot in command must ensure that the load of an aircraft throughout a flight shall be so distributed that the centre of gravity of the aircraft falls within the limitations specified in its certificate of airworthiness or its flight manual.
Penalty: 50 penalty units.
- (10) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.
- (11) CASA may exempt an aircraft from any of the requirements imposed by this regulation.
- (12) An offence against subregulation (2A), (4), (5), (6), (7A), (8) or (9) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (13) It is a defence to a prosecution under subregulation (6) if the landing was made in an emergency.

Note A defendant bears an evidential burden in relation to the matter in subregulation (13) (see subsection 13.3 (3) of the *Criminal Code*).

235A Minimum runway width

- (1) In order to ensure the safety of air navigation, CASA may issue instructions specifying the minimum runway width applicable to an aeroplane or a type of aeroplane.
- (2) The pilot in command of an aeroplane must not land at, or take-off from, a runway if the minimum width of the runway is less than the minimum runway width specified for that aeroplane or the type in which the aeroplane is included.

Penalty: 50 penalty units.

- (3) An instruction issued under subregulation (1) does not have effect in relation to a person until it has been:
- (a) served on the person; or
 - (b) published in AIP.
- (4) CASA may, by instrument in writing, exempt an aeroplane or aeroplanes of a specified type, model or series from compliance with an instruction issued under subregulation (1).
- (5) An exemption may be subject to such conditions, if any, as CASA specifies in the instrument as being necessary in the interests of safety.
- (6) Before CASA decides to:
- (a) exempt an aeroplane or a type, model or series of aeroplane from compliance with an instruction; or
 - (b) make an exemption subject to conditions;
- CASA must take into account any relevant considerations relating to the interests of safety.

- (7) The pilot in command of an aeroplane to which an exemption applies must not allow the aeroplane to land at, or take off from a runway if the landing or take-off results in the breach of a condition mentioned in subregulation (5).

Penalty: 50 penalty units.

- (7A) An offence against subregulation (2) or (7) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (8) In this regulation, *type of aeroplane* means a group of aeroplanes in respect of which a single type certificate is in force.

[EXAMPLES:

1. Learjet models 31 and 31A aeroplanes
2. Boeing 747 series 100 and series 200B aeroplanes.]

238 **Icing conditions**

- (1) The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

239 **Planning of flight by pilot in command**

- (1) Before beginning a flight, the pilot in command shall study all available information appropriate to the intended operation, and, in the cases of flights away from the vicinity of an aerodrome and all I.F.R. flights, shall make a careful study of:

- (a) current weather reports and forecasts for the route to be followed and at aerodromes to be used;
- (b) the airways facilities available on the route to be followed and the condition of those facilities;
- (c) the condition of aerodromes to be used and their suitability for the aircraft to be used; and
- (d) the air traffic control rules and procedures appertaining to the particular flight;

and the pilot shall plan the flight in relation to the information obtained.

- (2) When meteorological conditions at the aerodromes of intended landing are forecast to be less than the minima specified by CASA, the pilot in command shall make provision for an alternative course of action and shall arrange for the aircraft to carry the necessary additional fuel.

Penalty: 25 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

241 Flight plans — submission to air traffic control in certain cases

- (1) CASA may, by notice published in Aeronautical Information Publications, declare that flights included in specified classes of flights are flights in respect of which flight plans are required, in the interests of safety and to ensure compliance with the Convention, to be submitted to air traffic control.

- (2) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft on a flight included in a class of flights specified in a notice under subregulation (1) if a flight plan has not been submitted to air traffic control.

Penalty: 5 penalty units.

- (3) CASA may, in a notice under subregulation (1), specify the circumstances in which, and the conditions subject to which, a flight included in a class of flights specified in the notice may be commenced and carried on before the flight plans for the flight are submitted to air traffic control and subregulation (2) does not apply to and in relation to the flight of an aircraft that has been commenced in those circumstances and so long as the conditions so specified are complied with.

- (4) The pilot in command of an aircraft that deviates from a flight as specified in the flight plan that has been submitted under this regulation shall report the fact as soon as possible to air traffic control.

Penalty: 5 penalty units.

- (5) An offence against subregulation (2) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

242 Testing of radio apparatus

- (1) Before an aircraft is taxied on the manoeuvring area of an aerodrome for the purpose of moving to the take-off position, the pilot in command shall check that the radio apparatus fitted to the aircraft and to be used in flight is functioning correctly.

Penalty: 25 penalty units.

- (2) If the check indicates any malfunctioning of any portion of the radio apparatus the pilot in command must not fly the aircraft until the apparatus has been certified by a person licensed or approved for the purpose as being in proper working order.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

243

Listening watch

- (1) When an aircraft is equipped with radio apparatus for use during flight, the pilot in command must maintain a listening watch, or must ensure that a listening watch is maintained, at all times commencing immediately prior to the time at which the aircraft commences to move on the manoeuvring area prior to flight and lasting until the aircraft is brought to a stop at the apron or other point of termination of the flight.

Penalty: 25 penalty units.

- (2) Where the means of communication between air traffic control and an aircraft under its control is a voice communication channel, the pilot in command and any other pilot for the time being operating the controls of the aircraft shall personally maintain a listening watch on the appropriate radio frequency.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

244

Safety precautions before take-off

- (1) Immediately before taking-off on any flight, the pilot in command of an aircraft shall:

- (a) test the flight controls on the ground to the full limit of their travel and make such other tests as are necessary to ensure that those controls are functioning correctly;
- (b) ensure that locking and safety devices are removed and that hatches, doors and tank caps are secured; and
- (c) ensure that all external surfaces of the aircraft are completely free from frost and ice.

Penalty: 50 penalty units.

- (2) CASA may give such directions as CASA considers necessary in the interests of safety in respect of the duties and responsibilities of the pilot in command and other persons for tests, checks and other precautions before the despatch of an aircraft on any flight.

- (3) A person must not contravene a direction.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

245

Tests before and during the take-off run

- (1) CASA may give directions specifying the tests to be carried out by the pilot in command of an aircraft before the commencement of, and during, a take-off run in order to be satisfied that the engine and associated items of equipment are functioning correctly within the permissible limits of performance.

- (2) Before the commencement of, and during, a take-off run, the pilot in command of an aircraft shall:

- (a) carry out all tests required to be carried out in relation to the aircraft under subregulation (1);
- (b) test all flight instruments, and, in particular, all gyroscopic flight instruments, that it is possible to test so as to ensure that they are functioning correctly;
- (c) ensure that all gyroscopic flight instruments are correctly set and uncaged; and
- (d) perform such checks and tests as are required by the flight manual for, or the operations manual of, the aircraft.

Penalty: 25 penalty units.

- (3) If an inspection, check or test made under subregulation (2) indicates any departure from the permissible limits or any malfunctioning in any particular (not being a departure or malfunctioning that is a permissible unserviceability), the pilot in command shall not commence the take-off or, if the pilot has commenced the take-off, shall abandon the take-off or take such other action as the pilot considers appropriate to ensure the safety of the aircraft and of persons on board the aircraft.

Penalty: 50 penalty units.

- (4) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

246 Movement on manoeuvring area

- (1) Immediately before take-off, the pilot in command shall manoeuvre the aircraft so that he or she is able to observe traffic on the manoeuvring area of the aerodrome and incoming and outgoing traffic, in order that he or she may avoid collision with other aircraft during the take-off.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

247 Meteorological conditions observed *en route*

- (1) The pilot in command shall report, in the approved form and at such times as requested by a meteorological observer, the meteorological conditions observed *en route*.

Penalty: 5 penalty units.

- (2) When any meteorological condition, hazardous to flight, is encountered *en route*, the pilot in command shall report the condition as soon as possible, giving such details as appear pertinent to the safety of other aircraft.

Penalty: 5 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

248 Reporting of defects

- (1) At the termination of each flight, or in any urgent case, during the currency of the flight, the pilot in command shall report, in the manner and to the persons specified by CASA, all defects in the aircraft, aerodromes, air routes, air route facilities or airway facilities which have come to the pilot's notice.

Penalty: 10 penalty units .

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Where a defect in the aircraft is reported in accordance with subregulation (1), the operator of the aircraft shall take such action in relation thereto as is required under these Regulations.

Division 4 **General Provisions relating to the Operation of Aircraft****249** **Prohibition of carriage of passengers on certain flights**

- (1) The pilot in command of an aircraft that carries a passenger must not engage in any of the following types of flying:
- (a) flying training given to a person who has not passed a general flying progress flight test for aircraft of the category concerned;
 - (b) practice of emergency procedures in the aircraft;
 - (c) low flying practice;
 - (d) testing an aircraft or its components, power plant or equipment.
- Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) An aircraft while engaged in flying of the type specified in paragraph (1) (d) may carry engineering and maintenance personnel who are required, as part of their duties, to be present in the aircraft during the flight for the purpose of flight observation or of maintenance of the aircraft, including any aircraft component installed in the aircraft.
- (4) For the purposes of this regulation, the categories of aircraft are as follows:
- (a) aeroplanes;
 - (b) helicopters;
 - (c) gyroplanes;
 - (d) airships.

250 **Carriage on wings, undercarriage etc.**

- (1) The operator of an aircraft must not permit a person to be carried on:
- (a) the wings or undercarriage of the aircraft; or
 - (b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or
 - (c) anything attached to the aircraft.
- Penalty: 50 penalty units.
- (1A) The pilot in command of an aircraft must not permit a person to be carried on:
- (a) the wings or undercarriage of the aircraft; or
 - (b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or
 - (c) anything attached to the aircraft.
- Penalty: 50 penalty units.

- (1B) Subregulations (1) and (1A) do not apply to prevent a member of the crew having temporary access to:
- (a) any part of the aircraft for the purpose of executing repairs or adjustments to the aircraft or its equipment, or doing anything that may be necessary for the safety of the aircraft or any persons or cargo carried in the aircraft; or
 - (b) any part of the aircraft in which goods or stores are being carried and to which proper means of access is provided.
- (2) A person may, with the permission of CASA given in respect of:
- (a) a particular flight;
 - (b) flights of a particular kind; or
 - (c) flights included in a series of flights;
- be carried, during a flight in respect of which the permission is given, on or in a part of an aircraft that is not designed for the accommodation of the crew or passengers, or on or in anything attached to an aircraft.
- (3) CASA may, when granting a permission referred to in subregulation (2), specify conditions subject to which a person may be carried.
- (4) A person must not contravene a condition to which a permission is subject.
- Penalty: 50 penalty units.
- (5) An offence against subregulation (1), (1A) or (4) is an offence of strict liability.
- Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) It is a defence to a prosecution under subregulation (1) or (1A) if the person had CASA's permission under subregulation (2).
- Note* A defendant bears an evidential burden in relation to the matter in subregulation (6) (see subsection 13.3 (3) of the *Criminal Code*).

251**Seat belts and safety harness**

- (1) Subject to this regulation, seat belts shall be worn by all crew members and passengers:
- (a) during take-off and landing;
 - (b) during an instrument approach;
 - (c) when the aircraft is flying at a height of less than 1,000 feet above the terrain; and
 - (d) at all times in turbulent conditions.
- Penalty: 10 penalty units.
- (2) Subregulation (1) does not apply in relation to an authorised officer of CASA undertaking examinations, inspections or checks of the work of an aircraft's crew or the operation of an aircraft or its equipment under regulation 262.

(3) CASA may direct that a type of safety harness specified in the direction shall be worn in place of a seat belt in the circumstances set out in the direction.

(4) The pilot in command shall ensure that a seat belt or safety harness is worn at all times during flight by at least one of the pilot crew members.

Penalty: 25 penalty units.

(5) Subject to subregulation (6), the operator of an aircraft shall detail a member of the crew to ensure that a seat belt or safety harness is worn by each occupant of the aircraft during the times specified in subregulation (1) and to ensure that each belt or harness is adjusted to fit the wearer without slack.

Penalty: 10 penalty units.

(6) CASA may, for the purpose of ensuring the safety of air navigation, give directions requiring the owner or operator of an aircraft to install in the aircraft an approved communications system to enable the pilot in command to notify passengers when a seat belt or safety harness is to be worn.

(6A) A person must not contravene a direction.

Penalty: 10 penalty units.

(7) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(8) An offence against subregulation (1), (4), (5) or (6A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(9) It is a defence to a prosecution under paragraph (1) (c) if CASA directed that seat belts need not be worn in that circumstance.

Note A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3 (3) of the *Criminal Code*).

252 Provision of emergency systems etc.

- (1) CASA may give directions with respect to the provision in Australian aircraft of such emergency systems and equipment, and such life-saving equipment, as CASA considers necessary to safeguard the aircraft and persons on board the aircraft.
- (1A) A person must not contravene a direction.
Penalty: 50 penalty units.
- (1B) An offence against subregulation (1A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) In giving a direction under subregulation (1), CASA shall have regard to the type of operation in which the aircraft is to be used.
- (3) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

252A Emergency locator transmitters

- (1) On and after 31 July 1997, the pilot in command of an Australian aircraft that is not an exempted aircraft, may begin a flight only if the aircraft:
 - (a) is fitted with an approved ELT:
 - (i) that is in working order; and
 - (ii) whose switch is set to the position marked “armed”, if that switch has a position so marked: or
 - (b) carries, in a place readily accessible to the operating crew, an approved portable ELT that is in working order.
Penalty: 25 penalty units.
- (1A) An offence against subregulation (1) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if:
 - (a) the flight is to take place wholly within a radius of 50 miles from the aerodrome reference point of the aerodrome from which the flight is to begin; or
 - (b) the flight is, or is incidental to, an agricultural operation; or
 - (c) CASA has given permission for the flight under regulation 21.197 of CASR; or
 - (d) the aircraft is new and the flight is for a purpose associated with its manufacture, preparation or delivery; or
 - (e) the flight is for the purpose of moving the aircraft to a place to have an approved ELT fitted to the aircraft, or to have an approved ELT that is fitted to it repaired or overhauled.

- (3) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if, when the flight takes place:
- (a) an approved ELT fitted to the aircraft, or an approved portable ELT usually carried in the aircraft, has been temporarily removed for inspection, repair, modification or replacement; and
 - (b) an entry has been made in the aircraft's log book, or approved alternative maintenance record, stating:
 - (i) the ELT's make, model and serial number; and
 - (ii) the date on which it was removed; and
 - (iii) the reason for removing it; and
 - (c) a placard stating "ELT not installed or carried" has been placed in the aircraft in a position where it can be seen by the aircraft's pilot; and
 - (d) not more than 90 days have passed since the ELT was removed.
- (4) For the purposes of this regulation, and subject to subregulation (6), an ELT is taken to be an approved ELT in relation to an aircraft if, and only if it is automatically activated on impact and meets any of the following requirements:
- (a) it is of a type that is authorised by the FAA in accordance with TSO C91a or TSO C126; or
 - (b) CASA is satisfied that it meets the requirements of TSO C91a or TSO C126;
 - (c) it was fitted to the aircraft before 5 December 1996 and meets either of the following requirements:
 - (i) it is of a type that is authorised by the FAA in accordance with TSO C91;
 - (ii) CASA is satisfied that it meets the requirements of TSO C91.
- (5) For the purposes of this regulation, and subject to subregulation (6), an ELT (whether or not automatically activated on impact) is taken to be an approved portable ELT if, and only if:
- (a) it is a portable emergency position indicating radio beacon of a type that meets the requirements of MS 241, MS 309, AS/NZS 4330:1995 or AS/NZS 4280:1995; or
 - (b) it is a portable ELT of a type that meets the requirements of TSO C91, TSO C91a or TSO C126.
- (6) For the purposes of this regulation, an ELT is not taken to be an approved ELT or an approved portable ELT if it is fitted with a lithium-sulphur dioxide battery that does not meet the requirements of TSO C97.
- (7) In this regulation:
- AS/NZS* followed by a number and a year means the Australian/New Zealand Standard of that number published jointly in that year by Standards Australia or Standards New Zealand;

ELT means an emergency locator transmitter, an emergency position indicating beacon, or a personal locator beacon, that transmits on the frequency 121.5 MHz;

exempted aircraft means:

- (a) a high-capacity regular public transport aircraft; or
- (b) a high-capacity charter aircraft; or
- (c) a single seat aircraft; or
- (d) a turbo-jet powered aircraft; or
- (e) a balloon; or
- (f) an airship; or
- (g) a glider;

high capacity, in relation to an aircraft, means permitted, by the aircraft's certificate of type approval:

- (a) to have a maximum seating capacity of more than 38 seats; or
- (b) to carry a maximum payload of more than 4,200 kilograms;

MS followed by a number means the Ministerial Standard of that number issued under section 9 of the *Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1992*;

single seat aircraft means an aircraft that is equipped to carry only one person;

253 Emergency and life-saving equipment

- (1) An operator shall not assign a person to act as a crew member of an aircraft, and a person shall not act as a crew member of an aircraft, unless the person is competent in the use of the emergency and life-saving equipment carried in the aircraft.
- (2) An operator shall ensure that crew members are periodically tested as to competency in the use of the emergency and life-saving equipment carried in the aircraft to which they are assigned.
- (3) The operator of an aircraft which is used in over-water flights shall ensure that each crew member is instructed in "ditching" and "abandon ship" procedures in so far as is practicable and that he or she is periodically tested as to his or her knowledge of those procedures.
- (4) The operator of an aircraft shall detail a crew member to ensure that passengers are made familiar with the location of emergency exits in the aircraft in which they are travelling and the location and use of emergency equipment carried in the aircraft.
- (5) The training and testing of crew members and the familiarisation of passengers as required under the provisions of this regulation shall be carried out in such manner as CASA specifies to be satisfactory.
- (6) CASA may issue directions as to the carriage in aircraft, and the use in such circumstances and subject to such conditions as CASA specifies, of medicinal preparations and drugs, including morphine and compounds of morphine or other opium alkaloids.

- (6A) A person must not contravene a direction.
Penalty: 10 penalty units.
- (6B) An offence against subregulation (6A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (7) Any medicinal preparations or drugs may be carried and used in aircraft in accordance with a direction given by CASA in pursuance of subregulation (6) without any licence, authority or other permission prescribed or required by or under the law of a State or Territory of the Commonwealth.

254 Exits and passageways not to be obstructed

- (1) Unless CASA otherwise approves, this regulation applies to all passageways and exits in an aircraft that are for use by passengers or crew.
- (2) When an aircraft is in flight, the pilot in command must ensure that all passageways and exits to which this regulation applies are kept free from obstruction.
Penalty: 10 penalty units.
- (3) When an aircraft is in flight, the pilot in command must ensure that all exits to which this regulation applies are fastened in a way that permits their immediate use in an emergency.
Penalty: 25 penalty units.
- (4) An offence against subregulation (2) or (3) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

255 Smoking in aircraft

- (1) Subject to subregulation 1A, a person must not smoke:
- (a) in a part of an aircraft in which a notice is permanently displayed indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited;
 - (b) anywhere in an aircraft during take-off, landing or refuelling or during a period:
 - (i) in which a notice is temporarily displayed indicating that smoking is prohibited; or
 - (ii) which is specified in a permanently displayed notice as a period during which smoking is prohibited; or
 - (c) in a berth of a sleeper aircraft.

Penalty: 5 penalty units.

- (1A) A person must not smoke in an aircraft toilet.

Penalty: 50 penalty units.

- (2) The owner or operator of an aircraft and the pilot in command shall ensure:
- (a) that provision is made in the aircraft by which a notice indicating that smoking is prohibited may be displayed during the periods when smoking is prohibited or, where the permission of CASA has been obtained, that a notice is permanently displayed in the aircraft specifying the periods during which smoking is prohibited; and
 - (b) that a notice indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited is displayed:
 - (i) in such parts of the aircraft as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (ii) in the case of a sleeper aircraft, in each of the berths of the aircraft.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft must, if the permission of CASA has not been obtained under paragraph (2) (a) for the display of a permanent notice, ensure that the notice indicating that smoking is prohibited is displayed:
- (a) during take-off, landing and refuelling;
 - (b) during such periods as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (c) during a period in which the pilot considers that smoking should be prohibited in the interests of safety.

Penalty: 25 penalty units.

- (3A) An offence against subregulation (1), (1A), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) A notice required to be displayed in pursuance of this regulation shall be legible and shall be displayed in a conspicuous place.

256

Intoxicated persons not to act as pilots etc. or be carried on aircraft

- (1) A person shall not, while in a state of intoxication, enter any aircraft.

Penalty: 5 penalty units.

- (2) A person acting as a member of the operating crew of an aircraft, or carried in the aircraft to act as a member of the operating crew, shall not, while so acting or carried, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

Penalty: 50 penalty units.

- (3) A person shall not act as, or perform any duties or functions preparatory to acting as, a member of the operating crew of an aircraft if the person has, during the period of 8 hours immediately preceding the departure of the aircraft consumed any alcoholic liquor.

Penalty: 50 penalty units.

- (4) A person who is on board an aircraft as a member of the operating crew, or as a person carried in the aircraft for the purpose of acting as a member of the operating crew, shall not consume any alcoholic liquor.

Penalty: 50 penalty units.

- (5) A person shall not, while acting in any capacity in either air traffic control or Flight Service, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

Penalty: 50 penalty units.

- (6) A person shall not act in any capacity in either air traffic control or Flight Service if the person has, during the period of 8 hours immediately preceding the commencement of the period of duty in which he or she so acts, consumed any alcoholic liquor.

Penalty: 50 penalty units.

- (7) A person who is on duty in either air traffic control or Flight Service shall not consume any alcoholic liquor.

Penalty for a contravention of this subregulation: 50 penalty units.

- (8) An offence against subregulation (1), (2), (3), (4), (5), (6) or (7) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

256AA **Offensive and disorderly behaviour**

- (1) A person in an aircraft must not behave in an offensive and disorderly manner.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

256A **Carriage of animals**

- (1) Subject to subregulation (8), the operator of an aircraft may permit a live animal to be in the aircraft only if:

- (a) the animal is in a container and is carried in accordance with this regulation; or
- (b) the animal is carried with the written permission of CASA and in accordance with any conditions specified in the permission.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply to a dog accompanying a visually impaired or hearing impaired person as a guide or an assistant if the dog is:

- (a) carried in the passenger cabin of the aircraft; and
- (b) placed on a moisture-absorbent mat as near to the person as practicable; and
- (c) restrained in a way that will prevent the dog from moving from the mat.

- (3) More than one animal must not be kept in the same container if doing so would be likely to affect adversely the safety of the aircraft.

- (4) A container must be so constructed that:

- (a) an animal kept in the container cannot escape from the container; and
- (b) any water or excreta in the container is not likely to escape from the container in normal flying conditions; and
- (c) the container will withstand being damaged in a way that may allow an animal, or water or excreta, in the container to escape.

- (5) A container in which an animal is kept must not be in the passenger cabin of an aircraft.

- (6) If:

- (a) an animal is carried in an aircraft in a container; and

(b) if the animal is not restrained it could move around inside the container in a way that may alter the distribution of the load of the aircraft; and

(c) the safety of the aircraft may be affected adversely by that movement;

the animal must be restrained in the container to prevent that movement.

(7) The means of restraint must be strong enough to withstand being damaged in a way that may allow the animal to escape.

(8) An animal must not be carried on an aircraft if carrying the animal would be likely to affect a person on the aircraft in a way that may affect adversely the safety of the aircraft.

(9) In this regulation, *animal* means any member of the animal kingdom other than man.

257 Aerodrome meteorological minima

(1) CASA may, in respect of an aircraft operation, determine the meteorological minima for the landing or taking-off of an aircraft at an aerodrome.

(2) A determination under subregulation (1) must be published in AIP or NOTAMS.

(3) If an element of the meteorological minima for the take-off of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not take-off from that aerodrome.

Penalty: 50 penalty units.

(4) If an element of the meteorological minima for the landing of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not land at that aerodrome.

Penalty: 50 penalty units.

(4A) An offence against subregulation (3) or (4) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) Subregulation (4) does not apply if an emergency arises that, in the interests of safety, makes it necessary for an aircraft to land at an aerodrome where the meteorological minima is less than that determined for that aircraft operation at that aerodrome.
- (6) This regulation does not prevent a pilot from:
- (a) making an approach for the purpose of landing at an aerodrome;
 - or
 - (b) continuing to fly towards an aerodrome of intended landing specified in the flight plan;
- if the pilot believes, on reasonable grounds, that the meteorological minima determined for that aerodrome will be at, or above, the meteorological minima determined for the aerodrome at the time of arrival at that aerodrome.

258 Flights over water

- (1) The pilot in command of the aircraft must not fly over water at a distance from land greater than the distance from which the aircraft could reach land if the engine, or, in the case of a multi-engined aircraft, the critical engine (being the engine the non-operation of which when the other engines are in operation gives the highest minimum speed at which the aircraft can be controlled) were inoperative.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the flight was:

- (a) in accordance with directions issued by CASA; or
- (b) in the course of departing from or landing at an aerodrome in accordance with a normal navigational procedure for departing from or landing at that aerodrome.

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

259 Manned free balloons

- (1) A person must not fly a free balloon if the person does not have the express permission of CASA and then only in accordance with the terms of that permission.

Penalty: 10 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) This regulation does not apply to an unmanned free balloon to which Part 101 of CASR applies.

260 Manned fixed balloons and kites

- (1) Despite regulation 157, a person may fly a fixed balloon or kite at a height not exceeding 300 feet.
- (2) A person must not fly a fixed balloon or kite within 4 000 metres of an aerodrome or at a height of more than 300 feet if the following requirements are not satisfied:
 - (a) the person has CASA's permission to fly the balloon or kite at that height;
 - (b) the flight is in accordance with the terms of that permission.

Penalty: 10 penalty units.

- (3) A person flying a fixed balloon or kite must fly it in V.M.C.
Penalty: 10 penalty units.
- (4) An offence against subregulation (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) This regulation does not apply to an unmanned fixed balloon or kite to which Part 101 of CASR applies.

262 Carriage of examiners

- (1) CASA may authorise officers of CASA to undertake examinations, inspections or checks of the work of an aircraft's crew, the operation of an aircraft or its equipment or of the ground organisation provided by the operator of an aircraft for use by aircraft.
- (2) An operator must provide an authorised officer with accommodation on aircraft in the following circumstances:
 - (a) on receipt of 7 days' notice prior to a flight from the officer of his or her intention to travel on that flight;
 - (b) on immediate demand from the officer of his or her intention to travel, if his or her carriage in the aircraft does not mean the off-loading of a passenger or of cargo being carried in the aircraft on the particular flight concerned;
 - (c) on immediate demand from the officer of his or her intention to travel irrespective of whether his or her carriage in the aircraft means the off-loading of a passenger or of goods, if the officer considers the circumstances of the case so warrant.

Penalty: 10 penalty units.

- (2A) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) In every case where the carriage of an officer in the circumstances specified in paragraph (2) (a) or (c) entails a loss of revenue to the owner of the aircraft due to the necessity of providing accommodation which would otherwise have been used for the carriage of a paying passenger or of cargo for which freight would have been charged, the owner shall be paid an amount equivalent to the loss of revenue.

Division 5 *Airborne collision avoidance systems***262AA** **Definitions**

In this Division:

ACAS means an airborne collision avoidance system for an aircraft that, when fitted to it, is used to provide information to a pilot of the aircraft for avoiding a collision with another aircraft.

large-capacity aeroplane means an aeroplane that:

- (a) has a maximum take-off weight of more than 15,000 kg; or
- (b) is permitted by its type certificate to have a passenger seating capacity of more than 30 seats.

resolution advisory means information that:

- (a) is provided to a pilot of an aircraft by a TCAS II that is fitted to the aircraft; and
- (b) is about a manoeuvre for averting a collision with another aircraft that the TCAS II recognises as a threat.

TCAS II means a type of ACAS that:

- (a) interrogates, and receives replies from, a secondary surveillance radar transponder; and
- (b) uses those replies to provide resolution advisories in the vertical plane, traffic advisories or both.

traffic advisory means information that:

- (a) is provided to a pilot of an aircraft by a TCAS II that is fitted to the aircraft; and
- (b) is about another aircraft that the TCAS II recognises as an intruder.

turbine-powered commercial aeroplane means a large-capacity aeroplane that:

- (a) is propelled by turbojet, turbofan or turboprop engines; and
- (b) is being used, for hire or reward, to carry passengers, cargo or both.

262AB **Meaning of approved TCAS II**

In this Division, a TCAS II is taken to be an approved TCAS II for an aircraft only if :

- (a) it has a marking under an authority or approval issued by the Administrator of the FAA indicating compliance with the requirements of TSO-C119b; or
- (b) in the case of a TCAS II that is not marked as mentioned in paragraph (a)—its design, construction, installation and performance meet the requirements of TSO-C119b .

*Subdivision 1 Australian aircraft***262AC ACAS requirements—turbine-powered commercial aeroplanes**

- (1) After 31 December 1999, the pilot in command of an Australian aircraft that is a turbine-powered commercial aeroplane must not begin a flight if the aircraft is not fitted with an approved TCAS II that is serviceable.

Penalty: 25 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply if:
- (a) the flight is for the purpose of moving the aircraft to a place to have:
 - (i) an approved TCAS II fitted to the aircraft; or
 - (ii) an approved but unserviceable TCAS II that is fitted to the aircraft repaired, removed or overhauled; or
 - (b) when the flight takes place, inclusion in the aircraft of an approved but unserviceable TCAS II amounts to a permissible unserviceability in the aircraft.

262AD ACAS must be activated during flight

- (1) The pilot in command of an Australian aircraft that is a turbine-powered commercial aeroplane fitted with an approved TCAS II that is serviceable must take all reasonable steps to ensure that the TCAS II is activated at all times while the aircraft is in flight.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AE Reporting unserviceable ACAS during flight

- (1) This regulation applies to an approved TCAS II fitted to an Australian aircraft that is a turbine-powered commercial aeroplane.
- (2) If a TCAS to which this regulation applies becomes unserviceable while the aircraft is in flight in, or on a flight into, Australian territory, the pilot in command must:
- (a) if the aircraft is in controlled airspace—tell air traffic control of the unserviceability as soon as practicable; or
 - (b) if the aircraft is not in controlled airspace—take all reasonable steps to tell air traffic control of the unserviceability before entering controlled airspace.

Penalty: 5 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AF Reporting unserviceable ACAS before flight

- (1) Before beginning a flight in Australian territory in an Australian aircraft that is a turbine-powered commercial aeroplane, the pilot in command must tell air traffic control that the aircraft is beginning the flight without an approved TCAS II that is serviceable if:
- (a) the flight is for the purpose set out in paragraph 262AC (2) (a); or
 - (b) the aircraft is fitted with an approved but unserviceable TCAS II whose inclusion in the aircraft amounts to a permissible unserviceability in the aircraft.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Subdivision 2 Foreign aircraft

262AG ACAS requirements—turbine-powered commercial aeroplanes

- (1) After 31 December 1999, the pilot in command of a foreign aircraft that is a turbine-powered commercial aeroplane must not begin a flight in Australian territory if the aircraft is not fitted with an approved TCAS II that is serviceable.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subregulation (1) does not apply if:
 - (a) the flight is for the purpose of moving the aircraft to a place to have an approved but unserviceable TCAS II that is fitted to the aircraft repaired, removed, replaced or overhauled; or
 - (b) the aircraft is fitted with an approved TCAS II that is unserviceable and, at the beginning of the flight:
 - (i) the unserviceability is permitted for the aircraft under a law in force in the country in which the aircraft is registered; and
 - (ii) not more than 10 days have passed since the TCAS II became unserviceable; and
 - (iii) the aircraft has been in Australian territory for no more than a total of 72 hours during those days.

262AH ACAS must be activated during flight

- (1) The pilot in command of a foreign aircraft that is a turbine-powered commercial aeroplane fitted with an approved TCAS II that is serviceable must take all reasonable steps to ensure that the TCAS II is activated at all times while the aircraft is in flight in Australian territory.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AI Reporting unserviceable ACAS during flight

- (1) This regulation applies to an approved TCAS II fitted to a foreign aircraft that is a turbine-powered commercial aeroplane.
- (2) If a TCAS to which this regulation applies becomes unserviceable while the aircraft is in flight in, or on a flight into, Australian territory, the pilot in command must:
 - (a) if the aircraft is in controlled airspace—tell air traffic control of the unserviceability as soon as practicable; or

- (b) if the aircraft is not in controlled airspace—take all reasonable steps to tell air traffic control of the unserviceability before entering controlled airspace.

Penalty: 5 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AJ Reporting unserviceable ACAS before flight

- (1) Before beginning a flight of a kind mentioned in subregulation 262AG (3), the pilot in command must tell air traffic control that the aircraft does not have a serviceable TCAS II.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 6 ***Operating limitations for aircraft certificated in certain categories and experimental aircraft***

262AK **Application of this Division**

This Division applies to an aircraft for which a special certificate of airworthiness has been issued under Part 21 of CASR.

Note The kinds of aircraft to which this Division may apply include:

- (a) restricted, limited, intermediate and primary category aircraft; and
- (b) provisionally certificated aircraft; and
- (c) experimental aircraft; and
- (d) light sport aircraft.

262AL **Restricted category aircraft—operating limitations**

- (1) A person may operate a restricted category aircraft only in:
- (a) a special purpose operation for which a special certificate of airworthiness in the restricted category is in force for the aircraft under regulation 21.185 of CASR; or
 - (b) an operation permitted under subregulation (2).

Penalty: 50 penalty units.

- (2) A restricted category aircraft may be used for any of the following operations in support of a special purpose operation for which it is type certificated under regulation 21.025 of CASR:
- (a) participation in an air display;
 - (b) taking the aircraft to or from a place where a demonstration or display of the aircraft is to take place or has taken place during an air display;
 - (c) practice in flying the aircraft for participation in an air display;
 - (d) taking the aircraft to or from a place where maintenance on the aircraft may be done, or has been done;
 - (e) testing the aircraft after maintenance;
 - (f) training a person to qualify for an aircraft endorsement for an aircraft of the type or category in which the aircraft is included;
 - (g) pilot proficiency training or practice in flying the aircraft, or training in a special purpose operation for which the aircraft is certificated;
 - (h) carrying out a demonstration or test of the aircraft for sale;
 - (i) delivering the aircraft to a person under a contract of sale;
 - (j) an operation necessary to accomplish the special purpose operation.

- (3) A person must not operate a restricted category aircraft for a purpose mentioned in paragraph 206 (1) (b) or (c).

Penalty: 50 penalty units.

- (4) Subregulation (3) does not prohibit the following:
- (a) carrying a person on a special purpose operation for which the aircraft is type certificated, if the person performs an essential

- function in the operation or is needed to accomplish the work activity directly associated with the special purpose;
- (b) carrying a flight crew member for the purpose of giving the flight crew member training in carrying out a special purpose operation for which the aircraft is type certificated;
 - (c) carrying material on a special purpose operation for which the aircraft is type certificated, if the material is needed to carry out the special purpose operation or the work activity associated with it.
- (5) The operator and the pilot in command of a restricted category aircraft must not permit a person to be carried on the aircraft if the person is not a person mentioned in subregulation (6).
- Penalty: 50 penalty units.
- (6) Subregulation (5) does not apply to the following:
- (a) a flight crew member;
 - (b) a flight crew member under training;
 - (c) a person who performs an essential function in a special purpose operation for which the aircraft is type certificated;
 - (d) a person who is needed to accomplish the work activity directly associated with the special purpose.
- (7) A person must not operate a restricted category aircraft if a shoulder harness is not installed for each seat located at a flight crew member station, and each seat located beside a seat at a flight crew member station.
- Penalty: 25 penalty units.
- (8) An offence against subregulation (1), (3), (5) or (7) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AM Limited category aircraft—operating limitations

- (1) A person may operate a limited category aircraft only in:
- (a) a special purpose operation for which a special certificate of airworthiness in the limited category is in force under regulation 21.189 of CASR; or
 - (b) an operation permitted under subregulation (2).
- Penalty: 50 penalty units.
- (2) A limited category aircraft may be used for any of the following operations in support of a special purpose operation for which the special certificate of airworthiness was issued:
- (a) participation in an air display ;
 - (b) taking the aircraft to or from a place where a demonstration or display of the aircraft is to take place, or has taken place, during an air display;
 - (c) practice flying of the aircraft for participation in an air display;

- (d) taking the aircraft to or from a place where maintenance on the aircraft is to be done, or has been done;
 - (e) testing the aircraft after maintenance;
 - (f) training a person to qualify for an aircraft endorsement for an aircraft of the type or category in which the aircraft is included;
 - (g) practice in flying the aircraft, or training in a special purpose operation for which the aircraft is certificated;
 - (h) carrying out a demonstration or test of the aircraft for sale;
 - (i) delivering the aircraft to a person under a contract of sale;
 - (j) an operation necessary to accomplish the special purpose operation.
- (3) Except as permitted by subregulation (7), a person must not operate a limited category aircraft for a purpose mentioned in paragraph 206 (1) (b) or (c).

Penalty: 50 penalty units.

- (4) A person must not operate a limited category aircraft carrying a passenger if each of the following requirements is not satisfied:
- (a) no more than 6 (or a greater number approved by CASA or an authorised person) people are on board;
 - (b) the operator or the pilot in command ensures that each passenger is told about the matters mentioned in subregulation (5):
 - (i) if the passenger is being carried as permitted under subregulation (7) and pays for the flight before boarding the aircraft—before the passenger pays for the flight; or
 - (ii) in any other case—before the passenger boards the aircraft;
 - (c) a placard bearing the warning stated in subregulation (6) is displayed inside the aircraft in a way that is conspicuous to, and can be easily read by, each person in the aircraft.

Penalty: 50 penalty units.

- (5) For paragraph (4) (b), the matters about which a passenger must be told are that:
- (a) the design, manufacture, and airworthiness of the aircraft are not required to meet any standard recognised by CASA; and
 - (b) CASA does not require the aircraft to be operated to the same degree of safety as an aircraft on a commercial passenger flight; and
 - (c) the passenger flies in the aircraft at his or her own risk.

- (6) For paragraph (4) (c) the warning is:

“WARNING

PERSONS FLY IN THIS AIRCRAFT AT THEIR OWN RISK

THIS AIRCRAFT HAS BEEN DESIGNED FOR SPECIAL OPERATIONS AND IS NOT OPERATED TO THE SAME SAFETY STANDARDS AS A NORMAL COMMERCIAL PASSENGER FLIGHT”.

- (7) A person may carry passengers in a limited category aircraft in circumstances where payment is made for carriage, and subregulation 2 (7A) does not apply, only if:
- (a) the pilot in command holds a commercial pilot licence, or an air transport pilot licence, with appropriate ratings and endorsements for a flight of that kind; and
 - (b) the aircraft departs from and returns to the same aerodrome without landing anywhere else; and
 - (c) the flight does not involve training or flight testing, and is not a scenic flight; and
 - (d) the aircraft:
 - (i) is a replica aircraft, ex-military aircraft or historic aircraft; or
 - (ii) is being operated for the purpose of parachute jumping, mock combat or aerobatics; or
 - (iii) is being operated only to carry passengers as part of an intrinsically hazardous recreational activity; and
 - (e) each passenger has acknowledged in writing that the passenger has been told about the matters mentioned in subregulation (5).

Penalty: 50 penalty units.

- (8) The aircraft operator:
- (a) must keep an acknowledgment required under paragraph (7) (e) for at least 3 months; and
 - (b) must not keep it in an aircraft.

Penalty: 10 penalty units.

- (10) A limited category aircraft may be operated over the built-up area of a city or town only if:

- (a) CASA or an authorised person has assigned it, under subregulation (14), a permit index of 0; or
- (b) CASA or an authorised person has assigned it a permit index of 1 and:
 - (i) it is only flown over the area to the least extent necessary to allow it to take off from, or land at, a particular aerodrome, or follow a procedure approved by CASA or an authorised person for the safety of other airspace users and persons on the ground or water; and
 - (ii) if it is using an aerodrome in a capital city—it follows an access route approved by CASA or an authorised person for the purpose; or
- (c) CASA or an authorised person has approved it to do so.

Penalty: 50 penalty units.

- (11) In considering whether to grant an approval under paragraph (10) (c), CASA or the person authorised under that paragraph must take into account the aircraft's permit index and anything else CASA or the authorised person considers relevant for the safety of other airspace users and persons on the ground or water.

- (12) A person must not operate a limited category aircraft in another country's airspace if the operation of the aircraft is not in accordance with the approval of the appropriate authority of the country.

Penalty: 10 penalty units.

- (13) A person must not operate a limited category aircraft for a purpose mentioned in paragraph 206 (1) (a) if the person is not the holder of an appropriate AOC.

Penalty: 10 penalty units.

- (14) CASA or an authorised person must assign a permit index (that is, a whole number between 0 and 3) in accordance with Advisory Circular 21.25 issued by CASA, as published from time to time, to a limited category aircraft for the purpose of applying appropriate safety conditions to the operation of the aircraft.

- (15) An offence against subregulation (1), (3), (4), (7), (8), (10), (12) or (13) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AN Approved organisations

- (1) CASA may approve an organisation to administer the operation of limited category aircraft engaged in a special purpose operation mentioned in subregulation 21.189 (3) of CASR if CASA is satisfied that the organisation:
- (a) is suitable, and has enough suitably qualified and competent personnel, to ensure that the administration of relevant aircraft

- operations, airworthiness assessments and continuing airworthiness procedures can be properly carried out; and
- (b) has suitable practices, procedures, limitations and conditions to control the operation and ensure that the operational and airworthiness activities that it is to administer are conducted safely; and
 - (c) has engaged, employed or contracted a chief executive who has authority and responsibility for ensuring that all activities carried out by the organisation are done with a reasonable degree of care and diligence.
- (2) However, CASA may approve an organisation under subregulation (1) only if the organisation produces and keeps up to date a manual, or manuals, acceptable to CASA, that:
- (a) is or are consistent with these regulations; and
 - (b) documents the practices, procedures, limitations and conditions mentioned in paragraph (1) (b).
- (3) A person must operate a limited category aircraft only in accordance with a manual produced by an organisation approved under subregulation (1).
Penalty: 50 penalty units.
- (4) Subregulation (3) does not apply if the person has CASA's approval to operate other than in accordance with a manual produced by an organisation approved under subregulation (1).
- (5) An offence against subregulation (3) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AO Provisionally certificated aircraft—operating limitations

- (1) A person must not operate a provisionally certificated aircraft if the person is not the holder of the provisional certificate of airworthiness for that aircraft.
Penalty: 50 penalty units.
- (2) A person must not operate a provisionally certificated aircraft in another country's airspace if the operation is not in accordance with the approval of the appropriate authority of the country.
Penalty: 10 penalty units.
- (3) A person must not operate a provisionally certificated aircraft for a purpose mentioned in paragraph 206 (1) (b) or (c).
Penalty: 50 penalty units.
- (4) A person may operate a provisionally certificated aircraft only if:
- (a) to obtain type or supplemental type certification for the aircraft;
or
 - (b) for training flight crews, including simulated operations of the type mentioned in paragraph 206 (1) (b) or (c); or

- (c) for a demonstration flight by the manufacturer for prospective purchasers; or
- (d) for market surveys by the manufacturer; or
- (e) for flight checking of instruments, accessories, and items of equipment that do not affect the basic airworthiness of the aircraft; or
- (f) for service testing of the aircraft.

Penalty: 50 penalty units.

- (5) A person operating a provisionally certificated aircraft must operate within the limitations displayed in the aircraft or stated in the provisional aircraft flight manual or other appropriate document.
- (6) However, when operating the aircraft during its type certification or supplemental type certification, the person must operate under the limitations applying to experimental aircraft under regulation 262AP and, when flight testing it, must comply with regulation 262AS.

Penalty: 50 penalty units.

- (7) A person operating a provisionally certificated aircraft must establish approved procedures for:
 - (a) use by, and guidance of, flight and ground personnel in operating under this regulation; and
 - (b) landing at and taking-off from aerodromes where take-offs or approaches over populated areas are necessary.

Penalty: 50 penalty units.

- (8) A person operating a provisionally certificated aircraft must comply with the approved procedures.

Penalty: 50 penalty units.

- (9) A person operating a provisionally certificated aircraft must ensure that each flight crew member is properly licensed and rated, and has adequate knowledge of and familiarity with, the aircraft and procedures to be used by the crew member.

Penalty: 50 penalty units.

- (10) A person operating a provisionally certificated aircraft must maintain it in accordance with a maintenance program approved under regulation 21.081 or 21.083 of CASR.

Penalty: 50 penalty units.

- (11) A person operating a provisionally certificated aircraft :
 - (a) must not carry anyone in the aircraft who does not have a proper interest in the operations allowed by this regulation, or who is not specifically authorised by both the manufacturer, and by CASA or an authorised person, to be carried; and
 - (b) must tell each person carried that the aircraft is provisionally certificated .

Penalty: 50 penalty units.

- (12) An offence against subregulation (1), (2), (3), (4), (6), (7), (8), (9), (10) or (11) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AP Experimental aircraft—operating limitations

- (1) A person must not operate an aircraft for which a special certificate of airworthiness is in force under regulation 21.195A of CASR, if the operation is not one of the following kinds:

- (a) an operation for a purpose for which the certificate is issued;
- (b) an operation permitted by subregulation (2).

Penalty: 50 penalty units.

- (2) An experimental aircraft may be used for any of the following operations in support of an operation for which the special certificate of airworthiness was issued:

- (a) taking the aircraft to or from a place where maintenance on the aircraft can be done, or has been done;
- (b) testing the aircraft after maintenance;
- (c) training a person to qualify for an aircraft endorsement on the aircraft;
- (d) practice in flying the aircraft;
- (e) carrying out a demonstration or test of the aircraft for sale;
- (f) delivering the aircraft to a person under a contract of sale;
- (g) for an amateur-built or kit-built aircraft—flying training given in the aircraft to its owner.

- (3) A person must not operate an experimental aircraft outside the area assigned for the purpose by CASA or an authorised person, and must not carry persons other than essential crew in the aircraft, until it is shown that it:

- (a) is controllable throughout its normal range of speeds and throughout all the manoeuvres to be executed; and
- (b) has no hazardous operating characteristics or design features.

Penalty: 50 penalty units.

- (4) A person must not operate an experimental aircraft over the built-up area of a city or town unless authorised to do so under subregulation (5).

Penalty: 50 penalty units.

- (5) CASA or an authorised person may authorise a particular aircraft to be operated over the built-up area of a city or town subject to the conditions and limitations CASA or the authorised person considers necessary for the safety of other airspace users and persons on the ground or water.

- (6) A person operating an experimental aircraft must operate it only:
- (a) by day and under V.F.R; or
 - (b) otherwise in accordance with an approval by CASA or an authorised person.

Penalty: 50 penalty units.

- (7) A person must not operate an experimental aircraft for a purpose mentioned in paragraph 206 (1) (b) or (c).

Penalty: 50 penalty units.

- (8) A person must not operate an experimental aircraft carrying a passenger if each of the following requirements is not satisfied:

- (a) no more than 6 (or a greater number approved by CASA or an authorised person) people are on board;
- (b) the operator or the pilot in command ensures that each person carried is told before boarding the aircraft that:
 - (i) the design, manufacture, and airworthiness of the aircraft is not required to meet any standards recognised by CASA; and
 - (ii) persons fly in the aircraft at their own risk;
- (c) a placard bearing the warning stated in subregulation (9) is displayed inside the aircraft in a way that is conspicuous to, and can be easily read by, each person in the aircraft.

Penalty: 50 penalty units.

- (9) For paragraph (8) (c), the warning is:

“WARNING

PERSONS FLY IN THIS AIRCRAFT AT THEIR OWN RISK

THIS AIRCRAFT IS NOT OPERATED TO THE SAME SAFETY
STANDARDS AS A NORMAL COMMERCIAL PASSENGER
FLIGHT

CASA DOES NOT SET AIRWORTHINESS STANDARDS FOR
EXPERIMENTAL AIRCRAFT”.

- (11) A person must not operate an experimental aircraft in another country's airspace if it is not in accordance with the approval of the appropriate authority of the country.

Penalty: 10 penalty units.

- (12) A person must not operate an experimental aircraft for a purpose mentioned in paragraph 206 (1) (a) if the person is not the holder of an appropriate AOC.

Penalty: 10 penalty units.

- (13) An offence against subregulation (1), (3), (4), (6), (7), (8), (11) or (12) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262APA Light sport aircraft — operating limitations

- (1) A person must not operate a light sport aircraft covered by regulation 21.186 of CASR unless:

(a) the aircraft is being operated for:

- (i) private operations; or
- (ii) conducting or undergoing flying training; or
- (iii) glider towing; and

(b) maintenance has been carried out on the aircraft in accordance with maintenance procedures issued by its manufacturer; and

(c) the aircraft has been inspected, in accordance with inspection procedures issued by its manufacturer, at least once:

- (i) in the case of an aircraft that is let on hire for a purpose mentioned in subparagraph (a) (i), (ii) or (iii) — every 100 hours TIS or every 12 months, whichever occurs first; and
- (ii) in any other case — every 12 months; and

(d) all modifications on the aircraft have been authorised by its manufacturer; and

(e) the person who operates the aircraft ensures that each person who boards the aircraft is told about the warning in subregulation (2) before the person boards the aircraft; and

(f) a placard bearing the warning in subregulation (2) is displayed inside the aircraft in a place where it is conspicuous to, and can easily be read by, each person in the aircraft.

Penalty: 50 penalty units.

- (2) For paragraphs (1) (e) and (f), the warning is:

‘THIS AIRCRAFT WAS MANUFACTURED IN
ACCORDANCE WITH LIGHT SPORT AIRCRAFT
AIRWORTHINESS STANDARDS AND DOES NOT
CONFORM TO STANDARD CATEGORY
AIRWORTHINESS REQUIREMENTS’.

- (3) Unless otherwise approved by its manufacturer, a person must not operate a light sport aircraft covered by regulation 21.186 of CASR contrary to:
- (a) the aircraft operating instructions issued for the aircraft (including instructions for necessary equipment in the aircraft's equipment list); or
 - (b) a safety direction or requirement issued by its manufacturer.
- Penalty: 50 penalty units.
- (4) A person must not operate a light sport aircraft covered by regulation 21.186 of CASR contrary to any additional operating limitation determined, in writing, by CASA for the aircraft in the interests of aviation safety.
- Penalty: 50 penalty units.
- (5) CASA must give a copy of a determination referred to in subregulation (4) to the registered operator of the aircraft concerned.
- (6) An offence against subregulation (1), (3) or (4) is an offence of strict liability.
- (7) In the case of an aircraft whose manufacturer no longer exists or can no longer provide instructions for the continuing airworthiness of the aircraft, anything required by a provision of this regulation to be done by its manufacturer can be done by a person appointed by CASA to perform the functions of the manufacturer in relation to the continuing airworthiness of the aircraft.

262AQ Primary category aircraft—operating limitations

- (1) A person must not operate a primary category aircraft in aerial work operations (other than flying training) or for a purpose mentioned in paragraph 206 (1) (b) or (c) .
- Penalty: 50 penalty units.
- (2) A person may make a primary category aircraft available for rental only:
- (a) if it is maintained by a LAME or an approved maintenance organisation; and
 - (b) for personal use or flying training.
- Penalty: 50 penalty units.
- (3) A person may operate a primary category aircraft that is not maintained by a LAME or an approved maintenance organisation only if:
- (a) the aircraft is maintained by the pilot-owner under an approved special inspection and maintenance program; and
 - (b) the pilot-owner has a certificate of competency to maintain the aircraft issued by an organisation holding an appropriate certificate of approval under regulation 30; and

- (c) the aircraft is operated by the pilot-owner or a person nominated by the pilot-owner; and
- (d) the pilot-owner is not paid and does not receive other compensation for the use of the aircraft.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

262AR Intermediate category aircraft—operating limitations

- (1) A person must not operate an intermediate category aircraft for a purpose mentioned in paragraph 206 (1) (b) or (c) if the person is not the holder of an appropriate AOC.

Penalty: 50 penalty units.

- (2) A person may make an intermediate category aircraft available for rental only:

- (a) if it is maintained by a LAME or an approved maintenance organisation; and
(b) for personal use or flying training.

Penalty: 50 penalty units.

- (3) A person may operate an intermediate category aircraft that is not maintained by a LAME or an approved maintenance organisation only if:

- (a) the aircraft is maintained by the pilot-owner under an approved special inspection and maintenance program; and
(b) the pilot-owner has a certificate of competency to maintain the aircraft issued by an organisation holding an appropriate certificate of approval under regulation 30; and
(c) the aircraft is operated by the pilot-owner or a person nominated by the pilot-owner; and
(d) the pilot-owner does not receive payment for the use of the aircraft.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

262AS Where aircraft may be flight tested

- (1) A person may flight test an aircraft only:
(a) over open water or a sparsely populated area; and
(b) where there is no more than light air traffic.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

NOTE: PAGES 425 TO 436 HAVE BEEN OMITTED ON PURPOSE

(following the revocation of regulations associated with dangerous goods by Stat Rules 2003 No. 365)

PART 16 REFUSAL TO GRANT, AND SUSPENSION AND CANCELLATION OF, LICENCES, CERTIFICATES AND AUTHORITIES

263 Interpretation

(1) In this Part, unless the contrary intention appears:

authority means:

- (a) an airworthiness authority; or
- (b) an aircraft welding authority;

under Division 3 of Part 4;

certificate means:

- (a) a certificate under Division 3 of Part 4; or
- (b) a certificate of validation;

licence means:

- (a) a licence under Division 3 of Part 4;
- (b) a flight crew licence; or
- (ba) a special pilot licence; or
- (c) a flight crew rating; or
- (d) an aircraft endorsement.

(2) A reference in this part to a licence shall be read as including a reference to a rating or other endorsement on a licence by virtue of which the holder of a licence so endorsed has under these Regulations specific privileges or authority to exercise or perform specific functions or duties in relation to the operation or maintenance of aircraft.

(3) A reference in this Part to variation of a licence shall be read as including a reference to the inclusion, deletion or alteration of an endorsement on a licence.

(4) In this regulation:

aircraft endorsement has the same meaning as in regulation 5.01.

264 Refusal to grant licence or certificate

(1) CASA shall not refuse to grant a licence or certificate except on one or more of the following grounds, namely:

- (a) that the applicant has failed to satisfy a requirement prescribed by or specified under these regulations in relation to the grant of the licence or certificate;
- (b) that the applicant has made in, or in connection with, the application a statement that was false or misleading in a material particular; or

- (ba) that a court has made an order under section 30A of the Act in relation to the applicant; or
- (c) in relation to the initial issue of a licence or certificate:
 - (i) that the applicant was the holder of a licence or certificate that was previously cancelled; or
 - (ii) that the applicant is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of the licence or certificate for which the application was made.
- (2) Where CASA makes a decision refusing to grant a licence or a certificate as referred to in subregulation (1), CASA shall, by notice in writing, inform the applicant of the making of that decision and of the grounds for the decision.
- (3) This regulation does not apply to a flight crew licence, a certificate of validation, a flight crew rating or an aircraft endorsement.
- (4) In this regulation:

aircraft endorsement has the same meaning as in regulation 5.01.

265**Suspension of licence or authority for purpose of examination**

- (1) If:
 - (a) CASA requires the holder of a licence to undergo an examination under regulation 33, 5.38, 107 or 117; or
 - (c) CASA requires the holder of an authority to undergo an examination under regulation 33;

CASA may suspend the licence or authority by giving the holder of the licence or authority written notice of the suspension.
- (2) Where the result of the examination does not show any ground on which the licence or authority may be suspended or cancelled, CASA shall forthwith terminate the suspension of the licence or authority and, by notice in writing served on the holder of the licence or authority, notify the holder that the suspension has been so terminated.
- (3) Where CASA, upon the result of the examination becoming known, does not terminate the suspension in accordance with subregulation (2) but gives to the holder of the licence or authority a notice under subregulation 269 (3), the licence or authority shall remain suspended during the time specified by CASA in that notice as the time within which the holder of the licence or authority may show cause why the licence or authority should not be varied, suspended or cancelled under regulation 269.

266 Cancellation at request of holder

If the holder of a licence or certificate advises CASA that he or she no longer wishes to hold the licence, certificate or authority, CASA shall cancel the licence, certificate or authority.

267 Variation at request of holder

- (1) Subject to subregulation (2), CASA may vary a licence or certificate or an authority (other than an aircraft welding authority) in accordance with a request made by the holder of the licence, certificate or authority.
- (2) Nothing in subregulation (1) shall be taken to require CASA to vary a licence or certificate or an authority in accordance with a request made under that subregulation.

269 Variation, suspension or cancellation of licence, certificate or authority

- (1) Subject to this regulation, CASA may, by notice in writing served on the holder of a licence or certificate or an authority, vary, suspend or cancel the licence, certificate or authority where CASA is satisfied that one or more of the following grounds exists, namely:
- (a) that the holder of the licence, certificate or authority has contravened, a provision of the Act or these Regulations, including these Regulations as in force by virtue of a law of a State;
 - (b) that the holder of the licence, certificate or authority fails to satisfy, or to continue to satisfy, any requirement prescribed by, or specified under, these Regulations in relation to the obtaining or holding of such a licence or certificate or an authority;
 - (c) that the holder of the licence, certificate or authority has failed in his or her duty with respect to any matter affecting the safe navigation or operation of an aircraft;
 - (d) that the holder of the licence, certificate or authority is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of such a licence or certificate or an authority; or
 - (e) that the holder of the licence, certificate or authority has contravened, a direction or instruction with respect to a matter affecting the safe navigation and operation of an aircraft, being a direction or instruction that is contained in Civil Aviation Orders.
- (1A) CASA must not cancel a licence, certificate or authority under subregulation (1) because of a contravention mentioned in paragraph (1)(a) unless:
- (a) the holder of the licence, certificate or authority has been convicted by a court of an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention; or
 - (b) the person was charged before a court with an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention and was found by the court to have committed the offence, but the court did not proceed to convict the person of the offence.
- (2) A notice under subregulation (1) shall set out the grounds for the decision.

- (3) Before taking action under this regulation to vary, suspend or cancel a licence or certificate or an authority, CASA shall:
- (a) give notice, in writing, to the holder of the licence, certificate or authority of the facts and circumstances that, in the opinion of CASA, warrant consideration being given to the variation, suspension or cancellation of the licence, certificate or authority under this regulation; and
 - (b) allow the holder of the licence, certificate or authority to show cause, within such time as CASA specifies in that notice, why the licence, certificate or authority should not be varied, suspended or cancelled under this regulation.
- (4) The time specified by CASA in the notice under subregulation (3) as the time within which the holder of the licence, certificate or authority may show cause why the licence, certificate or authority should not be varied, suspended or cancelled under this regulation shall be a time that is reasonable in all of the circumstances of the particular case.

270 Effect of effluxion of time in relation to the suspension of a licence, certificate or authority

- (1) Where a licence or certificate or an authority is suspended under this Part, the licence, certificate or authority has no force or effect for the duration of the suspension, but the period of currency of the licence, certificate or authority continues to run.
- (2) Where the period for which a licence or certificate or an authority is suspended is a period expiring after the expiration of the current period of the licence, certificate or authority, the holder of the licence, certificate or authority is not eligible for renewal of the licence, certificate or authority until the period of suspension has expired.

272A Effect of cancellation of licence, certificate or authority

If CASA suspends a licence or certificate or an authority, its holder is taken not to be the holder of the licence, certificate or authority during the period of the suspension.

PART 17 PENAL PROVISIONS AND PROSECUTIONS

Division 1 Penal Provisions

282 Offences in relation to licences, certificates and authorities

- (1) A person shall not, if the person is not specially permitted by or under these Regulations, perform any duty or exercise any function or do any act for which:
- (a) a licence;
 - (b) a certificate; or
 - (c) a rating or other endorsement on a licence or certificate;
- is required under these Regulations, without holding:
- (d) the appropriate licence or certificate; or
 - (e) a licence or certificate containing the appropriate rating or other endorsement.

Penalty: 50 penalty units.

- (2) Where a licence or certificate is suspended, or a rating or other endorsement on a licence or certificate is suspended or cancelled, under these Regulations, the person to whom the licence or certificate was granted shall not, for the purposes of subregulation (1) be deemed to be the holder of the licence or certificate or a licence or certificate containing the rating or other endorsement, as the case may be, during the period of suspension or cancellation.
- (3) A person shall not purport to give a certificate, or to issue a document, for the purposes of these Regulations if he or she is not authorised under these Regulations to do so.

Penalty: 50 penalty units.

- (4) The holder of a licence, a certificate, an airworthiness authority or an aircraft welding authority shall not:
- (a) negligently perform a duty that he or she is qualified to perform under the terms of the licence, certificate, airworthiness authority or aircraft welding authority; or
 - (b) issue a certificate that he or she is required or empowered to issue under these Regulations without ensuring that all matters certified therein are true and correct in every material particular.

Penalty: 25 penalty units.

- (5) An offence against subregulation (1) or (2) or paragraph (4) (b) is an offence of strict liability.

Note For *strict liability* see section 6.1 of the *Criminal Code*.

286 Stowaways

- (1) A person must not secrete himself or herself in an aircraft, or travel in an aircraft without the consent of the operator or pilot in command.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

287 Power of Court to order returns etc. to be furnished

Where any person is convicted of an offence under these Regulations for failure to furnish any return or to comply with a notice to surrender a document, the Court before which he or she is convicted may, in addition to imposing any pecuniary or other penalty, order the defendant to furnish the return or surrender the document, as the case may be.

288 Detention of aircraft

- (1) Where it appears to CASA that any aircraft is intended or likely to be flown in such circumstances that the flight would involve an offence against these Regulations or be a cause of danger to persons in the aircraft or to persons or property on the ground, CASA may take such action by way of detention of the aircraft or such other action as is necessary for the purpose of causing the circumstances relating to the flight to be investigated or the aircraft to be inspected.

- (2) Where an aircraft has been detained in pursuance of subregulation (1), the aircraft shall not be used until CASA, being satisfied that the Regulations are being complied with, approves, or until such alterations or repairs as CASA considers necessary to render the aircraft fit for flight have been made.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

289 Creation of fire hazard

- (1) Subject to these Regulations, a person shall not smoke or do any act to procure a naked flame within 15 metres of an aircraft or in any part of an aerodrome in which a notice indicates that smoking is prohibited.

Penalty: 10 penalty units.

- (2) A person shall not do any act likely to create a fire hazard endangering an aircraft or an aerodrome.

Penalty: 10 penalty units.

- (2A) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Nothing in this regulation applies in relation to an act done at a Federal airport.

290 Firearms—Federal airports

An authorised person may, for a purpose relating to the safety of air navigation, discharge a firearm upon or over any part of a Federal airport .

291 Stationary aircraft within precincts of an aerodrome

- (1) A person may leave a stationary aircraft standing within the precincts of an aerodrome at which air traffic control is in operation, only if:
- (a) the aircraft is standing in an area that is designated to be an area for the parking of aircraft of a kind to which that aircraft belongs; or
 - (b) air traffic control has given permission for the aircraft to be left standing in that area.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

292 Aircraft on movement area to be reported

- (1) If, for any reason, an aircraft:
- (a) is left standing on the movement area of an aerodrome; or
 - (b) is left standing on any other area of an aerodrome so as to constitute a hazard to aircraft operations;

the pilot in command of the aircraft shall forthwith report the fact that the aircraft is standing on the movement area or other area of the aerodrome to air traffic control or the nearest radio communication station.

Penalty: 10 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) A report under subregulation (1) shall be in addition to a notification or report required under the Air Navigation Regulations.
- (3) In this regulation, *radio communication station* means a radio station established or authorised for the purpose of radio communication with aircraft and designated by CASA as a radio communication station in Aeronautical Information Publications.
- (4) A reference in this regulation to an aerodrome shall be read as including a reference to an aerodrome under the control of a part of the Defence Force, being an aerodrome in respect of which an arrangement under section 20 of the Act is in force.

293 Removal of aircraft from movement area

- (1) Where, in the opinion of CASA, it is necessary, in the interests of safety or to expedite or maintain an orderly flow of air traffic, to remove an aircraft from any part of an aerodrome or to move an aircraft from one part of the movement area of an aerodrome to another, CASA may authorise a person, with such assistance (if any) as is necessary and reasonable, to so remove or move the aircraft, and the officer shall remove or move the aircraft accordingly.
- (2) CASA or a person who assists in the removal of an aircraft under subregulation (1) shall not be liable for any damage which occurs to the aircraft by reason of its removal in pursuance of an authorisation given under that subregulation.
- (3) A reference in this regulation to an aerodrome shall be read as including a reference to an aerodrome under the control of a part of the Defence Force, being an aerodrome in respect of which an arrangement under section 20 of the Act is in force.

294 Prohibition of entry etc. on prohibited area

- (1) A person must not:
 - (a) enter or remain within a prohibited area in an aerodrome;
 - (b) bring or leave any property on a prohibited area within an aerodrome;
 - (c) operate any vehicle on a prohibited area within an aerodrome;
 - (d) bring any animal or bird on to a prohibited area within an aerodrome; or
 - (e) permit any animal or bird under his or her possession or control to trespass on a prohibited area within an aerodrome.

Penalty: 5 penalty units.

- (1A) An offence against subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (2) Where:
 - (a) a person contravenes paragraph (1) (a), (b), (c) or (d); or
 - (b) any property, vehicle, animal or bird is found in contravention of paragraph (1) (b), (c), (d) or (e);

any authorised person may apprehend and remove that person, property, vehicle, animal or bird, as the case may be, without being deemed guilty of any act of trespass.

- (3) In this regulation:

authorised person means an officer or employee of CASA, a member of the Defence Force, a constable, an aerodrome operator, a person authorised by the aerodrome operator, or the pilot in command of an aircraft;

prohibited area, in relation to an aerodrome, means any part of the aerodrome upon which is posted a notice relating to that part of the aerodrome, being a notice to the effect that trespassing upon that part of the aerodrome is prohibited and purporting to have been posted with the authority of CASA.

Division 2 Prosecutions**296 Time for commencing prosecutions**

- (1) A prosecution in respect of any offence against these Regulations may be commenced at any time within 3 years after the commission of the offence.
- (2) For the purposes of subregulation (1), time shall be deemed not to run during any period after the commission of an offence and before the institution of proceedings in respect thereof for which the defendant is outside Australian territory.

Division 3 Infringement Notices**296A Definitions for Division 3 of Part 16**

In this Division:

infringement notice means a notice served under regulation 296B.

prescribed offence means an offence under these Regulations.

Note Subregulation 2C (1) provides that CASR is to be read with, and as if it formed part of, CAR.

prescribed penalty, for a prescribed offence, means:

- (a) if the maximum penalty for the offence is 5 or 10 penalty units — a penalty of 1 penalty unit; or
- (b) if the maximum penalty for the offence is 15, 20 or 25 penalty units — a penalty of 3 penalty units; or
- (c) if the maximum penalty for the offence is more than 25 penalty units — a penalty of 5 penalty units.

296B When can an infringement notice be served?

If an authorised person has reason to believe that a person has committed a prescribed offence, he or she may serve on the person an infringement notice in accordance with this Division.

296C Can an infringement notice be withdrawn?

- (1) An authorised person may withdraw an infringement notice served on a person (in this regulation called “the recipient”) by serving written notice of the withdrawal on the recipient:
 - (a) within 28 days after the date of service of the infringement notice; or
 - (b) if an authorised person allows the recipient a further period of time in which to pay the prescribed penalty for the offence mentioned in the notice—before the end of the further period.
- (2) Without limiting the generality of subregulation (1), the authorised person may withdraw the infringement notice after taking into account:
 - (a) whether the recipient has previously been convicted of an offence against these Regulations; or
 - (b) the circumstances in which the offence specified in the notice is alleged to have been committed; or
 - (c) whether an infringement notice has previously been served on the recipient in relation to an offence of the same type as the offence specified in the notice and in relation to which the recipient paid the prescribed penalty; or
 - (d) any other relevant matter.

- (3) If:
- (a) the recipient pays the prescribed penalty within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and
 - (b) the notice is withdrawn after the recipient pays the penalty;
- CASA must refund to the recipient an amount equal to the amount paid.

296D How are infringement notices and withdrawals of notices to be served?

An authorised person may serve an infringement notice, or a notice of withdrawal of an infringement notice:

- (a) on an individual:
 - (i) by giving it to the individual personally; or
 - (ii) by leaving it at, or by sending it by post to, the address of the place of residence or business of the individual that is last known to the authorised person; or
 - (iii) by giving it, at the place of residence or business of the individual that is last known to the authorised person, to a person who is, or is reasonably believed by the authorised person to be, above the age of 16 years and apparently an occupant of, or employed at, the place; and
- (b) on a body corporate:
 - (i) by sending it by post to the head office, registered office, principal office or other postal address of the body corporate; or
 - (ii) by giving it to a person who is, or is reasonably believed by the authorised person to be:
 - (A) an officer of, or in the service of, the body corporate; and
 - (B) above the age of 16 years;
 at the head office, registered office, principal office or other place of business of the body corporate.

296E What must be included in an infringement notice?

- (1) An infringement notice must:
- (a) specify the name of the authorised person by whom, or on whose behalf, the notice is served; and
 - (b) state the name and address of the person on whom the notice is served; and
 - (ba) state the prescribed offence that the person is alleged to have committed, identifying the provision of these Regulations that the person is alleged to have contravened; and
 - (c) specify when and where the offence is alleged to have been committed; and

- (ca) state the amount of the prescribed penalty for the offence; and
 - (d) notify the person on whom it is served that, if he or she does not wish the matter to be dealt with by a court, he or she may pay the amount of the prescribed penalty within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and
 - (e) specify where and how the prescribed penalty may be paid.
- (2) A infringement notice may contain any other matters that CASA considers necessary.

296F What happens if you pay the prescribed penalty?

If:

- (a) an infringement notice is served on a person; and
- (b) the person pays the prescribed penalty for the offence mentioned in the notice within 28 days after the date of service of the notice, or within any further period (not being more than 28 days) allowed by an authorised person (whether before or after the end of the first 28 day period); and
- (c) the infringement notice is not withdrawn;

then:

- (d) any liability of the person in respect of the offence specified in the notice is taken to be discharged; and
- (e) further proceedings cannot be taken against the person for the offence; and
- (f) the person is not regarded as having been convicted of the offence.

296G Evidentiary matters

- (1) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person that states:
- (a) that the authorised person did not allow further time under paragraph 296F (b) for payment of the prescribed penalty for the offence; and
 - (b) that the penalty has not been paid in accordance with the notice within 28 days after the date of service of the notice;
- is evidence of those matters.
- (2) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person and stating:
- (a) that the authorised person allowed, under paragraph 296F (b), the further time specified in the certificate for payment of the prescribed penalty for the offence mentioned in the notice; and

(b) that the penalty has not been paid in accordance with the notice or within the further time allowed;

is evidence of those matters.

(3) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised person and stating that the notice was withdrawn on a day specified in the certificate is evidence of that fact.

(4) A certificate that purports to have been signed by an authorised person is taken to have been signed by that person unless the contrary is proved.

296H Can there be more than one infringement notice for the same offence?

This Division does not prevent the service of more than one infringement notice on a person for the same offence, but regulation 296F applies to the person if the person pays the prescribed penalty in accordance with one of the infringement notices.

296I What if payment is made by cheque?

If a cheque is offered to CASA as payment of all or part of the amount of a prescribed penalty, payment is taken not to have been made unless the cheque is honoured upon presentation.

296J This Division does not prevent a matter being prosecuted in a court and does not mean that an infringement notice must be served in all cases

Nothing in this Division:

- (a) requires an infringement notice to be served on a person in relation to a prescribed offence; or
- (b) affects the liability of a person to be prosecuted for a prescribed offence if the person does not comply with an infringement notice; or
- (c) affects the liability of a person to be prosecuted for a prescribed offence if an infringement notice is not served on the person in relation to a prescribed offence; or
- (d) limits the amount of the fine that may be imposed by a court on a person convicted of a prescribed offence.

PART 18 EVIDENCE**297 Evidence**

- (1) CASA may, in writing, certify that:
 - (a) a document required to be surrendered to CASA in accordance with a notice in writing under regulation 301 has not been so surrendered;
 - (b) a document annexed to the certificate is a true copy of the text of the Convention or of an annex adopted in pursuance of the Convention; or
 - (c) a document annexed to the certificate is a true copy of a Civil Aviation Order, AIP, NOTAM, licence, certificate, permit, direction, authority, notice, order, approval or other document published, given or issued under these Regulations.
- (2) CASA, in a certificate under paragraph (1) (c), may certify that the document of which the document annexed to the certificate is certified to be a true copy was, on a specified date or between specified dates, posted to:
 - (a) the defendant in a prosecution for an offence against these Regulations or in any proceedings for the recovery of moneys under these Regulations; or
 - (b) the applicant or other specified person in any review, investigation or inquiry conducted or made under these Regulations.
- (3) CASA, or the officer having custody of the appropriate records of CASA, may, in writing, certify that, during a specified period or on a specified date:
 - (a) a person was or was not licensed;
 - (b) an aircraft was or was not registered;
 - (c) a certificate of airworthiness of an aircraft had or had not been issued, was valid or invalid for the purposes of these Regulations or was subject to specified conditions;
 - (e) a place was or was not licensed for use as an aerodrome or was or was not authorised for use as an aerodrome;
 - (f) a permit, direction, authority, notice, order or approval required under these Regulations had or had not been issued under these Regulations; or
 - (g) a licence or certificate issued under these Regulations was or was not suspended, cancelled or endorsed with a specified endorsement.
- (4) In all courts and in any review, investigation or inquiry conducted or made under these Regulations, a certificate purporting to have been given under this regulation:

- (a) shall, unless the contrary is proved, be deemed to be a certificate given by a person empowered by this regulation to give the certificate; and
 - (b) is evidence of the facts stated in the certificate, and, in the case of a certificate certifying that a document was posted to the defendant in a prosecution for an offence against these Regulations or an applicant or a specified person in any review, investigation or inquiry conducted or made under these Regulations, is evidence that the document was received by the defendant, applicant or specified person on or about the time at which it would have been received in the ordinary course of post.
- (5) For the purposes of establishing liability to charges as defined by section 66 of the Act, a flight by an aircraft may be identified by documentation that includes:
- (a) a flight strip summary, being a document known by that description issued by CASA for the purpose of enabling officers of CASA to compile records of aircraft movements in relation to aerodromes;
 - (b) messages extracted from the message switching system known as the Aeronautical Fixed Telecommunication Network as referred to in Annex 10 to the Chicago Convention;
 - (c) the flight plan submitted to air traffic control by the pilot in command of the aircraft; and
 - (d) an invoice, being an invoice containing a printout of computerised records of each flight to which the invoice relates.

PART 19 MISCELLANEOUS**297A Review of decisions**

(1) In this regulation:

aircraft endorsement has the same meaning as in regulation 5.01;

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*;

reviewable decision means:

(b) a refusal by CASA to approve a change to a certificate of approval under subregulation 30A (3); or

(ba) a refusal by CASA under subregulation 33B (1) to issue an authority; or

(bb) a decision by CASA under subregulation 33B (2) to issue an airworthiness authority subject to conditions; or

(bc) a refusal by CASA under regulation 33D to grant an aircraft welding authority; or

(bd) a refusal by CASA under regulation 33G to renew an aircraft welding authority; or

(be) a refusal by CASA under regulation 33H to approve a change to an aircraft welding authority; or

(bf) a decision by CASA under regulation 33I to impose a condition on an aircraft welding authority; or

(c) a refusal by CASA to approve a system of maintenance under subregulation 42M (2); or

(d) a refusal by CASA to approve a change to an approved system of maintenance under subregulation 42R (1) or (2); or

(e) a refusal by CASA to approve a system of certification of completion of maintenance under subregulation 42ZG (1); or

(f) a refusal by CASA to approve a change to a system of certification of completion of maintenance under subregulation 42ZK (1); or

(g) a refusal by CASA under subregulation 42ZS to grant an exemption from, or a variation of, a requirement to which Division 7 applies; or

(h) a decision by CASA under subregulation 42ZS (2) to grant or approve an exemption or variation mentioned in paragraph (h) subject to conditions; or

(ha) a decision under subregulation 42ZW (2) not to approve the appointment of a person to be a maintenance controller; or

- (hb) a decision under subregulation 42ZW (3) to approve the appointment of a person to be a maintenance controller subject to conditions; or
- (hc) a decision under subregulation 42ZX (1) to suspend or cancel the approval of a person's appointment as a maintenance controller; or
- (hd) a decision by CASA under subregulation 55A (2) not to approve a change to a flight manual; or
 - (i) a decision by CASA under subregulation 5.14 (2) not to issue, or renew, a flight crew rating; or
 - (j) a decision by CASA under subregulation 5.20 (5) to revoke a person's approval to give flying training for the issue of a flight crew rating, or grade of flight crew rating; or
 - (k) a decision by CASA under subregulation 5.21 (5) to revoke a person's approval to give aeroplane conversion training or helicopter conversion training; or
 - (l) a decision by CASA under subregulation 5.23 (2) not to issue an aircraft endorsement; or
- (m) a decision by CASA under subregulation 5.34 (1) not to appoint a person to be an airship instructor; or
- (n) a decision by CASA under subregulation 5.36 (1) to cancel an airship instructor's appointment; or
- (na) a decision by CASA under subregulation 5.38 (1) to require a person to undertake an examination; or
- (o) a decision by CASA under subregulation 5.44 (1) not to grant an exemption from the requirements of regulation 5.42; or
- (p) a decision by CASA under subregulation 5.48 (1) to revoke a general exemption from the requirements of regulation 5.42; or
- (q) a decision by CASA under subregulation 5.58 (5) to revoke an approval of a person's appointment as a chief flying instructor; or
- (sa) a decision by CASA under subregulation 262AN (1) not to approve an organisation to administer the operation of limited category aircraft engaged in a special purpose operation mentioned in subregulation 21.189 (3) of CASR; or
- (sb) a decision by CASA under subregulation 135A (4) not to issue a special flight authorisation; or
- (sc) a decision under regulation 181G not to approve an application for an RVSM airworthiness approval; or
- (sd) a decision under regulation 181I to suspend an RVSM airworthiness approval; or
- (se) a decision under regulation 181J to cancel an RVSM airworthiness approval; or
- (sf) a decision under regulation 181M not to approve an application for an RVSM operational approval; or

- (sg) a decision under regulation 181O to suspend an RVSM operational approval; or
 - (sh) a decision under regulation 181P to cancel an RVSM operational approval; or
 - (v) a decision by CASA under subregulation 265 (1) or 268 (1) to suspend a flight crew rating, an aircraft endorsement, an airworthiness authority or an aircraft welding authority; or
 - (w) a decision by CASA under subregulation 269 (1) to vary, suspend or cancel a flight crew rating, an aircraft endorsement, an airworthiness authority or an aircraft welding authority; or
 - (wa) a decision by CASA that is satisfied as mentioned in subregulation 298A (4); or
 - (x) a decision by CASA or an authorised person under regulation 303A to impose a condition, being a decision that is not a reviewable decision within the meaning of section 31 of the Act .
- (2) Application may be made to the Administrative Appeals Tribunal for the review of a reviewable decision.

298 Application for licences etc.

Every application for the issue or renewal of a licence, certificate, permit, authority or other document under these Regulations shall be made in the approved form to CASA, and shall be accompanied by notification of the applicant's place of abode, his or her place of business and the address to which any communication under these Regulations may be sent.

298A Cheating by examination candidates

- (1) CASA may give written notice to a person who attempted a prescribed examination if it believes on reasonable grounds that the person has committed any of the following acts without CASA's permission:
- (a) copied any part of the examination paper;
 - (b) removed:
 - (i) any part of the examination paper; or
 - (ii) a copy of any part of the examination paper;from the place where the person attempted the examination;
 - (c) given to another person:
 - (i) any part of the examination paper; or
 - (ii) a copy of any part of the examination paper; or
 - (iii) any information about the questions contained in the examination paper, being information that might give anyone an unfair advantage in the examination;
 - (d) before the examination—knowingly received from another person, or otherwise knowingly obtained possession of:
 - (i) any part of the examination paper; or
 - (ii) a copy of any part of the examination paper; or
 - (iii) any information about the questions contained in the examination paper, being information that might give the person an unfair advantage in the examination;
 - (e) before or during the examination—knowingly received from another person, or otherwise knowingly obtained possession of:
 - (i) any part of the model answer; or
 - (ii) a copy of any part of the model answer; or
 - (iii) any information about the content of the model answer;
 - (f) during the examination:
 - (i) helped another person to complete any part of the examination; or
 - (ii) received help from another person to complete any part of the examination; or
 - (iii) used any material or aid that CASA does not permit to be used; or
 - (iv) read the examination work of another person attempting the examination;
 - (g) caused or assisted the commission of, or attempted, any act referred to in paragraph (a), (b), (c), (d), (e) or (f).
- [*Note* For definitions of expressions used in this subregulation see subregulation (8).]
- (2) CASA must set out in a notice under subregulation (1):
- (a) the act which CASA believes the person has committed; and
 - (b) the grounds for the belief.

- (3) If CASA notifies a person under subregulation (1), the person may, within the period of 14 days after the day on which the person received the notice, make reasonable representations to CASA explaining why the person believes that he or she has not committed the act mentioned in the notice.
- (4) If:
- (a) CASA notifies a person under subregulation (1); and
 - (b) the period of 14 days after the day on which the person received the notice has ended; and
 - (c) after taking into account any representations, CASA is satisfied that the person has committed the act mentioned in the notice;

CASA must notify the person of its decision.

[*Note* Regulation 297A provides that a decision by CASA that it is satisfied as mentioned in subregulation 298A (4) is reviewable by the Administrative Appeals Tribunal.]

- (5) If CASA notifies a person under subregulation (4), the person:
- (a) is taken not to have passed the examination; and
 - (b) is not permitted to attempt any prescribed examination for a period of one year from the day of the first-mentioned examination.
- (6) For the purposes of subregulation (1), a person attempts a written examination if the person:
- (a) attends the place where the examination is held at any time during the examination; and
 - (b) receives the examination paper, or any part of it, from the person conducting the examination.
- (7) For the purposes of subregulation (1), a person attempts a practical examination if the person:
- (a) attends the place where the examination is held; and
 - (b) begins carrying out an activity required by the examination.
- (8) In this regulation:
- aircraft endorsement** has the same meaning as in regulation 5.01;
- authorisation** means an airworthiness authority or an aircraft welding authority;
- certificate** means:
- (a) a certificate under Division 3 of Part 4; or
 - (b) a certificate under Part 8;
- endorsement** means:
- (a) an endorsement under Division 3 of Part 4; or
 - (b) an aircraft endorsement; or
 - (c) an endorsement under Part 65 of CASR.
- examination paper** means all of the documents provided by the person conducting a written examination to persons attempting the examination;

licence means:

- (a) a licence under Division 3 of Part 4; or
- (b) a flight crew licence; or
- (c) a licence under Part 65 of CASR.

model answer, in relation to an examination, means a document which sets out the correct, or suggested, answers to the questions set out in the examination paper;

practical examination means an examination that requires a person to demonstrate his or her ability to carry out a particular activity to a particular standard;

prescribed examination means an examination conducted for the purpose of the issue or renewal of a licence, certificate, authorisation, rating or endorsement;

rating means:

- (a) a flight crew rating; or
- (b) a rating under Part 65 of CASR.

written examination means an examination that requires answers to be given in writing and includes an examination that sets out multiple choice answers to each question.

298B Examination misconduct by persons other than examination candidates

- (1) Without the approval of CASA, a person, other than an examination candidate to whom subregulation 298A (1) applies, must not:
 - (a) copy any part of an examination paper or model answer; or
 - (b) give to any person:
 - (i) any part of an examination paper or model answer; or
 - (ii) a copy of any part of an examination paper or model answer; or
 - (iii) any information about the questions contained in an examination paper, being information that might give anyone an unfair advantage in an examination; or
 - (iv) any information about the content of a model answer; or
 - (c) receive from any person, or otherwise obtain possession of:
 - (i) any part of an examination paper or model answer; or
 - (ii) a copy of any part of an examination paper or model answer; or

- (iii) any information about the questions contained in an examination paper, being information that might give anyone an unfair advantage in an examination; or
- (iv) any information about the content of a model answer; or
- (d) help another person to complete any part of an examination during the examination; or
- (e) cause or assist the commission of, or attempt, any act referred to in paragraph (a), (b), (c) or (d).

Penalty: 50 penalty units.

- (1A) Strict liability applies to paragraphs (1) (a), (b) and (d).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) In this regulation:

examination paper has the same meaning as in regulation 298A;

model answer has the same meaning as in regulation 298A.

298C Personation at examinations

- (1) A person must not personate an examination candidate at a prescribed examination.

Penalty: 50 penalty units.

- (2) If a person is charged with an offence against subregulation (1), both the personator and the candidate are taken not to have passed the examination.

- (3) If a person is charged with an offence against subregulation (1):

- (a) the personator; and
- (b) unless CASA is satisfied that the personation took place without the candidate's knowledge or consent—the candidate;

are not permitted to attempt any prescribed examination:

- (c) unless the person is acquitted of the offence; or
- (d) unless the charge is withdrawn; or
- (e) until a period of one year has passed from the date of the examination to which the charge related;

whichever happens first.

- (4) In spite of subregulation (2), if:

- (a) a person who attempted an examination is charged with an offence against subregulation (1); and

- (b) either:

- (i) the person is acquitted of that offence; or
- (ii) the charge is withdrawn; and

- (c) the mark obtained by the person in the examination is more than, or equal to, the pass mark for the examination;

the person is taken to have passed the examination.

- (5) In this regulation:
offence against subregulation (1) includes:
 (a) an offence against section 11.1 or 11.4 of the Criminal Code in relation to an offence against that subregulation; and
 (b) an offence against subregulation (1) because of the operation of section 11.2 or 11.3 of the *Criminal Code*.
- (6) In this regulation:
personator means a person alleged to have personated a candidate;
prescribed examination has the same meaning as in regulation 298A.

298D Person not permitted to sit examination until Tribunal decides

- (1) If a person applies under subregulation 297A (2) for review of CASA's decision that it is satisfied as mentioned in subregulation 298A (4), the person is not permitted to attempt any prescribed examination:
 (a) unless the Administrative Appeals Tribunal decides the application in favour of the applicant; or
 (b) until a period of one year passes from the date of the examination to which the application relates;
 whichever happens first.
- (2) In this regulation:
prescribed examination has the same meaning as in regulation 298A.

298E Sitting examination when not permitted

- (1) If:
 (a) a person is not permitted to attempt a prescribed examination because of subregulation 298A (5), 298C (3) or 298D (1); and
 (b) the person attempts a prescribed examination;
 the person is taken not to have passed the examination.
- (2) In this regulation:
prescribed examination has the same meaning as in regulation 298A.

299 Change of address

- (1) If the holder of a licence, certificate, permit or authority under these Regulations changes his or her place of abode or business or the address notified in accordance with regulation 298, or this regulation, he or she shall forthwith furnish to CASA notice in writing of the change.
 Penalty: 5 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
Note For ***strict liability***, see section 6.1 of the *Criminal Code*.

301 Surrender of documents

- (1) The holder of a licence, certificate or other document issued, or required to be kept, under these Regulations, or a person having the custody of a licence, certificate or other document issued, or required to be kept, under these Regulations, shall, if CASA by notice in writing so requires, surrender the licence, certificate or document to CASA within such time as is specified in the notice.

Penalty: 5 penalty units.

- (2) A person must not engage in conduct that results in the destruction, mutilation or defacement of a document that the person is required to surrender to CASA.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

302 Production of licences etc.

- (1) Any person required under these Regulations to be the holder of a licence, other than a flight crew licence or a special pilot licence, shall, on demand by an authorised person, produce the licence for inspection by the authorised person.

Penalty: 5 penalty units.

- (2) The owner or pilot in command of any aircraft shall, on demand, produce or cause to be produced for inspection by an authorised person, any certificates, licences, log books or other documents relating to the aircraft and, if it carries passengers or cargo, the list of names of the passengers or the bills of lading and the manifest, as the case may be.

Penalty: 5 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

303 Conditions subject to which licences or certificates are granted

- (1) Wherever CASA is empowered under these Regulations to grant or issue a licence or certificate upon or subject to conditions, CASA may, unless the contrary intention appears, specify and notify in Civil Aviation Orders any such conditions that are to be of general application to a specified class of licences or certificates (which may include licences or certificates granted or issued before the notification) and any conditions so notified shall be deemed to be conditions of every licence or certificate of that class.

- (2) In this regulation:
aircraft endorsement has the same meaning as in regulation 5.01;
licence includes:
 (a) a flight crew rating; and
 (b) an aircraft endorsement.

303A Power to impose conditions

- (1) If:
 (a) CASA or an authorised person is authorised, or taken to be authorised, under these Regulations to issue, give or grant a prescribed exemption; and
 (b) there is no provision of the Act or these Regulations expressly authorising CASA or an authorised person to impose conditions on the exemption;

this regulation authorises CASA or the authorised person, as the case may be, to issue, give or grant the exemption subject to any condition that CASA or the authorised person thinks necessary to impose in the interests of the safety of air navigation.

- (2) A condition of a prescribed exemption imposed under this regulation has no effect unless it is set out:
 (a) in the exemption; or
 (b) in a written notice given to the holder of the exemption.
- (3) If a person contravenes a condition of a prescribed exemption imposed under this regulation or any other provision of these Regulations, the exemption has no effect while the contravention continues.
- (4) In this regulation:
prescribed exemption means an exemption, direction, instruction, notification, permission, approval or authority (whatever it is called) that has the effect of exempting a person from complying with a provision of these Regulations.

304 Directions and instructions—section 23 of the Act

- (1) CASA may give or issue directions or instructions to all or any of the persons holding permissions under section 23 of the Act, being directions or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft.
- (2) A person must not contravene a direction or instruction.
 Penalty: 50 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.
Note For ***strict liability***, see section 6.1 of the *Criminal Code*.

305 Access of authorised persons

(1) Subject to any aviation security requirements, an authorised person shall, at all reasonable times, have access to any place to which access is necessary for the purpose of carrying out any powers and functions vested in him or her in pursuance of these Regulations, and, in particular:

- (a) must have access at all times to an aerodrome for the purpose of inspecting the aerodrome; and
- (b) shall, during the construction, assembly or maintenance of an aircraft by the holder of a certificate of approval or an aircraft maintenance engineer licence covering the construction, assembly or maintenance, as the case may be, have access at all times during working hours to:
 - (i) the premises, or that part of the premises, in which the construction, assembly or maintenance, as the case may be, is being carried out;
 - (ii) the drawings of the aircraft or of any aircraft component installed, or to be installed, in the aircraft; and
 - (iii) all documents associated with the construction, assembly or maintenance, as the case may be; and
- (c) shall, at all reasonable times, have access to any aircraft for the purpose of inspecting the aircraft.

(1A) A person must not prevent, or hinder, access by an authorised person to any place to which access is necessary for the purpose of carrying out any of the authorised person's powers or functions under these Regulations.

Penalty: 50 penalty units.

(1B) An offence against subregulation (1A) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

(2) An authorised person must produce his or her identity card for inspection:

- (a) while acting as an authorised person; and
- (b) if asked to do so by the occupier or person in charge, or apparently in charge, of the place or thing to which access is sought.

(3) Where an authorised person:

- (a) is acting as an authorised person; and
- (b) seeks or is allowed access to a place or thing specified in subregulation (1); and
- (c) fails to produce his or her identity card for inspection when asked to do so;

that person is not authorised to access under that subregulation and, if access has been given to that person, that access is to be terminated.

306 Liability for damage to aircraft during official tests

CASA or an officer shall not be liable for any loss or damage to an aircraft which occurs while the aircraft is in the custody of CASA for the purpose of official flying trials or other official tests, or in the course of transit to and from the place fixed for those trials or tests, or during any inspection by an officer in pursuance of these Regulations.

308 CASA may grant exemptions

- (1) CASA may, in relation to a particular aircraft or specified type or category of aircraft, do either or both of the following by instrument in writing:
 - (a) exempt that aircraft or aircraft of the specified type or category, as the case may be, from compliance with specified provisions of CAR;
 - (b) exempt persons from compliance with specified provisions of CAR while they are in, on, or otherwise associated with the operation of, that aircraft, or aircraft of the specified type or category, as the case may be.
- (2) Before CASA decides to exempt under subregulation (1) an aircraft or person from compliance with specified provisions of CAR, CASA must take into account any relevant considerations relating to the interests of safety.
- (3) An exemption under subregulation (1) is subject to the aircraft or persons exempted complying with such conditions (if any) as CASA specifies in the instrument as being necessary in the interests of safety (having regard to those interests and the exemption concerned).
- (3A) A person must not contravene a condition specified in an instrument of exemption.
Penalty: 50 penalty units.
- (3B) An offence against subregulation (3A) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) An instrument under subregulation (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
Note CASA can issue exemptions from CASR under Subpart 11.F of CASR.

309 Powers of pilot in command

- (1) The pilot in command of an aircraft, with such assistance as is necessary and reasonable, may:
 - (a) take such action, including the removal of a person from the aircraft or the placing of a person under restraint or in custody, by force, as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft; and
 - (b) detain the passengers, crew and cargo for such period as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft.
- (2) A person who, on an aircraft in flight, whether within or outside Australian territory, is found committing, or is reasonably suspected of having committed, or having attempted to commit, or of being about to commit, an offence against the Act or these Regulations may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a constable and shall be dealt with in the same manner as a person so arrested by a constable .

309A Instructions about activities on board aircraft

- (1) Subject to subregulation (2), the operator, or pilot in command, of an Australian aircraft may give an instruction, either orally or in writing, prohibiting or limiting the doing of an act on board the aircraft during flight time in the aircraft.
- (2) The operator, or pilot in command, must not give an instruction unless he or she is satisfied on reasonable grounds that the instruction is necessary in the interests of the safety of air navigation.
- (3) An instruction does not bind a person unless it is communicated to the person.
- (4) A person who is bound by an instruction must comply with the instruction.
Penalty: 25 penalty units.
- (5) An offence against subregulation (4) is an offence of strict liability.
Note For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) It is a defence to a prosecution under subregulation (4) if the person had a reasonable excuse.
Note A defendant bears an evidential burden in relation to the matter in subregulation (6) (see subsection 13.3 (3) of the *Criminal Code*).

310 Variation of meaning of *night*

When the light in a particular area is affected by local atmospheric, climatic or geographical conditions, CASA may determine the period that is to be regarded as night in that area for the purposes of these Regulations.

Note Pages 469-470 have been removed following the revocation of regulations 310A to 310C by Statutory Rule 2004 No. 345.

PART 20 TRANSITIONAL**311 Transitional**

- (1) If:
- (a) an instrument (other than an Air Navigation Order or an instrument delegating powers or functions) made, granted or issued by a person under or for the purposes of a provision of the *Air Navigation Regulations 1947* (the **ANR**) was in effect immediately before 30 June 1988; and
 - (b) that provision is one to which a provision of these Regulations corresponds;

the instrument continues to have effect on and after that day as if it had been made, granted or issued by the appropriate person under or for the purposes of that corresponding provision.

- (2) If:
- (a) an Air Navigation Order issued under the ANR for the purposes of a provision of those Regulations was in effect immediately before 30 June 1988; and
 - (b) that provision is one to which a provision of these Regulations corresponds;

the Air Navigation Order continues to have effect on and after that day as if it had been issued by CASA for the purposes of that corresponding provision.

- (3) If:
- (a) any act done, step taken or decision made (not being the making, granting or issuing of an instrument) by a person under or for the purposes of a provision of the ANR was in effect immediately before 30 June 1988; and
 - (b) that provision is one to which a provision of these Regulations corresponds;

the act, step or decision continues to have effect on and after that day as if it had been done, taken or made by the appropriate person under or for the purposes of that corresponding provision.

- (4) An Air Navigation Order referred to in subregulation (2) is, in its operation on and after 30 June 1988, taken to be a Civil Aviation Order.
- (5) If any act done, step taken or decision made by a person under or for the purposes of an Air Navigation Order referred to in subregulation (2) was in effect immediately before 30 June 1988, the act, step or decision continues to have effect on and after that day as if it had been done, taken or made by the appropriate person under or for the purposes of that Air Navigation Order as continued in effect after that day as a Civil Aviation Order.

- (6) In an instrument (including an Air Navigation Order) that, by virtue of this regulation, continues to have effect in the manner provided in this regulation:
- (a) a reference to the Secretary to the Department is to be read as a reference to CASA; and
 - (b) a reference to the Department (other than a reference mentioned in paragraph (a)) is to be read as a reference to CASA; and
 - (c) a reference to a provision of the *Air Navigation Act 1920* is to be read as a reference to the corresponding provision of the Act; and
 - (d) a reference to a provision of the ANR shall be read as a reference to the corresponding provision of these Regulations; and
 - (e) a reference to an Air Navigation Order that, by virtue of this regulation, continues to have effect as a Civil Aviation Order is to be read as a reference to that Civil Aviation Order.

312 Definition

In this Part:

original regulations means these regulations as in force immediately before 1 October 1998.

313 Transitional: certificates of type approval

- (3) A certificate of type approval for an aircraft component (other than an aircraft engine or propeller) that was in force under regulation 22 immediately before 1 October 1998 continues in force, and has the effect it would have if the original regulations were still in force.
- (4) A certificate of type approval continued in force under this regulation remains subject to any condition to which it was subject immediately before 1 October 1998.
- (5) If the suspension of a certificate of type approval continued in force under this regulation was in force under regulation 22D immediately before 1 October 1998, the suspension continues as if the original regulations were still in force.

- (6) If an application for a certificate of type approval was made before 1 October 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.
- (8) The original regulations apply as if they were still in force to a certificate of type approval for an aircraft component (other than an aircraft engine or propeller) issued on an application mentioned in subregulation (6).

314 Transitional: certificates of airworthiness

- (5) If an application for the validation of a certificate of airworthiness issued by the appropriate authority of a Contracting State was made before 1 October 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

315 Transitional: suspension of a certificate of airworthiness

If the suspension of a certificate of airworthiness was in force under regulation 26 immediately before 1 October 1998, the suspension continues as if the original regulations were still in force.

317 Transitional: permission to fly

- (1) A permission to fly that was in force under subregulation 134 (1) immediately before 1 October 1998 continues in force, and has the effect that it would have if the original regulations were still in force, until the earlier of:
 - (a) the expiry or cancellation of the permission; or
 - (b) 30 September 1999.
- (2) A direction given under subregulation 134 (2) or (3) in relation to a permission to fly that is in force under subregulation (1) continues in force while the permission to fly is in force.

317A Transitional: design standards

A design standard for an aircraft component that was in force under regulation 21 immediately before 16 August 1999 is taken to be a design standard issued under regulation 21A.

318 Transitional: certificates of approval

- (1) A certificate of approval for the manufacture of aircraft, aircraft components or aircraft materials that was in force under regulation 30 on 30 November 1998:
 - (a) continues in force for 5 years after 30 November 1998; and
 - (b) has the effect during that period that it would have if the original regulations were still in force; and
 - (c) for Subparts 21.H and 21.L of CASR — has the same effect during that period as a production certificate issued under regulation 21.134 of CASR.
- (2) A certificate of approval for manufacture continued in force under subregulation (1) remains subject to any condition to which it was subject immediately before 1 December 1998.
- (3) If an application for a certificate of approval for the manufacture of aircraft, aircraft components or aircraft materials was made under subregulation 30 (1) before 1 December 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.
- (4) If a request under regulation 30A for approval of a proposed change to any of the particulars stated in a certificate that has been continued under subregulation (1) was made before 1 December 1998 but CASA had not decided the request before that day, CASA must deal with the request as if the original regulations were still in force.

319 Transitional: approval to manufacture amateur-built aircraft

- (1) An approval to manufacture an amateur-built aircraft that was in force under subparagraph 24 (2) (b) (ii) immediately before 1 December 1998 continues in force, and has the effect that it would have if the original regulations were still in force.
- (2) An approval continued in force under subregulation (1) remains subject to any condition to which it was subject immediately before 1 December 1998.

- (3) If an application for approval to manufacture an amateur-built aircraft mentioned in subparagraph 24 (2) (b) (ii) was made before 1 December 1998 but CASA had not decided the application before that day, CASA must deal with the application as if the original regulations were still in force.

320 Transitional: suspension of certificate of approval

If the suspension of a certificate of approval for manufacture was in force under regulation 265, 268 or 269 immediately before 1 December 1998, the suspension continues as if the original regulations were still in force.

321 Transitional: notices of events

A notice under regulation 30B that was in force immediately before 1 December 1998 continues in force, and has the effect that it would have if the original regulations were still in force.

322 Transitional: changes to flight manuals for Australian aircraft

- (1) Subregulations (4) and (5) apply to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:
- (a) the aircraft's manufacturer, or the holder of the type certificate to which the aircraft conforms, gave an instruction, before 16 August 1999, to the effect that a change must be made to the manual; and
 - (b) the change has been approved by CASA or the relevant NAA for the aircraft.

Note For *relevant NAA* see subregulation 2 (1).

- (2) Subregulations (4) and (5) also apply to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:
- (a) a modification that conforms to a supplemental type certificate applying to the aircraft, or an aircraft component fitted to the aircraft, was carried out, before 16 August 1999, on the aircraft or aircraft component; and
 - (b) the holder of the supplemental type certificate gave an instruction, before 16 August 1999, to the effect that a change must be made to the manual because of the modification; and
 - (c) the change has been approved by CASA or the NAA that issued the supplemental type certificate.

Note For *NAA* see the Dictionary at the end of CASR.

- (3) Subregulations (4) and (5) also apply to the holder of the certificate of registration for an Australian aircraft for which a flight manual has been issued if:

- (a) a modification that does not conform to a supplemental type certificate was carried out, before 16 August 1999, on the aircraft or an aircraft component fitted to the aircraft; and
 - (b) CASA or an authorised person approved the design of the modification under regulation 35; and
 - (c) CASA or the authorised person gave an instruction in writing, before 16 August 1999, to the effect that a change must be made to the manual because of the modification.
- (4) The certificate holder must make the change to the aircraft's flight manual:
- (a) for an aircraft with a certificate of airworthiness in the transport category:
 - (i) if under regulation 55 a change to the aircraft's flight manual is required to be made before 16 August 2000 — before the change under regulation 55 is made to the manual; or
 - (ii) in any other case — before 16 August 2000; or
 - (b) for any other aircraft:
 - (i) if under regulation 55 a change to the aircraft's flight manual is required to be made before 16 August 2002 — before the change under regulation 55 is made to the manual; or
 - (ii) in any other case — before 16 August 2002.

Penalty: 50 penalty units.

- (5) If the certificate holder makes a change to the aircraft's flight manual under subregulation (4), the holder must tell CASA, in an approved form, about the details of the change within 48 hours after the aircraft is flown for the first time after the change is made.

Penalty: 20 penalty units.

- (6) An offence against subregulation (4) or (5) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

323

Transitional: documents to be carried in Australian aircraft

- (1) This regulation applies to an Australian aircraft if a change to its flight manual is required under regulation 322.
- (2) Despite subregulation 139 (1), during the transition period, the aircraft is not required to carry its flight manual when flying if it carries on board the manual that was its flight manual immediately before 16 August 1999.

Note An aircraft's flight manual immediately before 16 August 1999 was the manual in force for the aircraft under regulation 138, as that regulation was in force immediately before that day.

- (3) In subregulation (2):

transition period means:

- (a) if the change to the aircraft's flight manual is made before the last day of the period within which the change must be made — the period beginning on 16 August 1999 and ending at the end of the day on which the change is made; or
- (b) if paragraph (a) does not apply — the period within which the change must be made under subregulation 322 (4).

323AA Transitional — certain directions under regulation 166

A direction issued by CASA in accordance with subparagraph 166 (1) (d) (i) as in force immediately before the commencement of this regulation has effect after the commencement as if it were a direction issued for subparagraph 166 (2) (e) (i) of CAR as in force on and from the commencement of this regulation.

323A Transitional — determinations under regulation 178

- (1) A determination under paragraph 178 (1) (b) of the old regulations that was in force immediately before 1 October 2003 has effect on and after that day as if it were a determination under subregulation 178 (6) of the amended regulations.
- (2) A determination under subregulation 178 (5) of the old regulations that was in force immediately before 1 October 2003 has effect after that day as if it were a determination under subregulation 178 (6) of the amended regulations.
- (3) In this regulation:
- amended regulations** means CAR as in force and as amended on and after 1 October 2003.
- old regulations** means CAR as in force immediately before 1 October 2003.

324 Transitional: certain warnings

- (1) The requirement in paragraph 262AM (4) (c) is taken to be complied with if a placard bearing the warning stated in subregulation 262AM (6) (as in force immediately before 1 December 1999):
- (a) is displayed in accordance with paragraph 262AM (4) (c); and
- (b) was so displayed immediately before 1 December 1999.
- (2) The requirement in paragraph 262AP (8) (c) is taken to be complied with if a placard bearing the warning stated in subregulation 262AP (9) (as in force immediately before 1 December 1999):
- (a) is displayed in accordance with paragraph 262AP (8) (c); and
- (b) was so displayed immediately before 1 December 1999.

325 **References to Parts, Divisions or Subdivisions renumbered by
*Civil Aviation Amendment Regulations 1999 (No. 6)***

A reference in an instrument made before 22 December 1999 to a Part, Division or Subdivision renumbered by the *Civil Aviation Amendment Regulations 1999 (No. 6)* is a reference to the Part, Division or Subdivision as so renumbered.

NOTE

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SCHEDULE 5 CASA maintenance schedule(subregulation 2 (1), definition of *CASA maintenance schedule*)**Part 1—Daily Inspection**

- 1.1 An inspection (in this Part called a *daily inspection*) must be carried out on the aircraft before the aircraft's first flight on each day on which the aircraft is flown.
- 1.2 A daily inspection must consist of the making of such of the checks set out in the table at the end of this Part as are applicable to the aircraft.

TABLE OF CHECKS INCLUDED IN A DAILY INSPECTION**Section 1—General**

- (1) Check that the ignition switches are off, the mixture control is lean or cut off, the throttle is closed and the fuel selector is on.
- (2) Check that the propeller blades are free from cracks, bends and detrimental nicks, that the propeller spinner is secure and free from cracks, that there is no evidence of oil or grease leakage from the propeller hub or actuating cylinder and that the propeller hub, where visible, has no evidence of any defect which would prevent safe operation.
- (3) Check that the induction system and all cooling air inlets are free from obstruction.
- (4) Check that the engine, where visible, has no fuel or oil leaks and that the exhaust system is secure and free from cracks.
- (5) Check that the oil quantity is within the limits specified by the manufacturer for safe operation and that the oil filler cap, dipstick and inspection panels are secure.
- (6) Check that the engine cowlings and cowl flaps are secure.
- (7) Check that the landing gear tyres are free from cuts or other damage, have no plies exposed and, by visual inspection, are adequately inflated.
- (8) Check that the landing gear oleo extensions are within normal static limits and that the landing gear doors are secure.
- (9) Check that the wing and fuselage surfaces are free from damage and that the inspection panels, flight control surfaces and flight control devices are secure.
- (10) Check that the interplane and centre section struts are free from damage and that the bracing wires are of the correct tension.
- (11) Check that the pitot heads and static ports are free from obstruction and that the pitot cover is removed or is free to operate.
- (12) Check that the fuel tank filler caps, chains, vents and associated access panels are secure and free from damage.
- (13) Check that the empennage surfaces are free from damage and that the control surfaces control cables and control rods, where visible, are secure.
- (14) Check that the canard surfaces are free from damage and that the control surfaces, control cables and control rods, where visible, are secure.
- (15) Check that the flight controls, the trim systems and the high lift devices operable from the ground have full and free movement in the correct sense.

- (16) Check that the radios and antennae are secure and that where visible, radio units and interwiring are secure.
- (17) Check that the drain holes are free from obstruction.
- (18) Check that there is no snow, frost or ice on the wings, tail surfaces, canards, propeller or windscreen.
- (19) Check that each tank sump and fuel filter is free from water and foreign matter by draining a suitable quantity of fuel into a clean transparent container.
- (20) Check that the windscreen is clean and free from damage.
- (21) Check that the instruments are free from damage, legible and secure.
- (22) Check that the seat belts, buckles and inertia reels are free from damage, secure and functioning correctly.

Section 2—Additional items for agricultural aeroplanes

- (1) Check that the agricultural equipment is secure.
- (2) Check that the dump and fan brake mechanisms are free from obstructions and operate correctly.

Section 3—Additional items for seaplanes

- (1) Check that the hull and floats are free from damage, corrosion and water accumulation.
- (2) Check that the float attachment struts, bracing wires and attachment fittings are secure and free from damage and corrosion.
- (3) Check that the water rudder and its attachments are secure and free from damage and corrosion and that the water rudder has full, free and correct travel.

Part 2—Periodic Inspection

- 2.1 Subject to paragraph 2.2, an inspection (in this Part called a *periodic inspection*) must consist of the taking of the actions set out in the table at the end of this Part as applicable to the aircraft.
- 2.2 The holder of a certificate of registration for a class B aircraft may elect to have a section or sections of the periodic inspection carried out on the aircraft at a different time from the other sections.
- 2.3 A periodic inspection must be carried out on a private aircraft within the period of 1 year from:
 - (a) the day on which the aircraft's current certificate of airworthiness was issued; or
 - (b) the day on which the most recent general maintenance inspection on the aircraft was completed;whichever is the later.
- 2.4 Subject to paragraph 2.5, a periodic inspection must be carried out on a class B aircraft that is not a private aircraft within whichever of the following periods expires first:
 - (a) one year from:
 - (i) the day on which the aircraft's current certificate of airworthiness was issued; or
 - (ii) the day on which the most recent general maintenance inspection on the aircraft was completed;whichever is the later;
 - (b) the aircraft has been in service for 100 hours since:

- (i) the aircraft's current certificate of airworthiness was issued; or
- (ii) the most recent general maintenance inspection on the aircraft was completed;

whichever occurred later.

2.5 In spite of paragraph 2.4, if the holder of the certificate of registration for a class B aircraft that is not a private aircraft has elected under paragraph 2.2 to have the sections of the periodic inspection carried out on the aircraft at different times, the following provisions have effect:

- (a) the first carrying out of each section of the periodic inspection on the aircraft after the election is made must be carried out within whichever of the following periods expires first:

- (i) 18 months from:

- (A) the day on which the aircraft's current certificate of airworthiness was issued; or

- (B) the day on which the most recent general maintenance inspection on the aircraft was completed;

whichever is the later;

- (ii) the aircraft has been in service for 150 hours since:

- (A) the aircraft's current certificate of airworthiness was issued; or

- (B) the most recent general maintenance inspection on the aircraft was completed;

whichever occurred later;

- (b) each subsequent carrying out of each section of the periodic inspection must be carried out within whichever of the following periods expires first:

- (i) the aircraft has been in service for 100 hours since the section concerned was most recently carried out on the aircraft;

- (ii) 1 year from the day on which the section concerned was most recently carried out on the aircraft.

2.6 In this Part:

general maintenance inspection means a regular inspection and check of a class B aircraft, its systems and components that:

- (a) is required by the aircraft's maintenance schedule to be carried out at regular intervals; and
- (b) is not required to be carried out before the aircraft's first flight on each day on which the aircraft is flown;

private aircraft means an aircraft:

- (a) that is a class B aircraft; and
- (b) that has a maximum take off weight of 5700 kg or less; and
- (c) that is only used in private operations by:
 - (i) the owner of the aircraft; or
 - (ii) a person to whom the owner has provided the aircraft without receiving any remuneration from the person.

2.7 Unless otherwise indicated in the table, where the table requires a thing to be inspected, the inspection is to be a thorough check made to determine whether the thing will continue to be airworthy until the next periodic inspection.

TABLE OF ACTIONS INCLUDED IN A PERIODIC INSPECTION**Section 1—The Airframe**

- (1) *Check* the external and internal required placards.
NOTE: Reference should be made to the aircraft flight manual and airworthiness directives for the required placards.
- (2) *Take the following action* in relation to the mainplane and empennage (including canards) of the aircraft:
 - (a) inspect the skins for evidence of wrinkles, buckles, sheared or loose rivets, corrosion, disbonds and general damage;
 - (b) if the skin is fabric, check the strength of the fabric;
 - (c) inspect the internal structures and spars;
 - (d) inspect the lift struts, interplane struts, jury struts, spreaders, chafing discs and bracing wires;
 - (e) inspect the flight control surfaces, slats, spoilers, tabs, flaps, mass balance weight attachments, hinge brackets, tracks and rollers;
 - (f) inspect the flight control system bellcranks, push pull rods, torque tubes, cables, fairleads, turnbarrells and pulleys;
 - (g) inspect the wing and empennage to fuselage attachments and surrounding structure;
 - (h) lubricate as necessary.
- (3) *Take the following action* in relation to the fuselage:
 - (a) inspect the fuselage skin for evidence of wrinkles, buckles, sheared or loose rivets, corrosion, disbonds and general damage;
 - (b) inspect the areas around cut-outs (such as windows and inspection apertures) for cracks and inspect the sealing and fit of all doors and emergency exits;
 - (c) inspect the interior;
 - (d) inspect the strength of the fabric covering on surfaces;
 - (e) inspect the internal structure;
 - (f) inspect the locks, latches and hinges of doors, canopy, windows which may be opened and direct vision windows;
 - (g) check that the windshields and windows are clean and free from crazing, cracking, discoloration, delamination and scratches;
 - (h) inspect the seats, seat attachments, seat adjustment mechanisms, seat stops, seat belts, safety harnesses and inertia reels;
 - (j) inspect the control wheels, control columns, rudder pedals, control levers, control system bellcranks, push pull rods, torque tubes and cables;
 - (k) operate all trim controls through the complete range of travel and check them for correct trim position indication;
 - (l) inspect the brake master cylinders, brake lines, reservoirs, parking brake linkage and mechanical brake system operating mechanisms;
 - (m) check the cabin fire extinguisher for correct charge, legibility of operating instructions and condition of locking pin or seal and ensure that the extinguisher has not reached its expiry date;
 - (n) inspect the heating and fresh air system ducting and outlets and the airflow control valves;
 - (p) inspect the emergency and flotation equipment and ensure that the equipment has not reached its expiry date;

- (q) lubricate as necessary.
- (4) *Jack the aircraft* so that the landing gear is clear of the ground and take the following action:
 - (a) inspect the undercarriage attachment to the airframe;
 - (b) inspect the structural members, drag and side braces, compression members, oleo struts, bracing struts and torque links;
 - (c) inspect the leaf or tube spring shock absorbing units and bungee rubber;
 - (d) inspect the flexible hoses;
 - (e) inspect the main wheels and tyres and the nose or tail wheels and tyres;
 - (f) clean the wheel bearings, check that they are free from scoring and brinelling, re-lubricate them, re-install them and adjust the bearing pre-load;
 - (g) inspect the brake linings or pads and the brake drums or discs;
 - (h) inspect the brake lines and flexible hoses;
 - (j) inspect the nosewheel or tailwheel steering mechanism and the shimmy dampener;
 - (k) inspect the landing gear retraction mechanism, the door and the door operating linkage;
 - (l) carry out an operational check of the landing gear and doors and ensure that the adjustment of downlocks, overcentre links, uplocks and spring tensions are within the manufacturer's specified limits;
 - (m) lubricate as necessary.
- (5) *Take the following action* in relation to the fuel system:
 - (a) inspect the fuel tanks (where visible), lines, drains, vents, signs, filler caps, filler cap securing chains or cables, filler cap seals and scupper drains;
 - (b) inspect the fuel selector valves;
 - (c) inspect the fuel selector valve operating linkage.
- (6) *Take the following action* in relation to the hydraulic system:
 - (a) remove, clean, and refit the hydraulic system filter element, or if it is unserviceable, install a new filter element;
 - (b) inspect the hydraulic system reservoirs, powerpack, accumulators, selector valves, hand pump, pipelines and flexible hoses.
- (7) *Inspect* the anti-icing and de-icing systems.
- (8) *Inspect* the air-conditioning evaporator, condenser and compressor and the air-conditioning ducting, pipelines and units.
- (9) *Inspect* the pressurisation control system and indication system.
- (10) *Take the following additional action* if the aircraft is used in agricultural operations:
 - (a) inspect the hopper, hopper lid and fasteners, baffles and internal braces;
 - (b) inspect the spreader, spreader gate and controls;
 - (c) inspect the spray pump fan, fan mount, fan brake, spray pump lines, booms and boom supports;
 - (d) inspect the emergency dump doors and dump controls.
- (11) *Take the following additional action* if the aircraft is a seaplane:
 - (a) inspect the external covering and internal structure of the floats or hull;
 - (b) drain the bilge compartments, refit and re-lock the drain plugs;
 - (c) inspect the float attachment struts, bracing wires and attachment fittings;
 - (d) inspect the water rudders, water rudder attachments and water rudder controls, operate and check them for full and free movement in the correct sense and for correct locking ;

- (e) inspect the protective treatment and finish.

Section 2—The Engine

- (1) *Check* the external and internal required placards.
NOTE: Reference should be made to the aircraft flight manual and airworthiness directives for the required placards.
- (2) *Take the following action* in relation to the cowls:
 - (a) remove, clean and inspect the cowls, cowl flaps and fastenings.
- (3) *Inspect*, and record the compression of, each cylinder.
- (4) *Take the following action* in relation to the engine oil system:
 - (a) drain the sump or tank and refit the plug and lockwire;
 - (b) drain the oil cooler and refit and secure the hose;
 - (c) either:
 - (i) remove, inspect, clean and refit the pressure filter and lockwire; or
 - (ii) remove, open and inspect the cartridge full flow filter and fit a new cartridge and lockwire;
 - (d) inspect the oil cooler, oil temperature control valves, oil tank and attachment fittings;
 - (e) inspect all oil lines, fittings, breather pipe and the oil cooler shutter;
 - (f) refill the sump or tank with the recommended grade and quantity of oil.
- (5) *Take the following action* in relation to the ignition system:
 - (a) remove the spark plugs, clean and inspect them, check the spark plug electrode gap, test the spark plugs and renew them if required;
 - (b) inspect the spark plug high tension leads and ceramics;
 - (c) inspect the magneto housing;
 - (d) inspect the breaker compartment and cam follower;
 - (e) inspect the breaker points for serviceability and check the breaker points gap, magneto engine timing and synchronisation;
 - (f) inspect the switch and earth leads;
 - (g) refit and torque the spark plugs;
 - (h) refit the spark plug high tension leads.
- (6) *Take the following action* in relation to the fuel system:
 - (a) place the fuel selector in the off position;
 - (b) remove, inspect, clean and refit the fuel strainers and screens and lockwire;
 - (c) drain and flush the carburettor fuel bowl and refit the plug and lockwire;
 - (d) inspect the carburettor or fuel injection components;
 - (e) inspect the throttle and mixture shafts;
 - (f) inspect all fuel lines and fittings;
 - (g) move the fuel selector from the off position;
 - (h) inspect the auxiliary fuel pump for operation;
 - (j) pressurise and purge the fuel system and inspect it for leaks.
- (7) *Take the following action* in relation to the induction system:
 - (a) remove the air filters, clean them, inspect them and refit or renew them;
 - (b) inspect the hot and alternate air systems for the integrity of seals and for serviceability of valves, shafts, bearings, magnets and hinges;
 - (c) inspect the induction manifold and hoses.
- (8) *Take the following action* in relation to the exhaust system:
 - (a) inspect the exhaust system;
 - (b) remove the muffler shroud, inspect the muffler and refit the shroud;

- (c) inspect the muffler internally for security of baffle cones;
 - (d) inspect the cabin heat flexible hoses.
- (9) *Take the following action* in relation to the engine cylinders and baffles:
- (a) inspect the cylinder assemblies;
 - (b) inspect the cylinder base to the crankcase area;
 - (c) inspect the rocker covers;
 - (d) inspect the push rod housing seals.
- (10) *Take the following action* in relation to the crankcase, accessory housing and firewall:
- (a) inspect the engine for evidence of oil leakage;
 - (b) inspect the accessories and drive belts;
 - (c) inspect the engine mounts and engine mountbolts;
 - (d) inspect the engine mount frame;
 - (e) inspect the firewall, including seals and sealant.
- (11) *Inspect the following controls* for full and free movement in the correct sense:
- (a) throttle, mixture and propeller;
 - (b) alternate air and carburettor heat;
 - (c) engine bay fuel strainer controls;
 - (d) oil cooler shutter and cowl flap;
 - (e) turbocharger.
- (12) *Take the following action* in relation to the propeller:
- (a) inspect the propeller for static track;
 - (b) inspect the propeller hub, spinner and backplate;
 - (c) inspect the wooden propeller attachment bolts;
 - (d) inspect the blades;
 - (e) inspect the counterweights;
 - (f) lubricate the propeller hub;
 - (g) service the propeller hub with air.
- (13) *Take the following action* in relation to the turbocharger:
- (a) remove the heat shield and inspect the turbocharger housing for cracks and oil leaks from the inlet and outlet ports;
 - (b) inspect the compressor and turbine wheel;
 - (c) inspect the rotating assembly bearing for end float;
 - (d) inspect the turbocharger mount;
 - (e) inspect the transition assembly, the induction and exhaust components and the clamps;
 - (f) inspect the upper deck pressure manifold and hoses;
 - (g) lubricate the waste gate linkages and the butterfly valve;
 - (h) inspect the flexible oil lines;
 - (j) inspect the controllers and actuators;
 - (k) inspect the compressor by-pass door;
 - (m) refit the heat shield.
- (14) *Take the following action* in relation to the refitting of the cowls:
- (a) check that no tooling, rags or other foreign objects remain in the compartment;
 - (b) inspect the latches and fasteners for correct tension;
 - (c) inspect the inlet and cooling air ducting;
 - (d) inspect the landing and taxi light wiring;
 - (e) inspect the cowl flap linkage and engine drain lines.

- (15) *Chock the wheels and check* the brake operation, then set the park brake, start the engine and take the following action to determine satisfactory performance in accordance with the manufacturer's recommendations:
- (a) stabilise the engine temperatures and pressures;
 - (b) check the idle speed, mixture and the magneto switch operation at low engine revolutions per minute;
 - (c) check the carburettor heat or alternate air operation;
 - (d) check the gyro or vacuum pressure indication;
 - (e) inspect the generator or alternator;
 - (f) check any unusual engine vibration or noises;
 - (g) check the engine response to throttle application;
 - (h) check each magneto and propeller governor for operation;
 - (j) check the static engine revolutions per minute, manifold pressure and fuel flow;
 - (k) check the idle cut-off operation.
- (16) *After taking the action described above*, remove the cowls, inspect the engine for oil, fuel or other fluid leaks, then replace the cowls.

Section 3—The Electrical System

- (1) *Check* the external and internal required placards.
NOTE: Reference should be made to the aircraft flight manual and airworthiness directives for the required placards.
- (2) *Take the following action* in relation to the air-conditioning system:
- (a) inspect the distribution system electrical components and interwiring;
 - (b) inspect the heating and temperature control system;
 - (c) inspect the freon system electrical components and interwiring;
 - (d) inspect the air cycle system electrical components and interwiring.
- (3) *Take the following action* in relation to the electrical power:
- (a) inspect the AC generation system (including the generator, inverter, regulator, interwiring, control relays and switching);
 - (b) inspect the AC distribution system;
 - (c) inspect the DC generation system (including the generator, regulator, transformer or rectifier units, interwiring, control relays and switches);
 - (d) inspect the DC distribution system (including the busses, circuit breakers or fuses, relays, switches and interwiring);
 - (e) inspect the starter generator;
 - (f) inspect the indication systems;
 - (g) inspect the batteries;
 - (h) inspect the external power system.
- (4) *Take* the following action in relation to electrical equipment and furnishing:
- (a) inspect the flight compartment (including any spare bulbs and fuses);
 - (b) inspect the passenger compartment (including any spare bulbs and fuses);
 - (c) inspect the buffet or galley electrical systems, the lavatory compartment electrical systems and the cargo compartment electrical systems.
- (5) *Take the following action* in relation to the following fire protection systems:
- (a) inspect the engine fire detection system;
 - (b) inspect any other fire and smoke detection systems;
 - (c) inspect the engine fire extinguishing system;
 - (d) inspect any other fire extinguishing systems.

- (6) *Inspect* the electrical components and interwiring of the following flight control systems:
 - (a) the trim and flap system;
 - (b) the lift dump and spoiler system;
 - (c) the lift augmenting system.
- (7) *Inspect* the electrical components and interwiring of the fuel distribution and dump system.
- (8) *Inspect* the electrical components and interwiring of the main and auxiliary hydraulic systems.
- (9) *Inspect* the electrical components and interwiring of the following ice and rain protection systems:
 - (a) the anti/de-ice systems;
 - (b) the ice detection and indication systems.
- (10) *Inspect* the systems and components that give audible or visual warnings.
- (11) *Inspect* the electrical components and interwiring of the following landing gear systems:
 - (a) the extension and retraction systems;
 - (b) the wheels, brakes and anti-skid system;
 - (c) the nose wheel steering system;
 - (d) the position and warning system;
 - (e) the anti-retract system.
- (12) *Inspect* lights in or on the following areas:
 - (a) the flight compartment, the passenger compartment and the cargo and service compartment;
 - (b) the exterior and emergency systems.
- (13) *Inspect* the electrical components and interwiring of pneumatic systems.
- (14) *Inspect* the electrical or electronic control panels, equipment racks and junction boxes.
- (15) *Inspect* the electrical components and interwiring of passenger, crew and cargo doors.
- (16) *Inspect* the electrical components and interwiring of the propeller control and anti/de-ice systems.
- (17) *Inspect* the electrical harnesses, excluding the ignition harness.
- (18) *Inspect* the electrical components and interwiring of the engine fuel and engine control systems.
- (19) *Take the following action* in relation to the ignition:
 - (a) inspect the electrical power supplies;
 - (b) inspect the booster coils, vibrator systems and high energy ignition systems;
 - (c) inspect the switching, including by performing an insulation check of the magneto switch leads.
- (20) *Inspect* the engine starting system.

Section 4—The Instruments

- (1) *Check* the external and internal required placards.

NOTE: Reference should be made to the aircraft flight manual and airworthiness directives for the required placards.
- (2) *Take the following action* in relation to the auto-flight system:
 - (a) inspect the autopilot or the automatic flight control system, including the flight director and stability control augmentation;

- (b) inspect the yaw damper system;
- (c) inspect the speed-attitude correction system, including the auto-trim and mach-trim.
- (3) *Inspect* the flight control surface indication systems.
- (4) *Inspect* the fuel pressure and quantity indication systems.
- (5) *Inspect* the hydraulic power indication system.
- (6) *Inspect* the ice protection indication system.
- (7) *Take the following action* in relation to indicating and recording systems:
 - (a) inspect the instrument and control panels;
 - (b) inspect the independent instrument systems, including the inclinometers, indicators and clocks;
 - (c) inspect the recorders, including the flight data recorders, performance or maintenance recorders.
- (8) *Take the following action* in relation to navigation systems:
 - (a) inspect the flight environment data system, including:
 - (i) the central air data system; and
 - (ii) the pitot/static system, including instruments; and
 - (iii) the stall warning system;
 - (b) inspect the attitude and direction systems, including:
 - (i) the magnetic compass; and
 - (ii) the vertical attitude gyro system; and
 - (iii) the directional gyro system, including the magnetic referenced systems; and
 - (iv) the electronic flight instrument system and multi-function displays;
 - (c) inspect the independent position determining systems, including:
 - (i) the inertial navigation and reference systems; and
 - (ii) the ground proximity warning systems;
 - (d) inspect the flight management system, including the flight management and performance management systems.
- (9) *Take the following action* in relation to oxygen systems:
 - (a) inspect the crew, passenger and portable systems;
 - (b) inspect the indicating systems.
- (10) *Inspect* the pneumatic indicating systems, including the pressure gauge and warning indicators.
- (11) *Take the following action* in relation to the instrument pressure or vacuum system:
 - (a) inspect the distribution system, including the filters, manifolds, regulating valves, check valves and plumbing;
 - (b) inspect the indicating system, including the pressure gauge and warning system.
- (12) *Inspect* the engine indicating systems, including fuel flow, temperature and pressure.
- (13) *Take the following action* in relation to the engine indicating systems:
 - (a) inspect the power indicating system;
 - (b) inspect the temperature indication system;
 - (c) inspect the integrated engine instrument system.
- (14) *Inspect* the oil indicating systems, including quantity, pressure and temperature .
- (15) *Inspect* the water injection indicating system.

Section 5—The radio system

- (1) Check the interior and exterior required placards including frequency charts.
NOTE: Reference should be made to the aircraft flight manual and airworthiness directives for the required placards.
- (2) Take the following action in relation to communication and navigation systems :
 - (a) inspect the accessible interwiring, plugs and sockets;
 - (b) inspect the microphones, headsets and cords;
 - (c) inspect the fuses for adequacy of spares;
 - (d) inspect the antennae and antenna insulators;
 - (e) inspect the Emergency Location Transmitter/Crash Location Beacon batteries for electrolyte leakage and check that the battery life has not expired;
 - (f) inspect the removable units, mounting racks, vibration isolators and bonding straps;
 - (g) inspect the switches and controllers;
 - (h) inspect the radio panel lamps for adequate illumination;
 - (j) inspect the radio indicators for legibility.
- (3) Take the following additional action in relation to communication systems in aircraft equipped for I.F.R. flight:
 - (a) inspect the HF communication system, including for correct performance by communication with ground stations or by other means;
 - (b) inspect the VHF communication system, including for correct performance by communication with ground stations or by other means;
 - (c) inspect the audio system, including for correct operation of all distribution and amplifying systems in all modes of operation.
- (4) Take the following action in relation to navigation systems in aircraft equipped for I.F.R. flight:
 - (a) check the ADF system for accuracy and correct performance in all modes of operation within the limits specified in section 108.34 of the Civil Aviation Orders;
 - (b) check the VOR system for correct performance within the limits specified in section 108.34 of the Civil Aviation Orders;
 - (c) check the localiser system for correct performance within the limits specified in section 108.34 of the Civil Aviation Orders;
 - (d) check the glideslope system for correct performance within the limits specified in section 108.34 of the Civil Aviation Orders;
 - (e) check the marker system for correct performance in all modes: an approved simulator may be used for these tests;
 - (f) inspect the DME system;
 - (g) inspect the Omega/VLF system;
 - (h) inspect the Doppler navigation system;
 - (j) inspect the weather radar system;
 - (k) check the ATC transponder system for correct performance in all modes using the self test facility: select code 0101 for this test;
 - (l) inspect the radio altimeter system;
 - (m) inspect the ground proximity warning system; and
 - (n) inspect the electronic flight instrument system.

Part 3—Post inspection check

- 3.1. On completion of each section of the inspection, check to ensure that all tools, maintenance equipment or rags have been removed from the aircraft and all panel, access doors, detachable fairings and fillets have been correctly secured.

SCHEDULE 6 CASA SYSTEM OF CERTIFICATION OF COMPLETION OF MAINTENANCE

(subregulation 2 (1) definition of *CASA system of certification of completion of maintenance*)

Part 1—Interpretation

What is meant by “the person who carries out the maintenance”?

- 1.1 In this Schedule, a reference to **the person who carries out the maintenance** does not include a reference to a person who performs maintenance in the course of his or her employment with an employer.

What is meant by “performs maintenance”?

- 1.2 In this Schedule, a reference to **the person who performs maintenance** is a reference to the person who physically does the maintenance.

Supervisor to be responsible for work he or she supervises

- 1.3 In this Schedule, maintenance performed by a person who is permitted by paragraph 42ZC (3) (b) or 42ZC (4) (c) to carry out maintenance under the supervision of a person who holds an aircraft maintenance engineer licence is to be taken to have been performed by the person who supervised the maintenance and not by the first-mentioned person.

Part 2—Certification of completion of stages of maintenance and inspections under subregulation 42G (2)

What is to be certified?

- 2.1 A certification must be made for:
- the completion of each stage of maintenance; and
 - the completion of an inspection under subregulation 42G (2).

Who is to certify?

- 2.2 A certification for completion of a stage of maintenance or an inspection under subregulation 42G (2) is only to be made by the person who performed the stage of maintenance or the inspection.

Note: Regulation 42ZC sets out who can perform maintenance.

Where must a certification be made?

- 2.3 A certification for completion of a stage of maintenance or an inspection under subregulation 42G (2) must be made:
- in the documents kept by the person carrying out the maintenance as a record of the carrying out of the maintenance; or
 - in the aircraft log book or approved alternative maintenance record for the aircraft .
- 2.4 If completion of an inspection under subregulation 42G (2) is certified in the documents kept by the person carrying out the maintenance as a record of the

carrying out of the maintenance, completion of the inspection must also be certified in the aircraft log book or approved alternative maintenance record for the aircraft.

What must be included in a certification?

- 2.5 A certification for completion of a stage of maintenance must:
- (a) be signed by the person making the certification; and
 - (b) include the licence number, airworthiness authority number, aircraft welding authority number or certificate of approval number of the person making the certification; and
 - (c) include the date on which the certification was made; and
 - (e) if an exemption from or variation to a requirement is in force under regulation 42ZS in relation to the aircraft—set out details of the exemption or variation; and
 - (f) if, in the course of carrying out the maintenance, the weight or balance of the aircraft has been varied—include a record of the variation; and
 - (g) if a special inspection was carried out—set out what was found as a result of the inspection; and
 - (h) if, in the course of carrying out the maintenance, an inspection using a non-destructive testing method was carried out—set out:
 - (i) the non-destructive testing method used in carrying out the inspection; and
 - (ii) the procedure used in carrying out the inspection; and
 - (iii) what was found as a result of the inspection; and
 - (j) include a list of airworthiness directives complied with in the course of carrying out the maintenance and must set out any defects found in complying with those directives; and
 - (k) if, in the course of carrying out the maintenance, an aircraft component:
 - (i) that has had maintenance carried out on it; and
 - (ii) that was supplied to the person carrying out the maintenance by another person;was fitted—set out the number of the document that covered the supply of the component in accordance with subregulation 42W (4);
 - (l) if, in the course of carrying out the maintenance, a time-lifed aircraft component was fitted or replaced:
 - (i) identify the component and specify (if applicable) the part number and serial number of the component; and
 - (ii) list the airworthiness directives that have been complied with in relation to the component; and
 - (iii) if the component was supplied to the person carrying out the maintenance by another person—set out the number of the document that covered the supply of the component in accordance with subregulation 42W (4); and
 - (iv) if the component has not been overhauled—set out the time in service of, or the number of cycles completed by, the component since new; and
 - (v) if the component has been overhauled—set out the time in service of, or number of cycles completed by, the component since its most recent overhaul; and

- (vi) if the component is an engine—set out the test performance figures of the engine.
 - (m) if, in the course of carrying out the maintenance, an aircraft material:
 - (i) that has had maintenance carried out on it; and
 - (ii) that was supplied to the person by another person; and
 - (iii) that is not a fluid;
 was used—set out the number of the document that covered the supply of the material in accordance with subregulation 42X (1); and
 - (n) if a certification is made in the aircraft log book or approved alternative maintenance record for the aircraft—set out:
 - (i) the time in service of the aircraft since new; and
 - (ii) if the person making the certification is an employee—the name of the person’s employer and the employer’s certificate of approval number, licence number, airworthiness authority number or aircraft welding authority number.
- 2.6 A certification for completion of an inspection under subregulation 42G (2) must:
- (a) set out which system was inspected; and
 - (b) be signed by the person making the certification; and
 - (c) include the licence number or airworthiness authority number or certificate of approval number of the person making the certification; and
 - (d) include the date on which the certification was made.

Part 3—Certification of co-ordination of maintenance

When is co-ordination of maintenance required?

- 3.1 If more than one person performs stages of maintenance within a category of maintenance, the person carrying out the maintenance must ensure that one of the persons specified in paragraph 3.5 co-ordinates the carrying out of that category of maintenance.
- 3.2 If:
- (a) maintenance within more than one category of maintenance is carried out on an aircraft; and
 - (b) more than one person performs that maintenance;
- the person carrying out the maintenance must ensure that one of the persons specified in paragraph 3.6 co-ordinates the carrying out of those categories of maintenance.

What is the responsibility of a person who co-ordinates maintenance?

- 3.3 A person who co-ordinates the carrying out of maintenance within a category of maintenance must ensure:
- (a) that each stage of maintenance is performed by a person who is permitted by regulation 42ZC to carry out the maintenance; and
 - (b) that a certification for the completion of each stage of maintenance is made by the person who performed the stage of maintenance; and
 - (c) that the carrying out of each stage of maintenance does not adversely affect another stage of maintenance; and
 - (d) that the carrying out of the category of maintenance is completed .
- 3.4 A person who co-ordinates the carrying out of more than one category of maintenance must ensure:

- (a) that each category of maintenance that is required to be co-ordinated by paragraph 3.1 is co-ordinated by a person specified in paragraph 3.5; and
- (b) that a certification for the co-ordination of each category of maintenance that is required to be co-ordinated because of paragraph 3.1 is made by the person who co-ordinated the category of maintenance; and
- (c) that the carrying out of each category of maintenance does not adversely affect another stage of maintenance; and
- (d) that the carrying out of the maintenance is completed.

Who must co-ordinate maintenance within a category of maintenance?

3.5 If the carrying out of maintenance within a category of maintenance is required to be co-ordinated because of paragraph 3.1, the maintenance must be co-ordinated by one of the persons who performed a stage of maintenance within that category.

Who must co-ordinate maintenance across categories?

3.6 If the carrying out of different categories of maintenance is required to be co-ordinated because of paragraph 3.2, the maintenance must be co-ordinated by:

- (a) if maintenance within a category of maintenance is performed by more than one person—the person co-ordinating the carrying out of maintenance within that category; or
- (b) if maintenance within a category of maintenance is performed by one person—that person; or
- (c) a person approved by CASA to co-ordinate the carrying out of different categories of maintenance.

When and by whom does co-ordination of maintenance have to be certified?

3.7 If maintenance is required to be coordinated under this Part, the person who co-ordinates that maintenance must certify that it was co-ordinated.

What is the responsibility of a person who certifies for co-ordination of maintenance?

3.8 The person who co-ordinates the carrying out of maintenance within a category of maintenance must not certify for co-ordination of the maintenance unless the person is satisfied:

- (a) that each stage of maintenance was performed by a person who is permitted by regulation 42ZC to carry out the maintenance; and
- (b) that a certification for completion of each stage of maintenance has been made by the person who performed the stage of maintenance; and
- (c) if the person thinks that the carrying out of a stage of maintenance adversely affected another stage of maintenance:
 - (i) that the affected stage of maintenance is no longer adversely affected; and
 - (ii) if maintenance was performed—that certification has been made for completion of the maintenance; and
- (d) that the carrying out of the category of maintenance has been completed.

3.9 The person who co-ordinates the carrying out of more than one category of maintenance must not certify for co-ordination of the maintenance unless the person is satisfied:

- (a) that each category of maintenance that was required to be co-ordinated by paragraph 3.1 was co-ordinated by a person specified in paragraph 3.5; and
- (b) that a certification for the co-ordination of each category of maintenance that was required to be co-ordinated by paragraph 3.1 was made by the person who co-ordinated the maintenance; and
- (c) if the person thinks that the carrying out of a category of maintenance adversely affected another category of maintenance:
 - (i) that the affected category of maintenance is no longer adversely affected; and
 - (ii) if maintenance was performed—that certification has been made for completion of the maintenance; and
- (d) that the carrying out of the maintenance has been completed.

Where must a certification for co-ordination of maintenance be made?

3.10 A certification for the co-ordination of maintenance must be made:

- (a) in the documents kept by the person carrying out the maintenance as a record of the carrying out of the maintenance; or
- (b) in the aircraft log book or approved alternative maintenance record for the aircraft.

What must be included in a certification for co-ordination of maintenance?

3.11 A certification for the co-ordination of maintenance must:

- (a) be signed by the person making the certification; and
- (b) include the licence number, airworthiness authority number or certificate of approval number of the person making the certification; and
- (c) if the person making the certification is an employee—state the name of the person's employer and the employer's certificate of approval number, licence number or airworthiness authority number; and
- (d) if the certification is for the co-ordination and completion of the carrying out of maintenance within a category of maintenance—set out the category of maintenance; and
- (e) if the certification is for the co-ordination of the carrying out of different categories of maintenance—include a statement to that effect; and
- (f) include the date on which the certification was made.

Part 4—Final certification

When must a final certification be made?

4.1 A final certification for completion of maintenance on an aircraft must be made when:

- (a) all of the maintenance required to be carried out on an aircraft at a particular time; and
- (b) if the maintenance is required to be co-ordinated by Part 3—co-ordination of the maintenance;

has been completed and certified .

Where must a final certification be made?

4.2 A final certification for the completion of maintenance on an aircraft must be made in the aircraft log book or approved alternative maintenance record for the aircraft.

Who must certify?

4.3 A final certification must be made by:

- (a) if one person certified for the carrying out of the maintenance—that person; or
- (b) if the carrying out of maintenance within one category of maintenance only was co-ordinated—the person who co-ordinated the category of maintenance; or
- (c) if the carrying out of different categories of maintenance was co-ordinated—the person who co-ordinated the maintenance.

What must be included in a final certification?

4.4 If certifications for completion of stages of maintenance are made in the documents kept by the person carrying out the maintenance as a record of the carrying out of the maintenance, a final certification must:

- (a) include a brief description of the type of maintenance carried out; and
- (b) be signed by the person making the certification; and
- (c) include the licence number, airworthiness authority number or certificate of approval number of the person making the certification; and
- (d) set out the time in service of the aircraft since new; and
- (e) if the person making the certification is an employee—state the name of the person's employer and the employer's certificate of approval number, licence number or airworthiness authority number; and
- (f) set out details of the approved maintenance data used to carry out the maintenance; and
- (g) if an exemption from or variation to a requirement is in force under regulation 42ZS in relation to the aircraft—set out details of the exemption or variation; and
- (h) if, in the course of carrying out the maintenance, the weight or balance of the aircraft has been varied—include a record of the variation; and
- (j) if a special inspection was carried out—set out what was found as a result of the inspection; and
- (k) if, in the course of carrying out the maintenance, an inspection using a nondestructive testing method was carried out—set out:
 - (i) the non-destructive testing method used in carrying out the inspection; and
 - (ii) the procedure used in carrying out the inspection; and
 - (iii) what was found as a result of the inspection; and
- (l) include a list of airworthiness directives complied with in the course of carrying out the maintenance and a statement setting out any defects found in complying with those directives; and
- (m) if, in the course of carrying out the maintenance, an aircraft component:
 - (i) that has had maintenance carried out on it; and
 - (ii) that was supplied to the person carrying out the maintenance by another person;was fitted—set out the number of the document that covered the supply of the component in accordance with subregulation 42W (4); and
- (n) if, in the course of carrying out the maintenance, a time-lifed aircraft component was fitted or replaced:

- (i) identify the component and that includes (if applicable) the part number and serial number of the component; and
- (ii) list the airworthiness directives that have been complied with in relation to the component; and
- (iii) if the component was supplied to the person carrying out the maintenance by another person—set out the number of the document that covered the supply of the component in accordance with subregulation 42W (4); and
- (iv) if the component has not been overhauled—set out the time in service of, or the number of cycles completed by, the component since new; and
- (v) if the component has been overhauled—set out the time in service of, or number of cycles completed by, the component since its most recent overhaul;
- (vi) if the component is an engine—set out the test performance figures of the engine; and
- (p) if, in the course of carrying out the maintenance, an aircraft material:
 - (i) that has had maintenance carried out on it; and
 - (ii) that was supplied to the person by another person; and
 - (iii) that is not a fluid;

was used—set out the number of the document that covered the supply of the material in accordance with subregulation 42X (1); and
- (q) identify the documents kept by the person carrying out the maintenance as a record of the carrying out of the maintenance; and
- (s) include the date on which the certification was made.

4.5 If certifications for completion of stages of maintenance are made in the aircraft log book or approved alternative document for the aircraft, a final certification must:

- (b) be signed by the person making the certification; and
- (c) include the licence number, airworthiness authority number or certificate of approval number of the person making the certification; and
- (d) if the person making the certification is an employee—state the name of the person's employer and the employer's certificate of approval number, licence number or airworthiness authority number; and
- (e) include the date on which the certification was made.

What is the responsibility of a person who makes a final certification?

4.6 A person must not make a final certification unless the person is satisfied that:

- (a) all maintenance required to be carried out on the aircraft has been carried out; and
- (b) if the maintenance was required to be co-ordinated by paragraph 3.1 or 3.2—the maintenance has been co-ordinated;
- (c) certifications that are required to be made by paragraph 2.1 or 3.7 have been made.

SCHEDULE 7

Paragraph 42ZC (4) (b)

**MAINTENANCE THAT MUST NOT BE CARRIED OUT
ON A CLASS B AIRCRAFT BY A PERSON
REFERRED TO IN PARAGRAPH 42ZC (4) (b)****Part 1—General**

- 1.1 The inspection of an aircraft for the purpose of the issue of a maintenance release.
- 1.2 Maintenance involving disturbing the individual parts of an aircraft component supplied as a bench tested component where the subsequent functioning of the component can only be proved by the use of test equipment additional to the equipment used for normal functional checks and trouble shooting checks.
- 1.3 Maintenance involving the use of non-destructive testing methods, but not including the use of aerosol packed materials in conducting liquid penetrant inspections.
- 1.4 Maintenance involving the complete jacking of an aircraft.
- 1.5 Maintenance involving the use of jigs, but not including the use of control rigging devices.

Part 2—Maintenance of airframes

- 2.1 The repair or modification of:
 - (a) the primary structure of an aircraft; or
 - (b) the seat support structure of an aircraft.
- 2.2 Welding, brazing, heat treating or metalizing of or on the primary structure of an aircraft.
- 2.3 Riveting, gluing or bonding joints in the primary structure of an aircraft.
- 2.4 Bolting joints in the airframe of an aircraft, where the bolting requires the use of special techniques.
- 2.5 Replacing a complete fabric covering of a fuselage, aerofoil or flying surface.
- 2.6 Balancing flying control surfaces.
- 2.7 Balancing main or tail rotor assemblies.
- 2.8 Refurbishing the interior of an aircraft.
- 2.9 Repainting that might affect the balance of flying control surfaces.

Part 3—Maintenance of engines

- 3.1 Disassembly or assembly of a crankcase of a reciprocating engine.
- 3.2 Disassembly or assembly of a crankshaft of a reciprocating engine (including removal and replacement of a connecting rod).
- 3.3 Disassembly or assembly of a rotor housing of a rotary engine.
- 3.4 Disassembly or assembly of a rotor assembly of a rotary engine.
- 3.5 Disassembly or assembly of a main casing of a turbine engine.
- 3.6 Disassembly or assembly of a rotating assembly of a turbine engine.
- 3.7 Balancing of rotating assemblies of engines.
- 3.8 Welding, brazing, heat treating or metalizing, but not including minor repairs to exhaust pipes .
- 3.9 Machining, other than machining using standard hand tools or valve refacing equipment.

- 3.10 Removal or replacement of reduction gears or accessory drive gears that are not attached to an accessory.
- 3.11 Balancing of propellers.
- 3.12 Disassembly and assembly of propeller hubs.
- 3.13 Straightening of propeller blades.

Part 4—Maintenance on electrical, instrument and radio systems

- 4.1 Maintenance of operational software and automatic test equipment software.
- 4.2 Initial installation of an electrical, instrument or radio system.

Part 5—Specific maintenance on manned balloons and hot air airships

- 5.1 In relation to a manned balloon or a hot air airship:
 - (a) the replacement of one or more panels in the upper half of the envelope; or
 - (b) the replacement of 4 or more panels in the lower half of the envelope; or
 - (c) the repair or replacement of load tape; or
 - (d) the repair of the suspension system; or
 - (e) the repair of the burner system, other than seal replacement or the cleaning of jets .

NOTE: For maintenance of engines of hot air airships see Part 3.

SCHEDULE 8

Paragraph 42ZC (4) (d)

**MAINTENANCE THAT MAY BE CARRIED OUT ON A CLASS B AIRCRAFT
BY A PILOT ENTITLED TO DO SO UNDER SUBREGULATION 42ZC (4)**

1. Removal or installation of landing gear tyres, but only if the removal or installation does not involve the complete jacking of the aircraft.
2. Repair of pneumatic tubes of landing gear tyres.
3. Servicing of landing gear wheel bearings.
4. Replacement of defective safety wiring or split pins, but not including wiring or pins in control systems.
5. Removal or refitting of a door, but only if:
 - (a) no disassembly of the primary structure or operating system of the aircraft is involved; and
 - (b) if the aircraft is to be operated with the door removed—the aircraft has a flight manual and the manual indicates that the aircraft may be operated with the door removed.
6. Replacement of side windows in an unpressurised aircraft.
7. Replacement of seats, but only if the replacement does not involve disassembly of any part of the primary structure of the aircraft.
8. Repairs to the upholstery or decorative furnishings of the interior of the cabin or cockpit.
9. Replacement of seat belts or harnesses.
10. Replacement or repair of signs and markings.
11. Replacement of bulbs, reflectors, glasses, lenses or lights.
12. Replacement, cleaning, or setting gaps of, spark plugs.
13. Replacement of batteries.
14. Changing oil filters or air filters.
15. Changing or replenishing engine oil or fuel.
16. Lubrication not requiring disassembly or requiring only the removal of non-structural parts, or of cover plates, cowlings and fairings.
17. Replenishment of hydraulic fluid.
18. Application of preservative or protective materials, but only if no disassembly of the primary structure or operating system of the aircraft is involved.
19. Removal or replacement of equipment used for agricultural purposes.
20. Removal or replacement of glider tow hooks.
21. Carrying out of an inspection under regulation 42G of a flight control system that has been assembled, adjusted, repaired, modified or replaced.
22. Carrying out of a daily inspection of an aircraft.``

SCHEDULE 9

Regulation 42ZV

**MAINTENANCE CONTROL MANUAL AND
MAINTENANCE CONTROLLER****Part 1—Requirements for person who is a maintenance controller**

- 1.1 To be the maintenance controller a person must:
- (a) know and understand the operator's maintenance control manual;
 - (b) know and understand the requirements of the regulations in relation to the maintenance of aircraft;
 - (c) demonstrate the required knowledge and understanding for the purposes of being approved as the maintenance controller.

Part 2—Functions of maintenance controller

- 2.1 A maintenance controller must perform the following functions:
- (a) the control of all maintenance carried out on the aircraft, either scheduled or unscheduled;
 - (b) the development, organisation and supervision of all activities and procedures specified in the maintenance control manual;
 - (c) the transfer of an aircraft's maintenance records to a new Certificate of Registration holder for the aircraft;
 - (d) the investigation of all defects in the aircraft that come to the attention of the aircraft's maintenance organisation.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1988.

2. *Regulation 11 of Statutory Rules 1989 No. 31 reads as follows:*

“Certain instrument ratings: transitional

11. (1) Where, immediately before the commencement of these Regulations:
- (a) a private pilot licence or pilot licence of a higher category bears a notation made by the Authority to the effect that a class 4 instrument rating is endorsed on the licence; and
 - (b) the licence does not bear a notation made by the Authority to the effect that the endorsement is suspended or cancelled;

a night V.F.R. rating under subregulation 56 (1) of the Principal Regulations as amended by these Regulations shall be deemed to be endorsed on the licence on and from that commencement.

- (2) Where, immediately before the commencement of these Regulations:

- (a) a commercial pilot licence or senior commercial pilot licence bears a notation made by the Authority to the effect that a class 5 instrument rating is endorsed on the licence; and
- (b) the licence does not bear a notation made by the Authority to the effect that the endorsement is suspended or cancelled;

a night V.F.R. agricultural rating under subregulation 56 (1) of the Principal Regulations as amended by these Regulations shall be deemed to be endorsed on the licence on and from that commencement.”

3. *Regulation 23 of Statutory Rules 1990 No. 216 reads as follows:*

“Transitional

23. (1) A licence issued under Part V of the Principal Regulations continues in force after the commencement of these Regulations as if it had been issued under the amended Regulations.

(2) A licence to which subregulation (1) applies continues in force subject to any condition to which it was subject immediately before the commencement of these Regulations.

(3) A person who holds a licence issued under Part V before the commencement of these Regulations is to be taken to hold a valid medical certificate for the purposes of regulation 55A until:

- (a) a medical certificate is granted to him or her under regulation 72C or 72D, as the case may be; or
- (b) the Authority refuses to grant the certificate.

(4) If, at the commencement of these Regulations, a person holds a licence to which regulation 72A of the amended Regulations refers, the period within which that person must be examined under subregulation 72A (1) is to be taken to have commenced immediately after the month in which the person was given an examination under regulation 62 of the Principal Regulations as a consequence of which he or she was granted that licence.

(5) If a period within which a person must be examined under regulation 72A (1) is found, when calculated in accordance with subregulation (4), to have expired before the commencement of these Regulations, that person must have an examination under subregulation 72A (1) not later than 4 weeks after the commencement of these Regulations.

(6) A person required, under subregulation (4) or (5), to have an examination may apply, in accordance with regulation 72B of the amended Regulations, for the postponement of that examination.

(7) In this regulation, ‘**amended Regulations**’ means the Principal Regulations as amended by these Regulations.”

4. *Regulation 10 of Statutory Rules 1990 No. 332 reads as follows:*

“Transitional

10. The Authority may, for the purposes of the Principal Regulations as in force after the commencement of this regulation, treat a document issued by it before that commencement in relation to a type of aircraft manufactured in a country other than Australia as if the document were a certificate of type approval under regulation 22.”

5. *Regulation 13 of Statutory Rules 1990 No. 466 reads as follows:*

“Transitional

13. (1) An operational control rating issued under paragraph 103 (d) of the Civil Aviation Regulations and in force immediately before the commencement of these Regulations is taken to be an operational information service rating issued under that paragraph as amended by these Regulations.

(2) A delegation by the Authority of its powers under regulation 257 of the Civil Aviation Regulations and in force immediately before the commencement of these Regulations continues in force after that commencement as if it had been made by the Authority for the purposes of regulation 257 of the Civil Aviation Regulations as substituted by these Regulations.

(3) A determination by the Authority under regulation 257 of the Civil Aviation Regulations and in force immediately before the commencement of these Regulations continues in force after the commencement as if it had been made by the Authority under regulation 257 of the Civil Aviation Regulations as substituted by these Regulations.”

6. *Regulation 5 of Statutory Rules 1991 No. 54 reads as follows:*

“5. Savings

5.1 An exemption in force immediately before the commencement of these Regulations, that was made, or is taken to have been made, under the old regulation, has effect on and after the commencement of these Regulations as if it was made under the new regulation.

5.2 In this regulation:

‘**new regulation**’ means regulation 308 of the Civil Aviation Regulations as in force immediately after the commencement of these Regulations;

‘old regulation’ means regulation 308 of the Civil Aviation Regulations as in force immediately before the commencement of these Regulations.

7. *Regulation 17 of Statutory Rules 1991 No. 287 reads as follows:*

“17. Transitional

17.1 A delegation by the Authority under regulation 7 of the Civil Aviation Regulations (other than a delegation to the Chief Executive Officer) that was in force immediately before the commencement of regulation 3 continues in force after that commencement as if it were a delegation made by the Chief Executive Officer under regulation 7 of these Regulations as amended by regulation 3.

17.2 If a person has been examined under subregulation 72A (1) or (3) of the Civil Aviation Regulations as in force immediately before the commencement of these regulations, the period within which the next examination must be carried out must be determined under:

- (a) subregulation 72A (5) of the Civil Aviation Regulations as amended by these Regulations; or
- (b) if subregulation 72A (5A) of the Civil Aviation Regulations applies to the person—that subregulation.”

8. *Regulation 20 of Statutory Rules 1991 No. 382 reads as follows:*

“20. Transitional

20.1 If, immediately before the commencement of these Regulations, a designation of an aerodrome or airspace was in force under regulation 99 or 111 of the Civil Aviation Regulations, that designation remains in force as if it had been made under regulation 99 as in force after that commencement.

20.2 If, immediately before the commencement of these Regulations, a person held a flight service officer licence on which a valid aerodrome flight information and alerting rating was endorsed, the holder of the licence may, in accordance with that rating, continue to provide, or supervise the provision of, aerodrome flight information and alerting services for the aerodromes that were included in the aerodrome flight information zone or zones specified in the rating.”

9. *Regulation 10 of Statutory Rules 1991 No. 426 reads as follows:*

“10. Savings

10.1 An aircraft maintenance engineer licence, that was issued under regulation 31 of the Civil Aviation Regulations and in force immediately before the commencement of these Regulations, continues in force after the commencement as if it had been issued under regulation 31 as amended by these Regulations.

10.2 An aircraft maintenance engineer licence to which subregulation 10.1 applies continues in force:

- (a) subject to any condition to which it was subject immediately before the commencement of these Regulations; and
- (b) until the end of the period specified on the licence.

10.3 A Civil Aviation Order that was in force, or purporting to be in force, under regulation 31 of the Civil Aviation Regulations immediately before the commencement of these Regulations, is taken to be valid for all purposes and continues in force after the commencement as if it had been issued under the Civil Aviation Regulations as amended by these Regulations.”

10. *Regulations 36 to 48 of Statutory Rules 1991 No. 487 read as follows:*

“Interpretation

36. In this Part:

‘**amended regulations**’ means the Civil Aviation Regulations as amended by these Regulations;

‘**commencement**’ means the commencement of these Regulations;

‘**previous regulations**’ means the Civil Aviation Regulations as in force immediately before the commencement;

‘**transitional period**’ means the period of 6 months starting at the commencement.

Certificates of approval

37. (1) Subject to subregulation (2), subregulation 30 (2C) of the amended regulations applies to certificates of approval whether granted before or after the commencement.

(2) Paragraphs 30 (2C) (b) and (d) of the amended regulations do not apply to a certificate of approval granted before the commencement until the transitional period has ended.

Airworthiness authorities

38. A document:

- (a) that was issued by the Authority before the commencement as a maintenance authority, a welding authority, an aircraft maintenance engineer examiner authority, a non-destructive testing authority or an aircraft weight control authority; and
- (b) that was in force immediately before the commencement;

has effect after the commencement as if it were an authority of that kind issued under regulation 33B of the amended regulations.

Certificate of completion of activities

39. (1) If a direction under subregulation 34 (1) of the previous regulations:

- (a) was in force immediately before the commencement; and
- (b) could be given under subregulation 34 (1) of the amended regulations;

the direction has effect after the commencement as if it were a direction under subregulation 34 (1) of the amended regulations.

(2) If:

- (a) an approval under subregulation 34 (2) of the previous regulations was in force immediately before the commencement; and
- (b) the system of certification concerned relates to a certificate of approval covering the maintenance of aircraft, aircraft components or aircraft materials;

the approval has effect after the commencement as if it were an approval under regulation 42ZG of the amended regulations.

(3) A certification of the completion of maintenance made before the commencement in accordance with a system of certification instituted under regulation 34 of the previous regulations has effect after the commencement as if it were a certification in accordance with regulation 42ZE of the amended regulations.

(4) A certification of the completion of maintenance made before the commencement in a manner acceptable to the Authority for the purposes of subregulation 41 (3) of the previous regulations has effect after the commencement as if it were a certification in accordance with regulation 42ZN of the amended regulations.

Airworthiness directives

40. An airworthiness directive that was issued in the form of a Civil Aviation Order in Part 105, 106 or 107 of the Civil Aviation Orders and that was in force, or purported to be in force, immediately before the commencement is to be taken to be valid for all purposes and has effect after the commencement as if it were an airworthiness directive under subregulation 37A of the amended regulations.

Directions relating to maintenance

41. A direction under subregulation 38 (1) of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were a direction under subregulation 38 (1) of the amended regulations.

Approved systems of maintenance

42. An approval under subregulation 38 (3) of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were an approval under subregulation 42N (2) of the amended regulations.

Maintenance of Australian aircraft in Australian territory

43. (1) An approval for the installation or use of an aircraft component or aircraft material given under subregulation 39 (5) or 39 (6) of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were an exemption from, or a variation of, the requirements of regulation 42W or 42X of the amended regulations that was granted under regulation 42ZS of the amended regulations.

(2) An approval of a document for the purposes of subparagraph 39 (5) (a) (iii), paragraph 39 (5) (b) or paragraph 39 (6) (c) of the previous regulations that was in force immediately before the commencement is to be taken to satisfy the requirements of:

- (a) if the document was approved in relation to an aircraft component—subregulation 42W (5) of the amended regulations; and
- (b) if the document was approved in relation to an aircraft material—42X (2) of the amended regulations.

Use of aircraft material in the servicing and operation of Australian aircraft

44. (1) An approval under subregulation 40 (1) of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were an approval under paragraph 36A (2) (b) of the amended regulations.

(2) A Civil Aviation Order mentioned in subregulation 40 (1) of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were a direction under paragraph 36A (1) of the amended regulations.

Application of new regulation 39 (Maintenance required by approved system of maintenance)

45. If, immediately before the commencement:

- (a) a certificate of airworthiness was in force for a class A aircraft; and
- (b) there was no direction or approval in force for the aircraft under subregulation 38 (2) or (3) of the previous regulations;

regulation 39 of the amended regulations does not apply to the aircraft until the transitional period has ended.

Application of new regulation 41 (Maintenance schedule and maintenance instructions)

46. If, immediately before the commencement:

- (a) a certificate of airworthiness was in force for a class B aircraft; and
- (b) there was no direction or approval in force for the aircraft under subregulation 38 (2) or (3) of the previous regulations;

regulation 41 of the amended regulations does not apply to the aircraft until the transitional period has ended.

Application of new regulation 50C (Directions relating to aircraft maintenance records) to records made before the commencement

47. If:

- (a) a person holds a record made before the commencement for the maintenance of an aircraft; and
- (b) the record was made to comply with a direction under regulation 54 of the previous regulations; and
- (c) a direction under regulation 50C of the amended regulations requires the person to retain or transfer records made under regulation 50A of the amended regulations for the aircraft;

the direction referred to in paragraph (c) applies to the record as if it were a record made under regulation 50A of the amended regulations.

Transitional: delegations

48. (1) A delegation of or powers conferred by subregulation 24 (2), 34 (3), 35 (7), 43 (1), 47 (1), 47 (3) or regulation 49 of the previous regulations that was in force immediately before the commencement has effect after the commencement as if it were a delegation of the powers conferred by the subregulation, or regulation, as amended by these regulations.

(2) A delegation of the powers conferred by a provision of the previous regulations set out in Column 1 of the following table that was in force immediately before the commencement has effect after the commencement as if it were a delegation of the powers conferred by the provision of the amended regulations set out in Column 2 of the table opposite the first-mentioned provision.

TABLE

| Column 1 | Column 2 |
|----------------------|---|
| Previous regulations | Amended regulations |
| Subregulation 30 (2) | Subregulation 30 (2A) |
| Subregulation 34 (1) | Subregulation 34 (1) |
| Subregulation 38 (1) | Subregulation 38 (1) |
| Subregulation 38 (2) | Subregulation 38 (1) and regulation 42G |
| Subregulation 38 (3) | Subregulation 42J (2) |
| Subregulation 38 (5) | Subregulation 42N (1) |
| Subregulation 40 (1) | Subregulation 36A (2) |
| Subregulation 54 (1) | Subregulations 50A (2), 50B (1) and 50C (1) |
| Subregulation 54 (3) | Regulation 50D |
| Subregulation 54 (4) | Subregulation 50C (1)” |

11. Regulation 28 of Statutory Rules 1992 No. 174 reads as follows:

“28. Saving

28.1 A permission that was given under subregulation 134 (1) of the Civil Aviation Regulations and in force, or purporting to be in force, immediately before the commencement of these Regulations continues in force, or is taken to be in force, after the commencement as if it were a permission given under subregulation 134 (1) of the Civil Aviation Regulations as amended by these Regulations.

28.2 A permission to which subregulation applies, continues in force subject to any conditions to which it was subject immediately before the commencement of these regulations.”

12. Part 2 of Statutory Rules No. 279 of 1992 reads as follows:

“Division 1—Interpretation Provisions

35. Interpretation

35.1 In this Part:

‘**commencement**’ means the commencement of these Regulations;

‘**medical standard 1**’ has the same meaning as in regulation 6.01 of the new regulations;

‘**medical standard 2**’ has the same meaning as in regulation 6.01 of the new regulations;

‘**medical standard 3**’ has the same meaning as in regulation 6.01 of the new regulations;

‘**new aircraft radiotelephone operator certificate of proficiency**’ means an aircraft radiotelephone operator certificate of proficiency issued under subregulation 83A (2) of the new regulations;

‘**new commercial pilot (aeroplane) licence**’ means a commercial pilot (aeroplane) licence issued under subregulation 5.09 (1) of the new regulations ;

‘**new commercial pilot (airship) licence**’ means a commercial pilot (airship) licence issued under subregulation 5.09 (1) of the new regulations;

‘**new commercial pilot (balloon) licence**’ means a commercial pilot (balloon) licence issued under subregulation 5.09 (1) of the new regulations;

‘new commercial pilot (gyroplane) licence’ means a commercial pilot (gyroplane) licence issued under subregulation 5.09 (1) of the new regulations;

‘new commercial pilot (helicopter) licence’ means a commercial pilot (helicopter) licence issued under subregulation 5.09 (1) of the new regulations;

‘new flight engineer licence’ means a flight engineer licence issued under subregulation 5.09 (1) of the new regulations;

‘new flight radiotelephone operator licence’ means a flight radiotelephone operator licence issued under subregulation 5.09 (1) of the new regulations;

‘new grade of rating’ means a grade of flight crew rating issued under subregulation 5.14 (2) of the new regulations;

‘new licence’ means any of the following:

- (a) a new commercial pilot (aeroplane) licence;
- (b) a new commercial pilot (airship) licence;
- (c) a new commercial pilot (balloon) licence;
- (d) a new commercial pilot (gyroplane) licence;
- (e) a new commercial pilot (helicopter) licence;
- (f) a new flight engineer licence;
- (g) a new flight radiotelephone operator licence;
- (h) a new private pilot (aeroplane) licence;
- (j) a new private pilot (gyroplane) licence;
- (k) a new private pilot (helicopter) licence;
- (m) a new student flight engineer licence;
- (n) a new student pilot licence;
- (p) a new aircraft radiotelephone certificate of proficiency;

‘new medical certificate’ means a medical certificate issued under regulation 6.06 or 6.10 of the new regulations;

‘new private pilot (aeroplane) licence’ means a private pilot (aeroplane) licence issued under subregulation 5.09 (1) of the new regulations;

‘new private pilot (gyroplane) licence’ means a private pilot (gyroplane) licence issued under subregulation 5.09 (1) of the new regulations;

‘new private pilot (helicopter) licence’ means a private pilot (helicopter) licence issued under subregulation 5.09 (1) of the new regulations;

‘new rating’ means a flight crew rating issued under subregulation 5.14 (2) of the new regulations;

‘new regulations’ means the Civil Aviation Regulations as amended by these Regulations;

‘new student flight engineer licence’ means a student flight engineer licence issued under subregulation 5.09 (1) of the new regulations;

‘new student pilot licence’ means a student pilot licence issued under subregulation 5.09 (1) of the new regulations;

‘old aircraft radiotelegraph operator certificate of proficiency’ means an aircraft radiotelegraph operator certificate of proficiency granted under subregulation 55B (1) or 73 (1) of the old regulations;

‘old aircraft radiotelephone operator certificate of proficiency’ means an aircraft radiotelephone operator certificate of proficiency granted under subregulation 55B (1) or 73 (1) of the old regulations ;

‘old commercial pilot licence’ means a commercial pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old first class airline transport pilot licence’ means a first class airline transport pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old flight engineer licence’ means a flight engineer licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old flight navigator licence’ means a flight navigator licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old flight radiotelegraph operator licence’ means a flight radiotelegraph operator licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old flight radiotelephone operator licence’ means a flight radiotelephone operator licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old grade of rating’ means a grade of rating endorsed on an old licence under subregulation 55B (1) of the old regulations;

‘old licence’ means any of the following:

- (a) an old commercial pilot licence;
- (b) an old first class airline transport pilot licence;
- (c) an old flight engineer licence;
- (d) an old flight navigator licence;
- (e) an old flight radiotelegraph operator licence;
- (f) an old flight radiotelephone operator licence;
- (g) an old private pilot licence;
- (h) an old senior commercial pilot licence;
- (j) an old second class airline transport pilot licence;
- (k) an old student pilot licence;
- (m) an old aircraft radiotelegraph operator certificate of proficiency;
- (n) an old aircraft radiotelephone operator certificate of proficiency;

‘old medical certificate’ means a medical certificate granted under regulation 72C or 72D of the old regulations;

‘old night V.F.R. rating’ means a night V.F.R. rating endorsed on an old licence under subregulation 55B (1);

‘old private pilot licence’ means a private pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old rating’ means a rating endorsed on an old licence under subregulation 55B (1) of the old regulations;

‘old regulations’ means the Civil Aviation Regulations as in force immediately before the commencement;

‘old senior commercial pilot licence’ means a senior commercial pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old second class airline transport pilot licence’ means a second class airline transport pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations;

‘old student pilot licence’ means a student pilot licence granted under subregulation 55B (1), 63 (3) or 73 (1) of the old regulations.

‘overseas licence’ means a licence (whether it is called a licence, certificate or authority, or is known by some other name):

- (a) that was issued by the responsible authority of a Contracting State; and
- (b) that authorises the holder of the licence to act as a member of the flight crew of an aircraft;

‘responsible authority’, in relation to a Contracting State, means the authority that has responsibility for the licensing of persons to perform duties essential to the operation of civil aircraft in the State.

‘transition day’ means:

(a) in relation to:

- (i) an old licence mentioned in regulation 43, 44, 45 or 46; or
- (ii) an old medical certificate that relates to a licence covered by subparagraph (i); or
- (iii) a permit, approval or authorisation given under the old regulations to the holder of a licence covered by subparagraph (i) in connection with the licence;

the day when Part V of the old regulations stops applying to the holder of the licence; or

(b) in any other case—the day when these Regulations commence.

‘translated medical certificate’ means an old medical certificate that has effect on and after the transition day as if it were a new medical certificate.

36. References to old licences

36.1 In this Part, a reference to a particular kind of old licence is a reference to an old licence of that kind that was in force, or was suspended, immediately before the commencement.

37. References to old ratings

37.1 In this Part, a reference to an old grade of rating endorsed on an old licence includes a reference to an old grade of rating that is endorsed in a personal log book.

38. References to old medical certificates

38.1 In this Part, a reference to an old medical certificate is a reference to an old medical certificate that was in force, or was suspended, immediately before the transition day.

Division 2—Transitional, Savings and Application Provisions

39. Flight radiotelephone operator licence

39.1 An old flight radiotelephone operator licence has effect after the commencement as if it were a new flight radiotelephone operator licence.

40. Student pilot licence

40.1 An old student pilot licence has effect after the commencement as if it were a new student pilot licence.

41. Private pilot licence

41.1 An old private pilot licence that authorised the holder of the licence to fly aeroplanes has effect after the commencement as if it were a new private pilot (aeroplane) licence.

41.2 An old private pilot licence that authorised the holder of the licence to fly helicopters has effect after the commencement as if it were a new private pilot (helicopter) licence.

41.3 An old private pilot licence that authorised the holder of the licence to fly gyroplanes has effect after the commencement as if it were a new private pilot (gyroplane) licence.

42. Commercial pilot licence

42.1 An old commercial pilot licence that authorised the holder of the licence to fly aeroplanes has effect after the commencement as if it were a new commercial pilot (aeroplane) licence.

42.2 An old commercial pilot licence that authorised the holder of the licence to fly helicopters has effect after the commencement as if it were a new commercial pilot (helicopter) licence.

42.3 An old commercial pilot licence that authorised the holder of the licence to fly gyroplanes has effect after the commencement as if it were a new commercial pilot (gyroplane) licence.

42.4 An old commercial pilot licence that authorised the holder of the licence to fly airships has effect after the commencement as if it were a new commercial pilot (airship) licence.

42.5 An old commercial pilot licence that authorised the holder of the licence to fly balloons has effect after the commencement as if it were a new commercial pilot (balloon) licence.

43. Senior commercial pilot licence— aeroplanes

43.1 This regulation applies to a person who holds an old senior commercial pilot licence that authorised the person to fly aeroplanes.

43.2 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the person in relation to the old senior commercial pilot licence until:

- (a) the old senior commercial pilot licence is cancelled; or
- (b) a new air transport pilot (aeroplane) licence is issued to the person; or
- (c) 1 January 1997;

whichever occurs first.

43.3 Subject to subregulation 43.4, while Part V of the old regulations applies to the person in relation to the old senior commercial pilot licence, Parts 5 and 6 of the new regulations do not apply to the person in relation to the licence.

43.4 While Part V of the old regulations applies to the person in relation to the old senior commercial pilot licence, regulation 5.170 of the new regulations applies to the person in relation to the licence as if the licence were a new air transport pilot (aeroplane) licence.

43.5 If Part V of the old regulations continues to apply to the person until 1 January 1997, the old senior commercial pilot licence has effect on and after that day as if it were a new commercial pilot (aeroplane) licence.

44. Senior commercial pilot licence—helicopters

44.1 This regulation applies to a person who holds an old senior commercial pilot licence that authorised the person to fly helicopters.

44.2 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the person in relation to the old senior commercial pilot licence until:

- (a) the old senior commercial pilot licence is cancelled; or
- (b) a new air transport pilot (helicopter) licence is issued to the person; or
- (c) 1 January 1997;

whichever occurs first.

44.3 Subject to subregulation 44.4, while Part V of the old regulations applies to the person in relation to the old senior commercial pilot licence, Parts 5 and 6 of the new regulations do not apply to the person in relation to the licence.

44.4 While Part V of the old regulations applies to the person in relation to the old senior commercial pilot licence, regulation 5.179 of the new regulations applies to the person in relation to the licence as if the licence were a new air transport pilot (helicopter) licence.

44.5 If Part V of the old regulations continues to apply to the person until 1 January 1997, the old senior commercial pilot licence has effect on and after that day as if it were a new commercial pilot (helicopter) licence.

45. Second class airline transport pilot licence—aeroplanes

45.1 This regulation applies to a person who holds an old second class airline transport pilot licence that authorised the person to fly aeroplanes.

45.2 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the person in relation to the old second class airline transport pilot licence until:

- (a) the old second class airline transport pilot licence is cancelled; or
- (b) a new air transport pilot (airplane) licence is issued to the person; or
- (c) 1 January 1997;

whichever occurs first.

45.3 While Part V of the old regulations applies to the person in relation to the old second class airline transport pilot licence, Parts 5 and 6 of the new regulations do not apply to the person in relation to the licence.

45.4 If Part V of the old regulations continues to apply to the person until 1 January 1997, the old second class airline transport pilot licence has effect on and after that day as if it were a new commercial pilot (airplane) licence.

46. Second class airline transport pilot licence—helicopters

46.1 This regulation applies to a person who holds an old second class airline transport pilot licence that authorised the person to fly helicopters.

46.2 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the person in relation to the old second class airline transport pilot licence until:

- (a) the old second class airline transport pilot licence is cancelled; or
- (b) a new air transport pilot (helicopter) licence is issued to the person; or
- (c) 1 January 1997;

whichever occurs first.

46.3 While Part V of the old regulations applies to the person in relation to the old second class airline transport pilot licence, Parts 5 and 6 of the new regulations do not apply to the person in relation to the licence.

46.4 If Part V of the old regulations continues to apply to the person until 1 January 1997, the old second class airline transport pilot licence has effect on and after that day as if it were a new commercial pilot (helicopter) licence.

47. First class airline transport pilot licence

47.1 An old first class airline transport pilot licence that authorised the holder of the licence to fly aeroplanes has effect after the commencement as if it were a new air transport pilot (airplane) licence.

47.2 An old first class airline transport pilot licence that authorised the holder of the licence to fly helicopters has effect after the commencement as if it were a new air transport pilot (helicopter) licence.

48. Flight engineer licence

48.1 An old flight engineer licence that authorised the holder of the licence to perform the duties of a flight engineer only under supervision has effect after the commencement as if it were a new student flight engineer licence.

48.2 An old flight engineer licence that authorised the holder of the licence to perform the duties of a flight engineer without supervision has effect after the commencement as if it were a new flight engineer licence.

49. Flight navigator licence

49.1 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the holder of an old flight navigator licence in relation to the licence.

50. Aircraft radiotelephone operator certificate of proficiency

50.1 An old aircraft radiotelephone operator certificate of proficiency has effect after the commencement as if it were a new aircraft radiotelephone operator certificate of proficiency.

51. Aircraft radiotelegraph operator certificate of proficiency

51.1 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the holder of an old aircraft radiotelegraph operator certificate of proficiency in relation to the certificate.

52. Flight radiotelegraph operator licence

52.1 In spite of its repeal, Part V of the old regulations continues to apply after the commencement to the holder of an old flight radiotelegraph operator licence in relation to the licence in relation to the licence.

53. Licences—conditions

53.1 An old licence not mentioned in regulation 43, 44, 45 or 46 that has effect after the commencement as if it were a new licence remains subject to the conditions (if any) to which it was subject immediately before the commencement.

54. Suspended licences

54.1 Subject to subregulation 54.2, if an old licence that has effect as if it were a new licence on and after the transition day was suspended immediately before that day, the suspension continues on and after that day in relation to the new licence on the same conditions, and for the same period, as it applied to the old licence.

54.2 If an old licence that has effect as if it were a new licence on and after the transition day was suspended immediately before that day because the Authority required the holder of the licence:

- (a) to have a medical examination under paragraph 72 (1) (a) of the old regulations; or
- (b) to authorise the disclosure or information under paragraph 72 (1) (c) of those regulations;

the suspension stops being in force on that day.

54.3 If a person holds:

- (a) a licence to which subregulation 54.2 applies; and
- (b) a translated medical certificate;

on and after the transition day the person's translated medical certificate is taken to have been suspended under regulation 6.18 of the new regulations on the same conditions, and for the same period, as the licence was suspended.

55. Further examination of licence holder

55.1 If:

- (a) the Authority required the holder of an old licence that was in force immediately before the transition day to undergo an examination, other than a medical examination, under subregulation 72 (1) of the old regulations; and
- (b) immediately before the transition day, the holder had not undergone the examination;

the requirement has effect on and after that day as if it were a requirement under subregulation 5.38 (1) of the new regulations.

55.2 If:

- (a) the Authority required the holder of an old medical certificate to undergo a medical examination, or authorise disclosure of information, under subregulation 72 (1) of the old regulations; and
- (b) the holder had not complied with the requirement before the transition day;

the requirement has effect on and after that day as if it were a requirement under regulation 6.15 of the new regulations.

56. Ratings

56.1 If, immediately before the transition day:

- (a) a person held an old licence on which an old grade of rating specified in column 2 of an item in Schedule 1 was endorsed; and
- (b) the old grade of rating was in force, or was suspended;

the person is taken on and after that day to hold the new rating or new grade of rating specified in column 3 of that item and the new regulations apply to him or her accordingly.

57. Suspended ratings

57.1 If:

- (a) a person holds an old licence on which an old grade of rating was endorsed; and
- (b) immediately before the transition day, the old grade of rating was suspended; and
- (c) on and after the transition day the person is taken to hold a new rating or new grade of rating;

the suspension continues on and after that day in relation to the new rating or new grade of rating on the same conditions, and for the same period, as it applied to the old grade of rating.

58. Endorsements

58.1 If, immediately before the transition day, a person held an old licence that was valid for a type or category of aircraft, the person is taken on and after that day to hold an aircraft endorsement that relates to aircraft of that type or category.

59. Permission for student pilot to fly outside Australian territory

59.1 A permission under paragraph 57 (11) (a) of the old regulations that was in force immediately before the commencement has effect after the commencement as if it were a permission under subregulation 5.66 (4) of the new regulations.

60. Permission to test aircraft

60.1 An authorisation under paragraph 66 (4) (a) of the old regulations that was in force immediately before the transition day has effect on and after that day as if it were a permission under subregulation 5.50 (1) of the new regulations.

60.2 An authorisation to which this regulation applies remains subject to the conditions (if any) to which it was subject immediately before the transition day.

61. Authorisation to fly without endorsement

61.1 An authorisation under paragraph 66 (4) (b) of the old regulations that was in force immediately before the transition day continues in force on and after that day, subject to the conditions (if any) that applied to it immediately before that day.

62. Conversion training

62.1 An approval under subregulation 57 (4) of the old regulations that was in force immediately before the transition day has effect on and after that day as if it were an approval under subregulation 5.21 (1) of the new regulations.

62.2 In spite of regulation 5.80 of the new regulations, if:

- (a) a person holds an old private pilot licence that has effect after the commencement as if it were a new private pilot (aeroplane) licence; and
- (b) the person was approved under sub-subparagraph 56 (1) (a) (ii) (B) of the old regulations to pilot an aeroplane used in conversion training; and
- (c) the approval was in force immediately before the commencement;

the person may give aeroplane conversion training after the commencement until:

- (d) 1 January 1997; or
- (e) the Authority makes a determination under subregulation 62.4;

whichever occurs first.

62.3 In spite of regulation 5.90 of the new regulations, if:

- (a) a person holds an old private pilot licence that has effect after the commencement as if it were a new private pilot (helicopter) licence; and
- (b) a person was approved under sub-subparagraph 56 (1) (a) (ii) (B) of the old regulations to pilot a helicopter used in conversion training; and
- (c) the approval was in force immediately before the commencement;

the person may give helicopter conversion training after the commencement until:

- (d) 1 January 1997; or
- (e) the Authority makes a determination under subregulation 62.4;

whichever occurs first.

62.4 The Authority may determine that a person mentioned in subregulation 62.2 or subregulation 62.3 must not give conversion training.

63. Commercial pilot—regular public transport operations

63.1 In spite of subregulation 5.105 (1) of the new regulations, if:

- (a) a person holds an old commercial pilot licence that has effect after the commencement as if it were a new commercial pilot (aeroplane) licence; and
- (b) the person was approved under sub-subparagraph 56 (1) (a) (iii) (C) of the old regulations to act as pilot in command of an aeroplane engaged in regular public transport operations, other than international regular public transport operations; and
- (c) the approval was in force immediately before the commencement;

the person may act as pilot in command of an aeroplane engaged in regular public transport operations, other than international regular public transport operations, until:

- (d) 1 January 1997; or
- (e) the Authority makes a determination under subregulation 63.3;

whichever occurs first .

63.2 In spite of subregulation 5.121 (1), of the new regulations, if:

- (a) a person holds an old commercial pilot licence that has effect after the commencement as if it were a new commercial pilot (helicopter) licence; and
 - (b) the person was approved under sub-subparagraph 56 (1) (a) (iii) (C) of the old regulations to act as pilot in command of a helicopter engaged in regular public transport operations, other than international regular public transport operations; and
 - (c) the approval was in force immediately before the commencement;
- the person may act as pilot in command of a helicopter engaged in regular public transport operations, other than international regular public transport operations, until:
- (d) 1 January 1997; or
 - (e) the Authority makes a determination under subregulation 63.3;
- whichever occurs first.

63.3 The Authority may determine that a person mentioned in subregulation 63.1 or subregulation 63.2 must not act as pilot in command of an aeroplane, or a helicopter, engaged in regular public transport operations, other than international regular public transport operations.

64. Commercial pilot—charter operations

64.1 In spite of subregulation 5.105 (1) of the new regulations, if:

- (a) a person holds an old commercial pilot licence that has effect after the commencement as if it were a new commercial pilot (aeroplane) licence; and
 - (b) the person was approved under sub-subparagraph 56 (1) (a) (iii) (D) of the old regulations to act as pilot in command of an aeroplane having a maximum take-off weight of more than 5,700 kilograms engaged in charter operations, other than international charter operations; and
 - (c) the approval was in force immediately before the commencement;
- the person may act as pilot in command of an aeroplane having a maximum take-off weight of more than 5,700 kilograms engaged in charter operations, other than international charter operations, until:
- (d) 1 January 1997; or
 - (e) the Authority makes a determination under subregulation 64.3;
- whichever occurs first.

64.2 In spite of subregulation 5.121 (1) of the new regulations, if:

- (a) a person holds an old commercial pilot licence that has effect after the commencement as if it were a new commercial pilot (helicopter) licence; and
 - (b) the person was approved under sub-subparagraph 56 (1) (a) (iii) (D) of the old regulations to act as pilot in command of a helicopter having a maximum take-off weight of more than 5,700 kilograms engaged in charter operations, other than international charter operations; and
 - (c) the approval was in force immediately before the commencement;
- the person may act as pilot in command of a helicopter having a maximum take-off weight of more than 5,700 kilograms engaged in charter operations, other than international charter operations, until:

(d) 1 January 1997; or

(e) the Authority makes a determination under subregulation 64.3; whichever occurs first.

64.3 The Authority may determine that a person mentioned in subregulation 64.1 or subregulation 64.2 must not act as pilot in command of an aeroplane, or a helicopter, having a maximum take-off weight of more than 5,700 kilograms engaged in charter operations, other than international charter operations.

65. Night V.F.R. rating—approval

65.1 If, immediately before the transition day:

- (a) a person held an old licence on which an old night V.F.R. rating was endorsed; and
- (b) the rating was in force, or subject to suspension;

subregulation 57 (12) of the old regulations continues to apply to the person on and after that day.

65.2 A permission under subregulation 57 (12) of the old regulations that was in force immediately before the transition day continues in force on and after that day.

66. Certificate of validation

66.1 An overseas licence that was valid under subregulation 73 (1) of the old regulations, immediately before the commencement has effect during the relevant period as if it were a certificate of validation:

- (a) issued under subregulation 5.27 (2) of the new regulations; and
- (b) subject to the conditions (if any) that applied to the licence.

66.2 In this regulation:

‘relevant period’ means the period that:

- (a) starts at the commencement; and
- (b) ends at the end of the period for which the relevant overseas licence would have been valid under the old regulations.

67. Designated aviation medical examiners

67.1 If, immediately before the commencement, a person was:

- (a) an approved person for the purposes of regulation 62 or 72 of the old regulations; or
- (b) an approved medical practitioner for the purposes of carrying out a medical examination under regulation 72A of the old regulations;

the person is, after the commencement, taken to be appointed under regulation 6.02 of the new regulations as a designated aviation medical examiner on the terms and conditions that applied to the person’s appointment as an approved person, or an approved medical practitioner, as the case may be.

68. Medical examinations

68.1 If a medical examination required by regulation 62, 72 or 72A of the old regulations had commenced but was not completed before the transition day, on and after that day the examination is taken to have commenced under regulation 6.06 of the new regulations.

68.2 A requirement by the Authority in force immediately before the transition day that sets out the medical examinations to be undergone for the purposes of regulation 62, 72 or 72A of the old regulations has effect on and after that day as if it were a direction given under paragraph 6.06 (3) (a) of the new regulations.

69. Medical certificates issued to persons who meet the medical standard

69.1 An old medical certificate that was issued to a person who met medical standard 1 has effect on and after the transition day as if it were a class 1 medical certificate issued under subregulation 6.06 (1) of the new regulations.

69.2 An old medical certificate that was issued to a person who met medical standard 2 has effect on and after the transition day as if it were a class 2 medical certificate issued under subregulation 6.06 (1) of the new regulations.

69.3 An old medical certificate that was issued to a person who met medical standard 3 has effect on and after the transition day as if it were a class 3 medical certificate issued under subregulation 6.06 (1) of the new regulations.

70. Medical certificates issued to persons who do not meet the medical standard

70.1 An old medical certificate:

- (a) that was issued to a person who did not meet the relevant medical standard; and
- (b) that contains a statement to the effect that the certificate is a class 1 medical certificate;

has effect on and after the transition day as if it were a class 1 medical certificate issued under subregulation 6.10 (1) of the new regulations.

70.2 An old medical certificate:

- (a) that was issued to a person who did not meet the relevant medical standard; and
- (b) that contains a statement to the effect that the certificate is a class 2 medical certificate;

has effect on and after the transition day as if it were a class 2 medical certificate issued under subregulation 6.10 (1) of the new regulations.

70.3 An old medical certificate:

- (a) that was issued to a person who did not meet the relevant medical standard; and
- (b) that contains a statement to the effect that the certificate is a class 3 medical certificate;

has effect on and after the transition day as if it were a class 3 medical certificate issued under subregulation 6.10 (1) of the new regulations.

71. Suspended medical certificates

71.1 If an old medical certificate that has effect after the transition day as if it were a new medical certificate was subject to suspension under subregulation 72F (1) of the old regulations immediately before that day, the suspension continues on and after that day in

relation to the new medical certificate as if it were a suspension under subregulation 6.20 (1) of the new regulations.

71.2 A suspension to which subregulation 71.1 applies has effect in relation to a new medical certificate on the same conditions, and for the same period, as it had effect in relation to the old medical certificate.

72. Medical certificate—conditions

72.1 A translated medical certificate remains subject to the conditions (if any) to which it was subject immediately before the transition day.

73. Medical certificate—period in force

73.1 Subject to subregulation 73.2, a translated medical certificate remains in force until the end of the period within which the holder of the certificate would next have been required under regulation 72A of the old regulations to undergo a medical examination.

73.2 If:

- (a) the Authority deferred a person's medical examination under regulation 72B of the old regulations; and
- (b) the deferral was in force immediately before the transition day;

the person's translated medical certificate remains in force until the end of the period within which the person would have been required to undergo the deferred examination.

74. Medical certificate—authorisation to disclose information

74.1 An authorisation under 62 or 72A of the old regulations that was in force immediately before the transition day has effect on and after that day as if it were an authorisation under regulation 6.17 of the new regulations.

74.2 An authorisation under subregulation 72 (1) of the old regulations that was in force immediately before the transition day has effect on and after that day as if it were an authorisation under regulation 6.17 of the new regulations.

75. Applications for the issue of licences etc.

75.1 An application for a licence (other than a discontinued licence), rating, endorsement, certificate of validation or medical certificate under the old regulations that was made but not finally decided before the commencement must be treated after the commencement as if it had been made under the new regulations.

75.2 In spite of its repeal, Part V of the old regulations applies after the commencement:

- (a) to an application for a discontinued licence that was made but not finally decided before the commencement; and
- (b) to any licence issued on an application mentioned in paragraph (a).

75.3 In this regulation:

'discontinued licence' means a licence or certificate of one of the following kinds:

- (a) an old senior commercial pilot licence ;
- (b) an old second class airline transport pilot licence;
- (c) an old flight navigator licence;

- (d) an old aircraft radiotelegraph operator certificate of proficiency;
- (e) an old flight radiotelegraph operator licence.

76. Civil Aviation Orders

76.1 A Civil Aviation Order:

- (a) that was made under Part V of the old regulations; and
- (b) that was in force immediately before the commencement;

has effect after the commencement as if it were made under Part 5 of the new regulations.

76.2 In spite of subregulation 76.1, if Part V of the old regulations continues to apply in relation to a person after the commencement, a Civil Aviation order made under that Part:

- (a) continues to have effect after the commencement in relation to the person under that Part; and
- (b) the old regulations apply to it accordingly.

77. Delegations

77.1 A delegation of the powers conferred by regulation 79, subregulation 80 (1), 82 (1), 134 (1), 134 (2) or 265 (1) or paragraph 83 (1) (a) of the old regulations, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were a delegation of the powers conferred by the regulation, subregulation, or paragraph as amended by these Regulations.

77.2 A delegation of the Authority's power under subregulation 55B (1) of the old regulations to grant licences, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were:

- (a) a delegation of the Authority's power under subregulation 5.09 (1) of the new regulations to issue a flight crew licence; and
- (b) a delegation of the Authority's power under subregulation 5.198 (1) of the new regulations to issue a special pilot licence; and
- (c) a delegation of the Authority's power under subregulation 83A (2) of the new regulations to issue an aircraft radiotelephone operator certificate of proficiency.

77.3 A delegation of the Authority's power under subregulation 55B (1) of the old regulations to endorse licences, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were:

- (a) if the delegation authorised the delegate to endorse licences with a rating—a delegation of the Authority's power under subregulation 5.14 (2) of the new regulations to issue, or renew, a flight crew rating, or grade of flight crew rating; or
- (b) if the delegation authorised the delegate to endorse licences with a type or category of aircraft—a delegation of the Authority's power under subregulation 5.23 (2) of the new regulations to issue an aircraft endorsement.

77.4 A delegation of the Authority's power under subregulation 55B (2) of the old regulations to grant a licence subject to conditions, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were:

- (a) a delegation of the Authority's power under subregulation 5.11 (1) of the new regulations to issue a flight crew licence subject to conditions; and
- (b) a delegation of the Authority's power under subregulation 5.202 (1) of the new regulations to issue a special pilot licence subject to conditions; and
- (c) a delegation of the Authority's power under subregulation 83C (1) of the new regulations to issue an aircraft radiotelephone operator certificate of proficiency subject to conditions.

77.5 A delegation of the Authority's power under subregulation 55B (2) of the old regulations to endorse a licence subject to conditions, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were:

- (a) if the delegation authorised the delegate to endorse a licence with a rating subject to conditions—a delegation of the Authority's power under subregulation 5.18 (1) of the new regulations to issue, or renew, a flight crew rating, or grade of flight crew rating, subject to conditions; or
- (b) if the delegation authorised the delegate to endorse a licence with a type or category of aircraft subject to conditions—a delegation of the Authority's power under subregulation 5.25 (1) of the new regulations to issue an aircraft endorsement subject to conditions.

77.6 A delegation of power conferred by a provision of the old regulations specified in column 2 of an item in Schedule 2, being a delegation that was in force immediately before the commencement, has effect after the commencement as if it were a delegation of the power conferred by the provision of the new regulations specified in column 3 of that item.

SCHEDULE 1

Regulation 56

SAVING OF OLD RATINGS

| Column 1 Item | Column 2 Old grade of rating | Column 3 New rating or new grade of rating |
|------------------|---|---|
| 1. | agricultural rating class 1— aeroplanes | agricultural pilot (aeroplane) rating grade 1 |
| 2. | agricultural rating class 2— aeroplanes | agricultural pilot (aeroplane) rating grade 2 |
| 3. | agricultural rating class 1— helicopters | agricultural pilot (helicopter) rating grade 1 |
| 4. | agricultural rating class 2— helicopters | agricultural pilot (helicopter) rating grade 2 |
| 5. | flight instructor rating Grade One—aeroplanes | flight instructor (aeroplane) rating grade 1 |
| 6. | flight instructor rating Grade Two—aeroplanes | flight instructor (aeroplane) rating grade 2 |
| 7. | flight instructor rating Grade Three aeroplanes | flight instructor (aeroplane) rating grade 3 |
| 8. | flight instructor rating— balloons | flight instructor (balloon) rating |
| 9. | command (multi-engine aeroplane) grade of instrument rating | command (multi-engine aeroplane) grade of instrument rating |
| 10. | command (single engine aeroplane) grade of instrument rating | command (single engine aeroplane) grade of instrument rating |
| 11. | co-pilot (aeroplane) grade of instrument rating | co-pilot (aeroplane) grade of instrument rating |
| 12. | command (multi-engine helicopter) grade of instrument rating | command (multi-engine helicopter) grade of instrument rating |
| 13. | command (single engine helicopter) grade of instrument rating | command (single engine helicopter) grade of instrument rating |
| 14. | co-pilot (helicopter) grade of instrument rating | co-pilot (helicopter) grade of instrument rating |
| 15. | aeroplane grade of night V.F.R. rating | aeroplane grade of night V.F.R. rating |

SCHEDULE 1—continued

| Column 1 Item | Column 2 Old grade of rating | Column 3 New rating or new grade of rating |
|------------------|--|--|
| 16. | helicopter grade of night V.F.R. rating | helicopter grade of night V.F.R. rating |
| 17. | airship grade of night V.F.R. rating | airship grade of night V.F.R. rating |
| 18. | aeroplane grade of night V.F.R. agricultural rating | aeroplane grade of night V.F.R. agricultural rating |
| 19. | helicopter grade of night V.F.R. agricultural rating | helicopter grade of night V.F.R. agricultural rating |

SCHEDULE 2

Subregulation 77.6

SAVING OF DELEGATIONS

| Column 1 Item | Column 2 Provision of old regulations | Column 3 Provision of new regulations |
|------------------|--|--|
| 1. | Subregulation 57 (4) | Subregulation 5.21 (1) |
| 2. | Paragraph 57 (11) (a) | Subregulation 5.66 (4) |
| 3. | Paragraph 62 (2) (a) | Paragraph 6.06 (3) (a) |
| 4. | Paragraph 66 (4) (a) | Paragraph 5.50 (1) (a) |
| 5. | Subregulation 72 (1) | Regulation 6.17 |
| 6. | Regulation 72B | Subregulation 6.15 (2) |
| 7. | Subregulation 72C (3) | Subregulation 6.10 (1) |
| 8. | Subregulation 72D (1) | Subregulation 6.06 (1) |
| 9. | Subregulation 72D (2) | Subregulation 6.10 (1) |
| 10. | Subregulation 72D (3) | Subregulation 6.12 (1) |
| 11. | Subregulation 72D (5) | Subregulation 6.19 (1) |
| 12. | Subregulation 72D (7) | Regulation 6.19 |
| 13. | Subregulation 72E (3) | Subregulation 6.15 (2) |
| 14. | Subregulation 72F (1) | Subregulation 6.20 (1) |
| 15. | Subregulation 73 (1) | Subregulation 5.27 (2) |
| 16. | Subparagraph 75 (a) (ii) | Subregulation 5.20 (1)” |

13. Part 2 of Statutory Rules 1992 No. 325 reads as follows:

“19. Previous certificates of registration

19.1 A certificate of registration of an Australian aircraft, issued under the Civil Aviation Regulations and in force immediately before the commencement of these Regulations, continues in force after that commencement as if it had been issued under the Civil Aviation Regulations as amended by these Regulations.

19.2 An Australian aircraft for which a certificate of registration was in force immediately before the commencement of these Regulations is taken to have been registered in accordance with the Civil Aviation Regulations as amended by these Regulations.

20. Previous certificate of registration holders

20.1 A person who was, immediately before the commencement of these Regulations:

- (a) a holder of a certificate of registration of an Australian aircraft; and
- (b) in relation to that aircraft—a person referred to in paragraph 8 (2) (a), (b) or (c) of the Civil Aviation Regulations as in force immediately before the commencement of these Regulations;

is taken to be an entitled person, in relation to that aircraft, for the purposes of the Civil Aviation Regulations as amended by these Regulations.

21. Register of Australian aircraft

21.1 The register of Australian aircraft kept under regulation 8 of the Civil Aviation Regulations immediately before the commencement of these Regulations is taken after that commencement to be the Aircraft Register established under regulation 8 of the Civil Aviation Regulations as amended by these Regulations.

22. Previous directions, acts etc.

22.1 A direction issued under regulation 13 of the Civil Aviation Regulations, and in force immediately before the commencement of these Regulations, continues in force after the commencement of these Regulations as if it had been issued under subregulation 8 (3) of the Civil Aviation Regulations as amended by these Regulations.

22.2 If, in relation to the registration or marking of an aircraft:

- (a) any act done, step taken or decision made by a person under, or for the purposes of, a provision of the Civil Aviation Regulations was in effect immediately before the commencement of these Regulations; and
- (b) that provision is one to which a provision of the Civil Aviation Regulations as amended by these Regulations corresponds;

the act, step or decision continues to have effect after the commencement of these Regulations as if it had been done, taken or made by the person under or for the purposes of the corresponding provision of the Civil Aviation Regulations as amended by these Regulations.”

14. *Regulation 16 of Statutory Rules 1992 No. 342 reads as follows:*

“16. Savings

16.1 Subject to subregulation 16.2, a person who was an authorised person for the purposes of subregulation 138 (1AA) of the Civil Aviation Regulations immediately before the commencement of these Regulations is taken to be appointed as an authorised person for the purposes of subregulation 138 (1) of the Civil Aviation Regulations as amended by these Regulations subject to the same conditions (if any) relating to the appointment as were applicable before the commencement.

16.2 An authorised person referred to in subregulation 16.1 may only prepare and issue alterations to a flight manual for an Australian aircraft.”

15. Part 2 of Statutory Rules 1992 No. 417 reads as follows:

“22. Aerodrome manual

22.1 An aerodrome manual (however described) prepared in relation to an aerodrome before the commencement of these Regulations, and in force immediately before the commencement, is to be taken to be an aerodrome manual prepared under subregulation 89H (1) of the Civil Aviation Regulations.

23. Licences

23.1 A licence issued under regulation 88 of the Civil Aviation Regulations, or regulation 84 of the Air Navigation Regulations, that was in force immediately before the commencement of these Regulations continues in force for two years after the day on which these Regulations commence, unless a new licence is issued under regulation 89C of the Civil Aviation Regulations before the end of that period.

23.2 The licence:

- (a) continues in force subject to any condition to which it was subject immediately before the commencement of these Regulations; and
- (b) may be varied, suspended, transferred or cancelled under the Civil Aviation Regulations.

23.3 If the holder of the licence has not prepared an aerodrome manual (however described) for the aerodrome, regulation 89H of the Civil Aviation Regulations, requiring the preparation of an aerodrome manual, does not apply to the holder until a new licence is issued to him or her under regulation 89C of the Civil Aviation Regulations.

24. Obstacle limitation surfaces

24.1 In spite of the definition of ‘**obstacle limitation surfaces**’ in regulation 89 of the Civil Aviation Regulations, those surfaces may be established in accordance with the procedures set out in the Authority publication known as “Rules and Practices for Aerodromes” as in force on the day on which these Regulations commence.

24.2 Subregulation 24.1 applies until the directions for establishing those surfaces are issued in Civil Aviation Orders under regulation 89W of the Civil Aviation Regulations.

25. Standards for physical characteristics of movement area

25.1 The operator of a licensed aerodrome is taken to comply with subregulation 89P (1) of the Civil Aviation Regulations if the operator complies with the applicable standards set out in the Authority publication known as ‘Rules and Practices for Aerodromes’ as in force on the day on which these Regulations commence.

25.2 Subregulation 25.1 applies until the standards are specified in Civil Aviation Orders under regulation 89P of the Civil Aviation Regulations.

26. Standards for marking and lighting of movement area

26.1 The operator of a licensed aerodrome is taken to comply with subregulation 89Q (1) of the Civil Aviation Regulations, if the operator marks:

- (a) the movement area; and
- (b) any works area, or unserviceable area on or in the vicinity of the movement area;

in accordance with the applicable standards set out in the Authority publication known as ‘Rules and Practices for Aerodromes’ as in force on the day on which these Regulations commence.

26.2 Subregulation 26.1 applies until standards are specified in Civil Aviation Orders under regulation 89Q of the Civil Aviation Regulations.

26.3 The operator of a licensed aerodrome is taken to comply with subregulation 89T (1) if the operator provides a lighting system in accordance with the applicable standard set out in the Authority publication known as ‘Rules and Practices for Aerodromes’ as in force on the day on which these Regulations commence.

26.4 Subregulation 26.3 applies until a standard is specified in Civil Aviation Orders under regulation 89T of the Civil Aviation Regulations.”

16. *Regulation 19 of Statutory Rules No. 1993 No. 221 reads as follows:*

“19. Transitional

19.1 A direction issued by the Authority under regulation 89S of the Civil Aviation Regulations and in force immediately before the commencement of these Regulations continues in force as if it were issued under that regulation as amended by these Regulations.”

17. *Regulations 25 and 26 of Statutory Rules 1994 No. 93 read as follows:*

“25. Welding authorities

25.1 An authority in force under paragraph 33B (1) (b) of the Civil Aviation Regulations immediately before the commencement of these Regulations has effect after the commencement as if it were an authority granted under regulation 33D of the Civil Aviation Regulations as amended by these Regulations.

25.2 An authority to which subregulation 25.1 applies remains subject to any condition to which it was subject immediately before the commencement of these Regulations.

26. Pending applications

26.1 An application for an authority under paragraph 33B (1) (b) of the Civil Aviation Regulations that was made but not finally decided before the commencement of these Regulations must be treated after the commencement as if it had been made under regulation 33C of the Civil Aviation Regulations as amended by these Regulations.”

18. *Regulation 5 of Statutory Rules 1994 No. 188 reads as follows:*

“5. Transitional

5.1 A safety audit program determined under regulation 310A of the Civil Aviation Regulations is, after the commencement of these Regulations, taken to have been determined under that regulation as amended by these Regulations.”

18A. *Regulations 34 to 37 inclusive of Statutory Rules 1995 No. 224 read as follows:*

“34. References to “the Authority” in Regulations and CAOs

34.1 Each provision in the Civil Aviation Regulations in which the expression-“The Authority” or “the Authority” appears (except regulation 2) is amended by omitting the expression (wherever occurring) and substituting “CASA” .

34.2 Each provision in the Civil Aviation Regulations in which the expression “The Authority’s” or “the Authority’s” appears (except regulation 2) is amended by omitting the expression (wherever occurring) and substituting “CASA’s”.

34.3 The heading of Division IB of Part 111 of the Civil Aviation Regulations is amended by omitting “the Authority” and substituting “CASA”.

34.4 The heading of Division I of Part IVA of the Civil Aviation Regulations is amended by omitting “Authority” and substituting “CASA”.

34.5 Each provision and heading in the Civil Aviation orders in which the expression “The Authority” or “the Authority” appears is amended by omitting the expression (wherever occurring) and substituting “CASA”.

34.6 Each provision and heading in the Civil Aviation Orders in which the expression “The Authority’s” or “the Authority’s” appears is amended by omitting the expression (wherever occurring) and substituting “CASA’s”.

35. References to “CAA” in Regulations and CAOs

35.1 Each of the following provisions of the Civil Aviation Regulations is amended by omitting “CAA” (wherever occurring) and substituting “CASA”:

- (a) Subregulations 42A (5), 42B (1), 42B (2), 5.63 (1), 5.75 (1), 5.75 (2), 5.86 (1), 5.86 (2), 5.94 (1), 5.94 (2), 5.102 (1), 5.102 (2), 5.119 (1), 5.119 (2), 5.128 (1), 5.128 (2), 5.137 (1), 5.137 (2), 5.147 (1), 5.147 (2), 5.164 (1), 5.164 (2), 5.194 (1), 5.194 (2) and 83F (1);
- (b) Paragraphs 42 (b), 42M (3) (b), 42R (3) (b), 42ZE (1) (b), 42ZG (1) (b), 42ZK (1) (b), 5.63 (2) (b) and 83E (1) (a);
- (c) Paragraph (c) of the definition of “appropriate person” in subregulations 5.81 (8), 5.91 (8), 5.99 (8), 5.108 (8), 5.124 (8), 5.133 (8), 5.154 (8), 5.169 (8) and 5.178 (8);
- (d) Paragraph (b) of the definition of “appropriate person” in subregulation 5.143 (6);
- (e) Subparagraphs 42 (a) (i) and 42 (c) (iii).

35.2 Each provision and heading in the Civil Aviation Orders in which the expression “CAA” appears is amended by omitting the expression (wherever occurring) and substituting “CASA”.

36. Repeals

36.1 Part IX (Air routes and airways) and Part XV (Application of Statutory Liens) of the Civil Aviation Regulations are repealed.

36.2 Each of the following Divisions and provisions of the Civil Aviation Regulations is omitted:

- (a) Divisions 3 and 4 of Part IXB (regulations 121 to 131, inclusive);
- (b) Regulations 97, 98, 99, 109, 110, 119, 211, and 310AA;
- (c) Subregulations 33D (4), 33G (5), 33H (6), 5.09 (5), 5.14 (4), 5.23 (4), 5.27 (6), 5.198 (5), 83A (4), 99A (2), 99AA (1), 99AA (2), 99AA (4),

140 (1), 140 (2), 140 (3), 140 (4), 140 (7), 297A (31), 297A (4) and 310B (9);

(d) Paragraph 89G (1) (a).

37. Notes

37.1 The notes appearing in Divisions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 16 of Part 5 of the Civil Aviation Regulations and listing the defined terms used in those Divisions are amended by omitting “CAA flying operations inspector” and substituting “CASA flying operations inspector” in each case.

37.2 The notes relating to, or appearing immediately below, each of the following provisions of the Civil Aviation Regulations are amended by omitting “the Authority” (wherever occurring) and substituting “CASA”:

(a) regulations 5.08 and 5.60;

(b) subregulations 5.51 (1), 5.81 (7), 5.85 (6), 5.91 (7), 5.99 (7), 5.108 (7), 5.112 (4), 5.116 (4), 5.124 (7), 5.133 (7), 5.154 (7), 5.159 (4), 5.161 (4), 5.169 (7), 5.173 (6), 5.178 (7), 5.182 (4), 5.192 (2), 5.193 (3), 6.03 (1) and 298A (4).

37.3 The notes relating to, or appearing immediately below, each of the following provisions of the Civil Aviation Regulations are omitted:

(a) regulations 5.02, 5.12, 5.26, 5.80, 5.90, 5.98, 5.140 and 5.153;

(b) subregulations 41 (1), 42ZC (2), 5.09 (2), 5.14 (2), 5.17 (1), 5.20 (5), 5.21 (5), 5.23 (2), 5.27 (2), 5.32 (1), 5.34 (1), 5.36 (1), 5.38 (1), 5.44 (1), 5.48 (1), 5.50 (1), 5.58 (5), 5.79 (1), 5.89 (1), 5.97 (1), 5.106 (1), 5.107 (1), 5.122 (1), 5.123 (1), 5.131 (1), 5.132 (1), 5.142 (1), 5.152 (1), 5.167 (1), 5.168 (1), 5.176 (1), 5.177 (1), 5.190 (1), 5.198 (2), 6.06 (2), 6.10 (2), 6.18 (1), 6.19 (2), 6.20 (3), 83 (3), 83A (3), 83E (3), 89C (4), 89G (3), 99AA (6A), 133 (1), 133 (2), 174A (1C), 174D (3A), 177 (1C), 179A (3A), 262E (1) and 262E (2).

19. Regulation 5 of Statutory Rules No. 1997 No. 111 reads as follows:

“5. Savings and transitional

5.1 If an operator has appointed a person to be the maintenance controller for a class A aircraft for the purposes of regulation 42ZV of the Civil Aviation Regulations as in force immediately before the commencement of these Regulations:

(a) the person is taken to be the maintenance controller for the aircraft under regulation 42ZV of the Civil Aviation Regulations as in force immediately after the commencement of these Regulations; and

(b) the appointment is taken to have been approved under regulation 42ZW of the Civil Aviation Regulations as amended by these Regulations.

5.2 A maintenance control manual mentioned in regulation 42ZV of the Civil Aviation Regulations as in force immediately before the commencement of these Regulations, is taken to be a maintenance control manual mentioned in regulation 42ZY of the Civil Aviation Regulations as amended by these Regulations.”

Note: The shaded transitional provisions were repealed by Statutory Rule 2004 No. 345.

20. *Regulations 5 to 8 (inclusive) of the Civil Aviation Amendment Regulations 2000 (No. 3), Statutory Rules 2000 No. 204.*

5 Transitional — Australian aircraft marked in accordance with CAR 1988

Despite Part 45 of CAR 1998, an Australian aircraft registered before the commencement of this regulation need not bear markings that comply with that Part until it is repainted if, until then, the aircraft bears nationality marks and registration marks in accordance with Division 7 of Part 3 of CAR 1988 (as in force immediately before the commencement of this regulation).

6 Transitional — aircraft registered under CAR 1988

- (1) An aircraft whose registration under CAR 1988 was current immediately before the commencement of this regulation is taken to be registered under Part 47 of CAR 1998.
- (2) Its registration may be cancelled under Part 47 of CAR 1998.
- (3) If its registration under CAR 1988 was for a particular period, its registration, unless sooner cancelled, remains in force until the end of that period.
- (4) The certificate of registration, or a copy of the certificate of registration, issued under CAR 1988 for the aircraft is taken to be a certificate of registration, or a copy of such a certificate, issued under Part 47 of CAR 1998.
- (5) Also, the person who was the holder of the aircraft's certificate of registration immediately before this regulation commenced (within the meaning of CAR 1988 as in force at that time) is taken, for CAR 1998, to be the aircraft's registration holder.

7 Transitional — application for registration of an aircraft pending immediately before commencement of Part 47

- (1) This regulation applies if:
 - (a) immediately before the commencement of this regulation, an application for the registration of an aircraft was pending under CAR 1988; and
 - (b) the application was in accordance with Division 2 of Part 3 of those Regulations as then in force.
- (2) The application is taken to be an application for the registration of the aircraft made, on the commencement of this regulation, in accordance with Part 47 of CAR 1998.

8 Transitional — registration marks reserved for assignment under CAR 1988

- (1) This regulation applies if, before the commencement of this regulation, CASA had:
- (a) reserved, under subregulation 16 (3) of CAR 1988, a group of symbols for assignment to an aircraft as its registration mark; and
 - (b) given written notice of the reservation to the person who requested it.
- (2) CASA is taken, for Part 47 of CAR 1998, to have assigned to the aircraft a registration mark consisting of the group of symbols.

21. *Regulation 4 of the Civil Aviation Amendment Regulations 2000 (No. 5), Statutory Rule 2000, No. 205, reads as follows:*

“4 Transitional

Despite the amendments made by regulation 3 and Schedules 4 and 5, until the end of 31 August 2001 a requirement under either the *Civil Aviation Regulations 1998* or the *Civil Aviation Regulations 1988* for an authorised release certificate for an aircraft component is satisfied by an airworthiness tag/release note (within the meaning of the *Civil Aviation Regulations 1998* as in force immediately before the commencement of this regulation) for the component.”

Note: The shaded transitional provisions were repealed by Statutory Rule 2004 No. 345.

22. *Regulation 4 of the Civil Aviation Amendment Regulations 2001 (No. 4), as amended by clause (1) of Schedule 1 of the Civil Aviation Amendment Regulations 2002 (No. 1) reads as follows:*

“4 Transitional

- (1) Despite the amendment of the *Civil Aviation Regulations 1988* (CAR 1988) by Schedule 2:
- (a) an authorisation given under regulation 137 of CAR 1988 before the commencement of these Regulations; or
 - (b) a permission given under regulation 259 of CAR 1988 before the commencement of these Regulations, being a permission relating to an unmanned free balloon to which Part 101 of the *Civil Aviation Regulations 1998* applies; or
 - (c) a permission given under regulation 260 of CAR 1988 before the commencement of these Regulations, being a permission relating to an unmanned fixed balloon or kite to which Part 101 of the *Civil Aviation Regulations 1998* applies; or
 - (d) a permission given under regulation 295 of CAR 1988 before the commencement of these Regulations;

continues to have effect according to its terms.

- (2) Such an authorisation or permission may be amended or revoked as if it were an approval given under Part 101 of the *Civil Aviation Regulations 1998*.
- (3) An approval given by CASA, before the commencement of these Regulations, of an area as an area for the operation or launching of unmanned aircraft or rockets continues to have effect according to its terms.
- (4) An approval referred to in subregulation (3) may be revoked or amended as if it had been given under Part 101 of the *Civil Aviation Regulations 1998*.

23. *Regulation 5 of the Civil Aviation Amendment Regulations 2002 (No. 2) (Statutory Rule 2002 No. 167) reads as follows:*

“5 Transitional — persons holding certain licences

(1) In this regulation:

old licence means an air traffic controller licence or a flight service officer licence issued under CAR 1988 and in force (or suspended) immediately before this regulation commenced.

- (2) A person who, immediately before this regulation commenced, held an old licence (including a licence that is suspended) is taken to hold a corresponding licence issued under Part 65 of the *Civil Aviation Regulations 1998*.
- (3) A rating, endorsement or qualification endorsed on an old licence is taken to continue in force for the period during which it would have been in force but for that Part of those Regulations.
- (4) A licence that a person is taken to hold under subregulation (2), or a rating, endorsement or qualification mentioned in subregulation (3), may be suspended or cancelled as if it had been granted under that Part of those Regulations.
- (5) An old licence that, immediately before this regulation commenced, was suspended is taken, after the commencement of this regulation, to continue to be suspended.
- (6) For the purposes of action against the holder of an old licence mentioned in subregulation (5), the amendments of the *Civil Aviation Regulations 1988* by regulation 4 and Schedule 2 are to be disregarded.”

24 *Subsection 4(9A) of the Civil Aviation Amendment Act 2003 reads as follows:*

- (9A) The repeal of regulation 268 of the *Civil Aviation Regulations 1988* by this Act does not apply to notices served by CASA before the repeal happened.

CAR AMENDMENTS INCORPORATED IN THIS REPRINT

ad. = added or inserted, am. = amended, om. = omitted or repealed,
os. = omitted or repealed and substituted, rev. = revived by disallowance

RegulationAction/Statutory Rule

| | |
|-----|--|
| 1 | os. 98/235 |
| 2 | am. 90/216, 90/258, 90/332, 90/466, 91/157, 91/287 91/382, 91/487, 92/258, 92/279, 92/325, 92/342, 92/380, 93/221, 93/319, 94/93, 94/382, 95/224. 97/111, 97/139, 98/219, 98/234 (disallowed by the Senate 8 March 1999), 98/235, 98/288, 99/166, 99/167, 99/262, 99/354, 00/08, 00/204 (partially disallowed by Senate on 8/11/00), 00/294, 00/295, 01/349, 02/350, 03/95, 03/189, 03/201, 03/232, 03/240, 04/134, 04/216, 04/217, 04/222, 04/345, 05/243 |
| 2A | ad. 91/487, 95/224 |
| 2B | ad. 94/187, 95/224 |
| | am. 04/345 |
| 2C. | ad. 98/235 |
| | am. 02/350 |
| 3 | am. 95/224 |
| 4 | am. 95/224 |
| 4A | ad. 95/122 |
| | om. 95/224 |
| 5 | am. 90/289, 95/224 |
| 5A | ad. 94/187 |
| | am. 94/382, 95/224, 04/345 |
| 6 | am. 95/224 |
| 6A | ad. 90/289 |
| | am. 92/174, 94/173, 95/224, 97/67, 03/201, 04/345 |
| 7 | am. 91/287, 92/279, 95/224, 97/23, 04/345 |
| 7A | ad. 92/325 |
| | om. 00/204 |
| | rev. Partial disallowance 00/204 |
| | am. 01/349 |
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| 8 | os. 92/325 |
| | am. 95/224 |
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| | rev. Partial disallowance 00/204 |
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| 9 | os. 92/325 |
| | am. 95/224 |
| | om. 00/204 |
| | rev. Partial disallowance 00/204 |
| | om. 04/134 |
| 10 | os. 92/325 |
| | am. 95/224 |
| | om. 00/204 |
| | rev. Partial disallowance 00/204 |
| | om. 04/134 |
| 11 | am. 91/147 |
| | os. 92/325 |
| | am. 95/224 |
| | om. 00/204 |
| | rev. Partial disallowance 00/204 |
| | om. 04/134 |

- 12 am. 91/147
os. 92/325
am. 95/224
om. 00/204
rev. Partial disallowance 00/204
om. 04/134
- 13 os. 92/325
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- 13A ad. 92/325
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- 13B ad. 92/325
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- 13C ad. 92/325
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Note (a)

The Senate on 23 March 1994, passed a resolution disallowing new regulation 239, as contained in regulation 16 of the Civil Aviation Regulations (Amendment) 1993 No. 319.

Note (b) (see Government Notices Gazette No. 45, 15 November 2000)

It is hereby notified for general information that the Senate on 8 November 2000 passed a resolution disallowing Part 47 of the Civil Aviation Regulations in item [7] of Schedule 2 and Items [1], [4] and [5] of Schedule 3 of the Civil Aviation Amendment Regulations 2000 (No. 3), as contained in Statutory Rules 2000 No. 204 and made under the *Civil Aviation Act 1988*.

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