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Volume 1: regulations 1–343

Volume 2: Schedules and Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Civil Aviation Regulations 1988* that shows the text of the law as amended and in force on 2 December 2021 (the **compilation date**).

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

Uncommenced amendments

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

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

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

Modifications

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

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of Regulations

These Regulations are the *Civil Aviation Regulations 1988*.

2 Interpretation

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

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

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

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 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.

airworthiness authority means an authority under regulation 33B.

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

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

Regulation 2

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, for an Australian aircraft, means a system of maintenance for the aircraft that has been approved under regulation 42M, including any changes to the program that have been approved under regulation 42R.

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 1998*.

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 regulation 235.

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.

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 Australian air transport AOC which authorises the use of that aircraft in scheduled air transport operations.

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.

commercial operations means civil air operations other than private operations.

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.

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.

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.

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.

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

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 regulation 235.

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

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

maintenance controller means a person:

- (a) appointed under regulation 42ZV; and
- (b) whose appointment:
 - (i) is approved under regulation 42ZW; and

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(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, 42C or 42CA 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.

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.

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

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

operating crew means a crew member.

permissible unserviceability, for an aircraft, means:

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

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.

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.

Regulation 2

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.

the Convention means the Chicago Convention.

these Regulations includes CASR.

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.

- (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 CAR, 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.
- (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.

Regulation 2AA

2AA Meaning of *ANZA mutual recognition agreements* (Act s 3)

The arrangements, identified for the purposes of the definition of *ANZA mutual recognition agreements* in section 3 of the Act, are:

- (a) the arrangement set out in the document entitled ‘Arrangement between the Australian and New Zealand Governments on Mutual Recognition of Aviation-Related Certification’, signed at Wellington on 13 February 2007; and
- (b) the arrangement set out in the document entitled ‘Operational Arrangement between the Civil Aviation Safety Authority of Australia and the Civil Aviation Authority of New Zealand in relation to mutual recognition of Air Operator Certificates’, signed on 16 March 2007.

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 of how maintenance on an aircraft, aircraft component or aircraft material is to be carried out, in documents or designs approved under another provision of these Regulations; 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.

Regulation 2B

- (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, CAR.
- (2) However, if there is any inconsistency between CAR 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

Regulation 3

flight in substitution for the corresponding provisions of these Regulations relating to the flight and manoeuvre of aircraft.

- (4) CASA shall notify in the AIP 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) This regulation applies if CASA is empowered or required under these Regulations:
 - (a) to issue a direction, instruction or notification; or
 - (b) to give a permission, approval or authority.
- (1A) CASA may, unless the contrary intention appears in the regulation conferring the power or function or imposing the obligation or duty, issue the direction, instruction 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 registered on the Federal Register of Legislation.

Part 4—Airworthiness requirements

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) Subject to subregulation (1A), a person engaged, or intending to engage, in any stage of distribution or maintenance of aircraft, aircraft components or aircraft materials may apply to CASA for a certificate of approval in respect of those activities.
- (1A) A person may make an application under subregulation (1) in relation to the maintenance of an aircraft or an aeronautical product only if Part 42 of CASR does not apply to the aircraft or aeronautical product.
- (2) An application must be in writing and must:

Part 4 Airworthiness requirements

Division 3 Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities

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- (a) set out the following:
 - (i) a statement of the activities to be covered by the certificate, including any training or assessment in the maintenance of aircraft, aircraft components or aircraft materials that the applicant intends to conduct;
 - (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;

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- (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:
 - (vii) the maintenance of aircraft;
 - (viii) the maintenance of aircraft components;
 - (ix) the maintenance of aircraft materials;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
 - (ca) if the certificate covers training or assessment in the maintenance of aircraft, aircraft components or aircraft materials—a condition that the holder of the certificate must comply with the requirements (if any) prescribed by legislative instrument issued by CASA under regulation 30AA that apply to the holder; 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;

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Division 3 Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities

Regulation 30

- (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:

Regulation 30AA

- (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.

30AA Provision of training and assessment in maintenance of aircraft etc.

For subsection 98(5A) of the Act, CASA may issue a legislative instrument prescribing requirements for the provision of training and assessment in the maintenance of aircraft, aircraft components or aircraft materials by holders of certificates of approval under regulation 30.

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).

32 Period during which certificates of approval remain in force

CASA may specify in a certificate of approval the period during which the certificate is to remain in force.

Part 4 Airworthiness requirements

Division 3 Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities

Regulation 33

33 Testing of competency of holder of licence or authority

- (1) CASA may, at any time, require the holder of 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 airworthiness authority or an aircraft welding authority.

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;
 - (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.

Part 4 Airworthiness requirements

Division 3 Certificates of approval, aircraft maintenance engineer licences, airworthiness authorities and aircraft welding authorities

Regulation 33G

- (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.

Regulation 33I

- (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.

33I 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

37 Permissible unserviceabilities

- (1) CASA may, for the purposes of these Regulations, approve a defect in, 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);

Regulation 42A

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

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developed, in consultation with CASA or a limited category organisation, 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 regulation, 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 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 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

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(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; and
- (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.

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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:

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- (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, as in force before 27 June 2011; or
 - (ia) has been approved by a modification/repair design approval; or
 - (ib) has been approved by an approval mentioned in regulation 21.475 of CASR; or
 - (ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; 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 in force before 27 June 2011, 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; or
 - (BA) in a parts manufacturer approval issued by a national aviation authority to which subregulation (2A) applies; or
 - (C) by a modification/repair design approval; or
 - (D) by an approval mentioned in regulation 21.475 of CASR; or
 - (iv) is taken to have been approved for use as a replacement for the replaced component under regulation 21.465 or 21.470 of CASR; 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.

- (2A) For sub-subparagraph (2)(b)(iii)(BA), this subregulation applies to the national aviation authority of a Contracting State if:
 - (a) Australia has an agreement (however described) with the Contracting State for the acceptance of parts manufacturer approvals; or
 - (b) CASA has an agreement (however described) with the national aviation authority for the acceptance of parts manufacturer approvals.
- (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 that is approved under regulation 37.
- (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) if the component, or a component that it incorporates, was manufactured in the course of carrying out maintenance—the completion of the maintenance was certified in accordance with regulation 42ZE or 42ZN;
 - (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, as in force before 27 June 2011; or

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- (ia) was approved by a modification/repair design approval; or
- (ib) was approved by an approval mentioned in regulation 21.475 of CASR; or
- (ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; 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 a national aviation authority 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 national 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 component—the national aviation authority of the country in which it was manufactured;
 - (c) it specifies the national aviation authority that issued it or that authorised its issue;

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- (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 national aviation authority 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.

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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 national 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 national 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 national 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*.

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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:
 - (A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or
 - (B) 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 engineer licence that permits him or her to perform maintenance certification for 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 is given.

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- (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:
 - (A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or
 - (B) 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:
 - (A) an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; or
 - (B) an airworthiness authority or an aircraft welding authority covering the maintenance; and
 - (ii) either:
 - (A) is not an employee; or
 - (B) is employed by a person mentioned in subparagraph (i); or
 - (c) the person carries out the maintenance under the supervision of a person who:
 - (i) holds an aircraft engineer licence that permits him or her to perform maintenance certification for the maintenance; and
 - (ii) is permitted by paragraph (a) or (b) to carry out the maintenance; or
 - (d) the following requirements are satisfied:
 - (i) the person is the holder of a pilot licence that is valid for the aircraft;
 - (ii) the maintenance is specified in Part 1 of Schedule 8;
 - (iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or
 - (da) the following requirements are satisfied:
 - (i) the person is a category B1 licence holder or a category B2 licence holder;
 - (ii) the maintenance is specified in Part 1 of Schedule 8;
 - (iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or
 - (db) for an aircraft that is a balloon—the following requirements are satisfied:
 - (i) the person is the holder of a commercial pilot (balloon) licence or a private pilot certificate (balloons) that is valid for the balloon;
 - (ii) the maintenance is specified in Part 2 of Schedule 8;

- (iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; or
 - (dc) the following requirements are satisfied:
 - (i) the aircraft is of a type that has been manufactured in accordance with the requirements of, and accepted for use by, an armed force;
 - (ii) the maintenance is carried out under the supervision of a person who holds an airworthiness authority covering the maintenance; or
 - (dd) the following requirements are satisfied:
 - (i) the aircraft is an amateur-built aircraft, kit-built aircraft or a light sport aircraft;
 - (ii) the person is included in a class of persons prescribed by legislative instrument issued by CASA for the purposes of this subparagraph;
 - (iii) the maintenance is carried out in accordance with any conditions prescribed by legislative instrument issued by CASA for the purposes of this subparagraph; 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 is 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) or (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.
- (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.

Regulation 42ZD

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 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.

Regulation 42ZH

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.

Part 4A Maintenance

Division 6 Certification of completion of maintenance

Regulation 42ZP

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 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 202.051(3) of CASR; or
- (c) a document or design that:
 - (i) was approved under regulation 35, as in force before 27 June 2011; or
 - (ia) was approved by a modification/repair design approval; or
 - (ib) was approved by an approval mentioned in regulation 21.475 of CASR; or
 - (ic) is taken to have been approved under regulation 21.465 or 21.470 of CASR; 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.

Regulation 42ZS

- (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 exemption 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:

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- (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 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.
- (8) For the purposes of subregulation (7), the existence of an earlier maintenance release issued by virtue of that subregulation 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 subregulation.
- (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:

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- (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, or approval under regulation 21.007 of CASR, 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 subregulation (7) in respect of an aircraft if:

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

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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; or

- (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*.

Regulation 43B

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 developed a defect that is major damage or a major defect and that is not 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 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 enter on the maintenance release, or other document approved for use as an alternative to the maintenance release for the purposes of this

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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.

- (1A) For subregulation (1), damage to an aircraft is taken not to be major damage if advice has been given under regulation 21.007A of CASR that the damage is not major damage.
- (1B) For subregulation (1), damage to a limited category aircraft is taken not to be major damage if advice has been given under regulation 132.175 of CASR that the damage is not major damage.
- (1C) For subregulation (1), a defect in a limited category aircraft is taken not to be a major defect if advice has been given under regulation 132.175 of CASR that the defect is not a major defect.

(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.

- (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.

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 subregulation 43(7).

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:
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- (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) a person who is permitted by regulation 42ZC or 42ZD to carry out maintenance on the aircraft.

(2) If:

- (a) an aircraft in respect of which a maintenance release is in force has developed a defect 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, 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, or approval under regulation 21.007 of CASR, 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 the 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.

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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 paragraph 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*.

50G Copying or disclosing CVR information

- (1) For paragraph 32AP(3A)(a) of the Act, the following are authorised:
- (a) a person who:
 - (i) is a staff member within the meaning of the *Transport Safety Investigation Act 2003*; and
 - (ii) has had training with respect to the replay and analysis of cockpit voice recordings; and
 - (iii) has been briefed on the requirements of Part IIIB of the Act;
 - (b) a person who:
 - (i) is to check on behalf of the holder of a CVR certificate of approval (the **holder**) whether equipment used to make a cockpit voice recording is functioning and reliable; and
 - (ii) has had training from the holder with respect to the replay and analysis of cockpit voice recordings; and
 - (iii) has been briefed by the holder on the requirements of Part IIIB of the Act.
- (2) In this regulation, **CVR certificate of approval** means a certificate of approval covering the maintenance of aeronautical products used to make cockpit voice recordings.

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.

- (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*.

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- (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 AOC, an aerial work certificate or a Part 141 certificate, becomes aware of a defect in an aircraft component that the person owns and intends to install in an aircraft used in operations under that 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

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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 become 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 Authority 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

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- (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.

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- (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 Registered operators to maintain aircraft flight manuals

The registered operator of an aircraft must ensure that the aircraft's flight manual is at all times appropriate for the aircraft, having regard to:

- (a) any direction issued by CASA relating to the flight manual; and
- (b) any modifications to the aircraft that would require amendment of the flight manual; and
- (c) any instructions in relation to the flight manual from the holder of a type certificate, supplemental type certificate or modification/repair design approval that applies to the aircraft.

Part 4D—Removal or alteration of data plates etc.

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 free 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 free 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.

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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 free 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 free 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*.

Part 5—Balloon flight crew licensing

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Division 5.1—Balloon flight crew licensing—preliminary

5.01 Definitions for Part 5

(1) In this Part:

approved balloon testing officer, for a flight test for a balloon class endorsement or balloon flight crew rating, means a person to whom the Director has delegated CASA's power under regulation 5.19 or 5.41 to conduct the flight test.

approved check radio operator means a person who holds both:

- (a) a commercial pilot (balloon) licence; and
- (b) a flight instructor (balloon) rating.

Australian balloon means a balloon that is an Australian aircraft.

authorised balloon flight instructor means a person who:

- (a) holds a current flight instructor (balloon) rating; and
- (b) either:
 - (i) is the holder of an AOC that authorises balloon flying training; or
 - (ii) is employed to instruct by, or instructs under an arrangement with, a person who is the holder of an AOC that authorises balloon flying training.

balloon class endorsement means an endorsement that authorises its holder to fly balloons included in a particular class of balloon.

balloon flight crew licence: see regulation 5.08.

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

balloon flying school means a school for which there is an AOC that authorises the school to conduct balloon flying training.

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

balloon proficiency check means a check that tests the aeronautical skills and aeronautical knowledge relevant to balloon flight of the person undertaking the check.

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

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

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

chief balloon flying instructor means a person:

- (a) who holds a current flight instructor (balloon) rating; and

Regulation 5.01

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

class, of balloon, means a class mentioned in table 5.01.

Table 5.01—Classification of balloons

Column 1		Column 2
Item	Class of balloon	Description of balloon
1	Class 1	Hot air balloons that have a volume of not more than 260 000 cubic feet
2	Class 2	Hot air balloons that have a volume of more than 260 000 cubic feet
3	Class 3	Gas balloons

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

equivalent: see regulation 5.31.

flight radiotelephone operator licence means a flight radiotelephone operator licence issued under this Part.

flight radiotelephone practical test means a practical test of a person's knowledge and skill in the use of an aeronautical radio set by CASA under subregulation 5.41(3).

flight test means a practical test of a person's aeronautical knowledge and practical flying skill set by CASA under subregulation 5.41(2).

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

overseas balloon authorisation means an authorisation (however described) that:

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

overseas medical certificate, in relation to an overseas balloon 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.

Part 5 Balloon flight crew licensing

Division 5.1 Balloon flight crew licensing—preliminary

Regulation 5.02

overseas radio licence means a licence (however described) issued in accordance with Annex 1 to the Chicago Convention by a country that is a signatory to the International Telecommunication Convention.

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

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

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

syllabus means a syllabus of training published under regulation 5.59.

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

theory examination means an examination set under subregulation 5.41(1).

- (2) For this Part, a balloon flight crew rating is required for the following activities:
 - (a) giving balloon flying training;
 - (b) flying at night under the VFR.
- (3) For this Part, a person flies a balloon as pilot acting in command under supervision if, during flight time in the balloon, the person performs the activities 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 balloon.

5.02 What Part 5 is about

This Part:

- (a) sets out the requirements that apply to:
 - (i) commercial pilot (balloon) licences; and
 - (ii) flight radiotelephone operator licences for balloon pilots; and
- (b) empowers CASA to make Civil Aviation Orders about the requirements that apply to balloon flight crew ratings and balloon class endorsements.

5.03 Authorisation—performing activities essential to operation of Australian balloons without commercial pilot (balloon) licence

A person is authorised to perform an activity essential to the operation of an Australian balloon during flight time without holding a commercial pilot (balloon) licence or CAR certificate of validation if:

- (a) the person:
 - (i) is accompanied by an authorised balloon flight instructor; and
 - (ii) is receiving balloon flying training; or
- (b) the person is attempting a flight test for a commercial pilot (balloon) licence.

Division 5.2—Balloon flight crew licensing—medical certificates

5.04 Medical certificate—balloon flight crew licence

- (1) The holder of a balloon flight crew licence commits an offence if:
 - (a) the holder performs an activity authorised by the licence; and
 - (b) the holder does not meet the requirement mentioned in subregulation (2).

Penalty: 50 penalty units.

- (2) For paragraph (1)(b), the requirement is that the holder must:
 - (a) hold a current class 1 or 2 medical certificate; or
 - (b) have the permission of CASA to perform the activity without holding a current medical certificate.
- (3) CASA may, on the written or oral application of the holder of a balloon flight crew licence, authorise the holder to perform an activity essential to the operation of an Australian balloon during flight time without holding a current class 1 or 2 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 activity by the holder without holding the certificate will not adversely affect the safety of air navigation.

Note: Class 1 and 2 medical certificates are issued under Part 67 of CASR. The medical standards for obtaining each class of medical certificate are set out in that Part.

- (4) An offence against this regulation is an offence of strict liability.

5.05 Medical certificate—CAR certificate of validation

- (1) The holder of a CAR certificate of validation for an overseas balloon authorisation commits an offence if:
 - (a) 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 the authorisation was issued; and
 - (b) the holder performs an activity authorised by the certificate; and
 - (c) the holder does not hold an overseas medical certificate for the authorisation that is in force.

Penalty: 50 penalty units.

- (2) An offence against this regulation is an offence of strict liability.

5.07 Medical certificate—flight tests

- (1) A person who does not hold a commercial pilot (balloon) licence or CAR certificate of validation commits an offence if:

- (a) the person attempts a flight test for a commercial pilot (balloon) licence;
and
- (b) the person does not hold a class 1 or 2 medical certificate.

Penalty: 50 penalty units.

- (2) An approved balloon testing officer commits an offence if:
 - (a) the officer conducts a flight test for the issue of a commercial pilot (balloon) licence or for the issue, or renewal, of a balloon flight crew rating; and
 - (b) the person attempting the test does not meet the requirement mentioned in subregulation (3).

Penalty: 50 penalty units.

- (3) For paragraph (2)(b), the requirement is that the person must:
 - (a) hold a current class 1 or 2 medical certificate; or
 - (b) hold both:
 - (i) a CAR certificate of validation for an overseas balloon authorisation;
and
 - (ii) a current overseas medical certificate for the authorisation.
- (4) An offence against this regulation is an offence of strict liability.

Division 5.3—Balloon flight crew licensing—licences, ratings and endorsements

5.08 Balloon flight crew licence—application

A person may apply to CASA, in writing, for the issue of either or both of the following (a *balloon flight crew licence*):

- (a) a commercial pilot (balloon) licence;
- (b) a flight radiotelephone operator licence.

5.09 Balloon flight crew licence—issue

- (1) Subject to subregulation (2), CASA must issue a balloon flight crew licence to an applicant 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 suitable person to hold the licence.

Note: For whether a person is qualified to hold a balloon flight crew licence, see regulations 5.61 and 5.138.

- (2) CASA must not issue a balloon flight crew 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 the licence; or
 - (b) does not satisfy the requirements of subregulation (1).
- (3) In deciding whether an applicant for a balloon flight crew licence is a suitable 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 activities essential to the operation of a balloon 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 balloon flight crew licence commits an offence if the applicant:
 - (a) is aware of information that is relevant to a matter that CASA must take into account under subregulation (3); and
 - (b) does not disclose the information to CASA.

Penalty: 50 penalty units.

5.13 Balloon flight crew rating—application

The holder of a commercial pilot (balloon) licence or a CAR certificate of validation for an overseas balloon authorisation that is equivalent to a

commercial pilot (balloon) licence may apply to CASA for the issue of either or both of the following balloon flight crew ratings:

- (a) a flight instructor (balloon) rating;
- (b) a balloon grade of night VFR rating.

5.14 Balloon flight crew rating—issue

- (1) CASA may give directions in Civil Aviation Orders setting out requirements for the issue of a balloon flight crew rating to a person.
- (2) 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.
- (3) Subject to subregulation (4), CASA must issue a balloon flight crew rating to a qualified person, or renew the person's rating, by entering the 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 the rating.
- (4) CASA must not issue a balloon flight crew rating to a person, or renew the person's rating, if the person:
 - (a) has knowingly or recklessly made a false or misleading statement in relation to the person's application for the rating; or
 - (b) does not satisfy the requirements of subregulation (3).
- (5) In this regulation:

qualified person means a person who holds a commercial pilot (balloon) licence or a CAR certificate of validation for an overseas balloon authorisation that is equivalent to a commercial pilot (balloon) licence.

5.17 Balloon flight crew rating—duration

- (1) A balloon 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 of that kind remains in force; or
 - (b) the end of the period set out by CASA in the holder of the rating's personal log book as the period for which the rating remains in force; or
 - (c) it is suspended or cancelled;whichever occurs first.
- (2) If a balloon 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 remains in force.

Regulation 5.18

- (3) CASA may give directions in Civil Aviation Orders setting out the period for which a balloon flight crew rating remains in force.

5.18 Balloon flight crew rating—authority and flight tests

CASA may give directions in Civil Aviation Orders setting out:

- (a) the authority given by a balloon 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 Balloon flight crew rating—flight tests

- (1) CASA may issue Civil Aviation Orders that describe the flight tests for the issue of a balloon 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 balloon flight crew rating that are required by the Civil Aviation Orders.

5.20 Balloon flight crew rating—approval to give training

- (1) CASA may approve a person who holds a commercial pilot (balloon) licence to give balloon flying training for the issue of a balloon 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 commits an offence if the person contravenes a condition to which his or her approval is subject.

Penalty: 50 penalty units.

- (5) CASA may, in writing, revoke a person's approval if:
 - (a) the person's commercial pilot (balloon) 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 commercial pilot (balloon) 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.
- (7) An offence against this regulation is an offence of strict liability.

5.23 Balloon class endorsement—issue

- (1) CASA may give directions in Civil Aviation Orders setting out requirements for the issue of balloon class endorsements.
- (2) Subject to subregulation (3), CASA must issue a balloon class endorsement to the holder of a commercial pilot (balloon) licence or a CAR certificate of validation for an overseas balloon authorisation that is equivalent to a commercial pilot (balloon) licence 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 a balloon class 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).

Division 5.4—Balloon flight crew licensing—certificates of validation

5.27 CAR certificate of validation—issue

- (1) A person may apply to CASA, in writing, for the issue of a CAR certificate of validation for an overseas balloon authorisation held by the person if:
 - (a) the person's overseas balloon authorisation is in force; 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 is in force.
- (2) Subject to subregulation (3), CASA may issue a CAR certificate of validation to an applicant 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 CAR certificate of validation; and
 - (c) the applicant is a suitable person to hold the certificate; and
 - (d) the applicant has passed the CAR certificate of validation examinations that CASA considers necessary in the interests of the safety of air navigation.
- (3) CASA must not issue a CAR 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 suitable 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 activities essential to the operation of a balloon 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 commits an offence if the applicant:
 - (a) is aware of information that is relevant to a matter that CASA must take into account in deciding whether the applicant is a suitable person to hold the certificate; and
 - (b) does not disclose the information to CASA.

Penalty: 50 penalty units.

- (6) For paragraph (2)(d), CASA may set and conduct examinations for the issue of certificates of validation.

- (7) A CAR certificate of validation examination must be based on examination materials published by CASA.

5.30 CAR certificate of validation—overseas balloon authorisation information to be entered

If CASA issues a CAR certificate of validation for an overseas balloon authorisation, CASA must enter on the certificate:

- (a) the name of the country in which the overseas balloon authorisation was issued; and
- (b) the name of the overseas balloon authorisation; and
- (c) the period of validity of the overseas balloon authorisation; and
- (d) the serial number or reference number of the overseas balloon authorisation.

5.31 CAR certificate of validation—effect

- (1) A CAR certificate of validation for an overseas balloon authorisation has effect as if it were:
- (a) a balloon flight crew licence that is the equivalent of the authorisation; or
 - (b) a balloon class endorsement that is the equivalent of the authorisation; or
 - (c) if the authorisation would allow the holder to perform activities in a balloon that is engaged in an activity for which a balloon flight crew rating is required—a balloon flight crew rating that is the equivalent of the authorisation;
- as the case requires.
- (2) For this regulation, an overseas balloon authorisation is **equivalent** to a balloon flight crew licence if the authorisation and the licence allow the holder to perform the same activities in balloons.
- (3) For this regulation, an overseas balloon authorisation is **equivalent** to a balloon class endorsement if the authorisation and the endorsement allow the holder to perform activities in the same class of balloon.
- (4) For this regulation, an overseas balloon authorisation is **equivalent** to a balloon flight crew rating if the authorisation and the rating allow the holder to perform the same activities.

5.32 CAR certificate of validation—period of validity

- (1) A CAR certificate of validation for an overseas balloon authorisation remains in force until whichever of the following occurs first:
- (a) the end of the period of 3 months beginning on the day on which the certificate was issued;
 - (b) the end of the period set out by CASA on the certificate as the period for which the certificate remains in force;
 - (c) the overseas balloon authorisation ceases to be in force;

Regulation 5.33

- (d) if a holder of the overseas balloon 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;
 - (e) the CAR certificate of validation is suspended or cancelled.
- (2) CASA may set out on a CAR certificate of validation the period for which the certificate remains in force.

5.33 CAR certificate of validation—offences

- (1) A person commits an offence if:
 - (a) the person makes an application for a CAR certificate of validation for an overseas balloon authorisation; and
 - (b) at the time the application is made, the person’s overseas balloon authorisation is not in force.
- (2) A person commits an offence if:
 - (a) the person makes an application for a CAR certificate of validation for an overseas balloon 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 it was issued; and
 - (c) at the time the application is made, the person does not hold an overseas medical certificate for the authorisation that is in force.

Penalty: 50 penalty units.

- (3) The holder of a CAR certificate of validation for an overseas balloon authorisation commits an offence if:
 - (a) the holder exercises the authority given by the certificate in an Australian balloon during flight time; and
 - (b) at the time of exercising the authority, the holder’s overseas balloon authorisation is not in force.

Penalty: 50 penalty units.

- (4) The holder of a CAR certificate of validation for an overseas balloon authorisation commits an offence if:
 - (a) the holder exercises the authority given by the certificate in an Australian balloon during flight time; 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 it was issued; and
 - (c) at the time of exercising the authority, the holder does not hold an overseas medical certificate for the authorisation that is in force.

Penalty: 50 penalty units.

- (5) An offence against this regulation is an offence of strict liability.
-

Division 5.5—Balloon flight crew licensing—general

5.40 Pilot acting in command under supervision

- (1) A person commits an offence if:
 - (a) the person flies a balloon as pilot acting in command under supervision;
and
 - (b) either:
 - (i) the person does not satisfy subregulation (3) in relation to the balloon;
or
 - (ii) the person does not satisfy subregulation (4) in relation to the balloon.

Penalty: 50 penalty units.

- (2) The operator of a balloon commits an offence if:
 - (a) the operator permits a person to fly a balloon as pilot acting in command under supervision; and
 - (b) the person does not satisfy subregulation (3) in relation to the balloon.

Penalty: 50 penalty units.

- (3) A person satisfies this subregulation if:
 - (a) the person holds:
 - (i) a commercial pilot (balloon) licence; or
 - (ii) a CAR certificate of validation for an overseas balloon authorisation that is equivalent to a commercial pilot (balloon) licence; and
 - (b) the person holds a balloon class endorsement that authorises him or her to fly the balloon as pilot in command; and
 - (c) if the person carries out an activity for which a balloon flight crew rating is required—the person holds a balloon flight crew rating that permits him or her to carry out that activity as pilot in command of the balloon.
- (4) A person satisfies this subregulation in relation to a balloon if:
 - (a) the person is the co-pilot of the balloon; and
 - (b) the operator of the balloon permits the person to fly the balloon as pilot acting in command under supervision; and
 - (c) the pilot in command of the balloon is appointed for the purpose by the operator of the balloon.
- (5) An offence against this regulation is an offence of strict liability.

5.41 Balloon flight crew licence—tests and examinations

- (1) CASA may set and conduct the following theory examinations:
 - (a) commercial pilot (balloon) licence theory examinations;
 - (b) flight radiotelephone theory examinations.

Regulation 5.42

- (2) CASA may set and conduct commercial pilot (balloon) licence flight tests.
- (3) CASA may set and conduct flight radiotelephone practical tests.

5.42 Balloon flight tests—CASA to be notified

- (1) An approved balloon testing officer commits an offence if the officer:
 - (a) conducts a flight test; and
 - (b) has not, at least 24 hours before the test:
 - (i) given CASA notice of the time, date, place and nature of the proposed test; and
 - (ii) obtained from CASA a flight test number for the test.

Penalty: 50 penalty units.

- (2) An approved balloon testing officer commits an offence if the officer:
 - (a) conducts a flight test; and
 - (b) does not do each of the following:
 - (i) enter the flight test number on the flight test report form used for the flight test;
 - (ii) record the results of the test on the flight test report form;
 - (iii) send the flight test report form to CASA:
 - (A) if the test is passed—within 14 days after the day of the test;
 - or
 - (B) if the test is failed—within 90 days after the day of the test.

Penalty: 50 penalty units.

- (3) CASA may give a written notice to an approved balloon testing officer requiring the officer to give CASA documents relating to a flight test that he or she has notified to CASA under subregulation (1) 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.
- (4) An approved balloon testing officer commits an offence if the officer:
 - (a) receives a notice under subregulation (3); and
 - (b) does not send the documents to CASA within:
 - (i) if the test is passed—14 days after the day of the test; or
 - (ii) if the test is failed—90 days after the day of the test.

Penalty: 50 penalty units.

- (5) An offence against this regulation is an offence of strict liability.
- (6) In this regulation:

flight test report form means a form issued by CASA for recording the results of flight tests.

5.50 Authorisation to test balloon

- (1) CASA may, in writing, authorise the holder of a commercial pilot (balloon) licence or a CAR certificate of validation for an overseas balloon authorisation that is equivalent to a commercial pilot (balloon) licence to perform activities essential to the operation of a balloon for which the holder does not hold a balloon class endorsement during a flight conducted for the purpose of:
 - (a) testing the balloon; or
 - (b) carrying out an experiment in relation to the balloon.
- (2) An authorisation 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 authorisation.
- (4) The holder of an authorisation commits an offence if the holder contravenes a condition to which the authorisation is subject.

Penalty: 50 penalty units.

- (5) An offence against this regulation is an offence of strict liability.

5.51 Personal log books

- (1) The holder of a balloon flight crew licence or CAR certificate of validation commits an offence if the holder does not have a personal log book that is suitable:
 - (a) for the entry of balloon flight crew ratings, balloon class endorsements 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: 50 penalty units.

Note: Regulation 5.56 requires the holder of a balloon flight crew licence or CAR certificate of validation to produce his or her personal log book when required by CASA.

- (2) CASA may, in writing, direct the holder of a balloon flight crew licence or CAR 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 to whom a direction is given under subregulation (2) commits an offence if the person contravenes the direction.

Penalty: 50 penalty units.

Regulation 5.52

- (5) A direction does not have effect in relation to a person until it is given to the person.
- (6) An offence against this regulation is an offence of strict liability.

5.52 What must be recorded in a personal log book?

- (1) The holder of a balloon flight crew licence or CAR certificate of validation commits an offence if the holder does not record in his or her personal log book:
 - (a) his or her 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.

Penalty: 50 penalty units.

- (2) CASA may give directions in Civil Aviation Orders setting out the information about each flight undertaken by the holder of a balloon flight crew licence or CAR 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 to whom a direction is given under subregulation (2) commits an offence if the person contravenes the direction.

Penalty: 50 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 this regulation is an offence of strict liability.

5.53 How long must a personal log book be retained?

- (1) A person commits an offence if the person:
 - (a) is required by subregulation 5.51(1) to have a personal log book; and
 - (b) does not retain the log book for as long as the person holds a balloon flight crew licence or CAR certificate of validation.

Penalty: 50 penalty units.

- (2) An offence against this regulation is an offence of strict liability.

5.54 Evidence of identity—CASA's powers

- (1) CASA may require a person to produce evidence of his or her identity before:
 - (a) CASA issues a balloon flight crew licence, CAR certificate of validation, balloon flight crew rating or balloon class endorsement to the person; or
 - (b) the person attempts an examination conducted by CASA.

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- (2) Despite 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.
- (3) Subject to subregulation (6), if there are reasonable grounds for believing that a person has performed, or is about to perform, an activity essential to the operation of an Australian balloon, CASA may require the person to produce evidence of his or her identity.
- (4) Despite anything else in these Regulations, if a person who is about to perform an activity essential to the operation of an Australian balloon 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.
- (5) A person to whom a direction is given under subregulation (4) commits an offence if the person contravenes the direction.

Penalty: 50 penalty units.

- (6) 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.
- (7) A person who has performed an activity essential to the operation of an Australian balloon commits an offence if the person:
 - (a) is required to produce evidence of his or her identity under subregulation (3); and
 - (b) refuses to produce the evidence.

Penalty: 50 penalty units.

- (8) An offence against this regulation is an offence of strict liability.

5.54A Evidence of identity—examinations

- (1) 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, the definition of **examination** includes flight tests.

- (2) If a person is required to produce evidence of his or her identity under subregulation (1), the examiner may refuse to allow the person to attempt the examination until he or she produces the evidence.

5.56 Balloon flight crew licence—production etc.

- (1) CASA may request the holder of a balloon flight crew licence or CAR certificate of validation to produce to CASA any or all of the following for inspection by CASA:

Regulation 5.56

- (a) his or her licence or certificate;
 - (b) his or her personal log book;
 - (c) his or her medical certificate.
- (2) The holder of a balloon flight crew licence or CAR certificate of validation commits an offence if:
 - (a) CASA requests the holder to produce a document under subregulation (1); and
 - (b) the holder does not:
 - (i) if the holder has immediate access to the document at the time the request is made—produce the document without delay; or
 - (ii) if subparagraph (i) does not apply—produce the document at the place specified by CASA not more than 7 days after the day of the request.

Penalty: 50 penalty units.

- (3) For subparagraph (2)(b)(ii), CASA may specify the place at which the holder of a balloon flight crew licence or CAR certificate of validation must produce a document.
- (4) An offence against this regulation is an offence of strict liability.
- (5) In this regulation:
medical certificate includes an overseas medical certificate.

Division 5.6—Balloon flight crew licensing—balloon flying schools

5.57 Balloon flying schools—transfer of student records

- (1) This regulation applies if:
 - (a) a person has received balloon flying training at a balloon flying school (the *first school*); and
 - (b) the person subsequently arranges to receive balloon flying training at another balloon flying school (the *other flying school*).
- (2) The first 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 Balloon flying schools—chief balloon flying instructor

- (1) CASA may approve the appointment of a person who holds approved qualifications to be the chief balloon flying instructor of a balloon 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 commits an offence if the person contravenes a condition to which his or her approval is subject.

Penalty: 50 penalty units.

- (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) An offence against this regulation is an offence of strict liability.
- (8) In this regulation:

approved qualifications means qualifications approved by CASA for subregulation (1).

Regulation 5.59

5.59 Syllabuses of training

CASA may publish (whether as Civil Aviation Orders or otherwise) the following syllabuses of training:

- (a) balloon syllabus;
- (b) balloon flight crew rating syllabus;
- (c) flight radiotelephone operator syllabus.

Division 5.7—Balloon flight crew licensing—flight radiotelephone operator licence

5.61 Flight radiotelephone operator licence—issue

- (1) For subregulation 5.09(1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) is at least 16; and
 - (b) has passed a flight radiotelephone theory examination; and
 - (c) has passed a flight radiotelephone practical test.
- (2) Despite subregulation (1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) is at least 16; 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) Despite subregulation (1), a person is qualified to hold a flight radiotelephone operator licence if the person:
 - (a) is at least 16; and
 - (b) holds, or has held, an overseas radio licence that is at least equivalent to the flight radiotelephone operator licence.
- (4) For 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 Flight radiotelephone operator licence—authorisation

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: Regulation 83 prohibits a person from transmitting on a radio frequency used for the purpose of ensuring the safety of air navigation without being qualified to do so. A person is qualified to do so if the person holds a flight radiotelephone operator licence.

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.

Part 5 Balloon flight crew licensing

Division 5.7 Balloon flight crew licensing—flight radiotelephone operator licence

Regulation 5.63

- (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 passed the examination or test.

Division 5.11—Balloon flight crew licensing—commercial pilot (balloon) licences

5.138 Commercial pilot (balloon) licence—qualifications

- (1) For subregulation 5.09(1), a person is qualified to hold a commercial pilot (balloon) licence if the person:
 - (a) is at least 18; and
 - (b) holds a current private pilot certificate (balloons); and
 - (c) has held one of the following for at least one year:
 - (i) a private pilot certificate (balloons);
 - (ii) a certificate or licence issued by the competent authority of a foreign country that is at least equivalent to a private pilot certificate (balloons); and
 - (d) has passed a commercial pilot (balloon) licence theory examination; and
 - (e) has passed a commercial pilot (balloon) licence flight test; and
 - (f) has completed a course of balloon flying training in accordance with regulation 5.146; and
 - (g) has the aeronautical experience set out in regulation 5.145.
- (2) Despite subregulation (1), a person is qualified to hold a commercial pilot (balloon) licence if:
 - (a) the person:
 - (i) holds, or has held, an overseas balloon authorisation that is at least equivalent to the commercial pilot (balloon) licence; and
 - (ii) satisfies the requirements of subregulation (1), other than paragraph (f); or
 - (b) the person:
 - (i) holds a current overseas balloon authorisation that is at least equivalent to the commercial pilot (balloon) licence; and
 - (ii) satisfies the requirements of subregulation (1), other than paragraphs (e) and (f).
- (4) For 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 this regulation, an overseas balloon authorisation 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 operations or charter operations.
- (6) In this regulation:

competent authority, in relation to a foreign country, means the body that has responsibility for the licensing of persons to fly balloons in private operations in that country.

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

5.139 Commercial pilot (balloon) licence—authorisation

Subject to regulations 5.140 to 5.144, a commercial pilot (balloon) licence authorises the holder of the licence to fly a balloon that is engaged in aerial work operations or charter operations:

- (a) as pilot in command; or
- (b) as co-pilot for the purposes of acting as pilot in command under supervision.

Note: The requirements for private balloon operations are set out in Civil Aviation Order 95.54.

5.140 Commercial pilot (balloon) licence—authorisation: balloon classes

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 operations or charter operations unless the holder also holds a balloon class endorsement for the class of balloon in which the balloon that is to be flown is included.

5.141 Commercial pilot (balloon) licence—authorisation: balloon types

- (1) A commercial (balloon) pilot commits an offence if the pilot:
 - (a) flies as pilot in command of a balloon that is engaged in aerial work operations or charter operations; and
 - (b) has not undertaken at least 2 flights as pilot in command or as pilot acting in command under supervision of a balloon:
 - (i) that has a fuel system of the same design as the balloon that the pilot proposes to fly; and
 - (ii) that has a deflation system of the same design as the balloon that the pilot proposes to fly; and
 - (iii) that has an envelope capacity equal to, or greater than, the balloon that the pilot proposes to fly.

Penalty: 50 penalty units.

- (2) For 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.
- (3) An offence against this regulation is an offence of strict liability.

5.142 Commercial pilot (balloon) licence—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 balloon flight crew rating is required:
 - (a) as pilot in command, or co-pilot—unless the holder also holds a balloon 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 balloon flying training in relation to the rating.
- (2) A commercial pilot (balloon) licence authorises the holder of the licence to fly a tethered balloon at night under the VFR without holding a balloon grade of night VFR rating.

5.143 Commercial pilot (balloon) licence—regular balloon flight reviews required

- (1) A commercial (balloon) pilot commits an offence if the pilot:
 - (a) flies as pilot in command of a balloon that is engaged in aerial work operations or charter operations; and
 - (b) has not, within the period of 2 years immediately before the day of the flight, satisfactorily completed a balloon flight review.

Penalty: 50 penalty units.
- (2) A balloon flight review must:
 - (a) be conducted only by an appropriate person in a balloon for which the pilot holds a balloon class 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.
- (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) A person commits an offence if:
 - (a) the person conducts a balloon flight review of a commercial (balloon) pilot; and
 - (b) the pilot satisfactorily completes the review; and
 - (c) the person is satisfied that the pilot is able to safely fly a balloon in aerial work operations or charter operations; and

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- (d) the person does not make an entry in the pilot's personal log book to the effect that the pilot has satisfactorily completed the review.

Penalty: 50 penalty units.

- (5) For this regulation, a commercial (balloon) pilot is taken to have satisfactorily completed a balloon flight review if, within the period of 2 years immediately before the day of a proposed flight, the pilot has:
 - (a) passed a flight test conducted for the purpose of:
 - (i) the issue of a commercial pilot (balloon) 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.
- (6) An offence against this regulation is an offence of strict liability.
- (7) In this regulation:

appropriate person means:

- (a) a person who holds a flight instructor (balloon) rating; or
- (b) a CASA flying operations inspector; or
- (c) an authorised person.

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

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 operations or charter operations.

5.144 Commercial pilot (balloon) licence—recent experience requirements

- (1) A commercial (balloon) pilot commits an offence if the pilot:
 - (a) flies as pilot in command of a balloon that is engaged in charter operations; and
 - (b) has not, within the period of 90 days immediately before the day of the flight, undertaken at least 1 flight as pilot in command, or pilot acting in command under supervision, of a balloon.

Penalty: 50 penalty units.

- (2) For 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.
- (3) An offence against this regulation is an offence of strict liability.

5.145 Commercial pilot (balloon) licence—aeronautical experience required

For 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 pilot (balloon) licence—balloon flying training required

For paragraph 5.138(1)(f), a course of balloon flying training must:

- (a) consist of at least 8 hours of balloon 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 an authorised balloon flight instructor.

5.147 Commercial pilot (balloon) licence—flight tests

- (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 a balloon class endorsement.

Note: Requirements to qualify for class endorsements are set out in the Civil Aviation Orders.

- (2) An approved balloon testing officer, or a CASA flying operations inspector, commits an offence if:
 - (a) the officer or inspector conducts a commercial pilot (balloon) licence flight test; and
 - (b) the person attempting the test has not been recommended for the test by the chief balloon flying instructor of the balloon flying school where the person attempts the test.

Penalty: 50 penalty units.

- (3) A chief balloon flying instructor commits an offence if:
 - (a) the chief balloon flying instructor recommends a person for a commercial pilot (balloon) licence flight test; and
 - (b) the person does not satisfy the requirements of paragraphs 5.138(1)(b), (c), (d), (f) and (g).

Penalty: 50 penalty units.

- (4) A chief balloon flying instructor commits an offence if:

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Division 5.11 Balloon flight crew licensing—commercial pilot (balloon) licences

Regulation 5.147

- (a) the chief balloon flying instructor recommends a person for a commercial pilot (balloon) licence flight test; and
- (b) the person is not at least 17.

Penalty: 50 penalty units.

Note: Paragraph 5.138(1)(a) requires a person to be 18 to qualify for the licence.

- (5) If:
 - (a) a person attempts a commercial pilot (balloon) licence flight test; and
 - (b) the requirements of subregulations (1), (2), (3) and (4) are not satisfied in relation to the attempt;the person is taken not to have passed the test.
- (6) CASA may approve a person for subregulation (1) to conduct a commercial pilot (balloon) flight test.
- (7) An offence against this regulation is an offence of strict liability.

Part 9—Aerodromes

Division 8—Use of aerodromes

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, a standard visual signal or aviation distress signal 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 Chicago 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.

Part 9 Aerodromes

Division 9 Removal or marking of obstructions or other hazards

Regulation 95

- (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.

Part 10—Air Traffic Services and other services

Division 1—Air Traffic Services

105 Temporary medical unfitness of holder of licence

(1) If:

(a) the holder of an ATC 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.

Part 14—Air service operations

Division 1—General

206 Prescribed purpose—miscellaneous

For the purposes of subsection 27(9) of the Act, each of the following is a prescribed purpose:

- (a) the flying or operation of an aircraft for balloon flying training (within the meaning of subregulation 5.01(1)) that is:
 - (i) for the grant of a balloon flight crew licence or balloon flight crew rating under Part 5; and
 - (ii) conducted for hire or reward;
- (b) an aerial application operation (within the meaning of regulation 137.010 of CASR) to which Part 137 of CASR applies that is conducted for hire or reward;
- (c) the operation of a glider involving the carriage of passengers that is conducted for hire or reward.

210A Flight time limitations

- (1) CASA may, in writing, give directions to a licence holder or an aircraft operator about any of the following:
 - (a) the number of hours that a licence holder may fly in any period as a member of the flight crew of an aircraft;
 - (b) the length of each tour of duty undertaken by a licence holder;
 - (c) the length of reserve time for a licence holder;
 - (d) the rest periods that must be taken by a licence holder;
 - (e) the circumstances in which a licence 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.
- (2) CASA may, in writing, give directions to an aircraft operator about the circumstances in which an operator must not require a licence holder:
 - (a) to fly as a member of the flight crew of an aircraft; or
 - (b) perform any other duty associated with the holder's employment.
- (3) A person commits an offence if:
 - (a) CASA gives the person a direction under subregulation (1) or (2); and
 - (b) the person does not comply with the direction.

Penalty: 50 penalty units.

- (4) An offence against this regulation is an offence of strict liability.
- (5) In this regulation:

licence holder means the holder of:

- (a) a flight crew licence, rating or endorsement; or
- (b) a certificate of validation; or
- (c) any of the following within the meaning of subregulation 5.01 (1):
 - (i) a balloon class endorsement;
 - (ii) a balloon flight crew rating;
 - (iii) a CAR certificate of validation;
 - (iv) a commercial pilot (balloon) licence;
 - (v) a flight radiotelephone operator licence.

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

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

Division 2—Requirements to ensure the safety of commercial operations

211 Division 2 not to apply to New Zealand AOC holders with ANZA privileges

This Division does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

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*.

Division 3—Conduct of operations

224A Commercial operations carrying passengers—requirements if pilot in command 60 or more

- (1) The operator and pilot in command of an Australian aircraft each commit an offence if:
- (a) a flight of the aircraft is a commercial operation; and
 - (b) a passenger is carried on the flight; and
 - (c) the pilot in command of the aircraft is at least 60; and
 - (d) the aircraft is an aircraft of a category mentioned in subregulation (2).

Penalty: 50 penalty units.

- (2) For paragraph (1)(d), the aircraft categories are the following:
- (a) an aeroplane;
 - (b) a helicopter;
 - (c) a powered-lift aircraft;
 - (d) a gyroplane;
 - (e) an airship.
- (3) Subregulation (1) does not apply if:
- (a) the aircraft:
 - (i) is fitted with fully functioning dual controls; and
 - (ii) has a flight crew that includes a qualified pilot for the aircraft who is not the pilot in command; or
 - (b) the pilot in command complies with the operator's training and checking system in accordance with regulation 119.170, 138.125 or 142.310 of CASR; or
 - (c) if the pilot in command is less than 65—the pilot in command has met the requirement mentioned in subregulation (4) within one year before the day of the flight; or
 - (d) if the pilot in command is at least 65—the pilot in command has met the requirement mentioned in subregulation (4) within 6 months before the day of the flight.

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

- (4) For paragraphs (3)(c) and (d), the requirement is that the pilot in command has successfully completed an operator proficiency check or flight review in an aircraft of the same category or an approved flight simulator for the category of aircraft.
- (5) An offence against this regulation is an offence of strict liability.
- (6) In this regulation:

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approved flight simulator: see regulation 61.010 of CASR.

category, of aircraft: see regulation 61.010 of CASR.

qualified pilot, for a flight of an aircraft, means the holder of an air transport or commercial pilot licence who:

- (a) is authorised under Part 61 of CASR to pilot the aircraft; and
- (b) either:
 - (i) is less than 60; or
 - (ii) meets the requirements of paragraph (3)(b), (c) or (d).

235 Take-off and landing of aircraft etc

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.

Division 4—General provisions relating to the operation of aircraft

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 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, intermediate and primary category aircraft; and
 - (b) provisionally certificated aircraft; and
 - (c) experimental aircraft; and
 - (d) light sport aircraft.

262AN Limited category aircraft—approved organisations

- (1) CASA may, in writing, approve an organisation (a ***limited category organisation***) to perform functions in relation to limited category aircraft 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 of limited category aircraft and ensure that the operational and airworthiness activities that it is to administer are conducted safely; and
 - (c) has 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 only if it has a manual that:
 - (a) is consistent with these Regulations; and
 - (b) documents the practices, procedures, limitations and conditions mentioned in paragraph (1)(b).
- (3) In particular, the manual must include procedures for the following:
 - (a) approving adventure flight procedures;
 - (b) authorising individuals for the purposes of regulation 132.185 (authorisations to give approvals, certificates and advice for limited category aircraft) of CASR;
 - (c) giving notice under regulation 132.230 (notice to CASA—certain proposed actions by limited category organisation) of CASR;
 - (d) giving the following in relation to limited category aircraft:
 - (i) certificates of airworthiness;
 - (ii) an approval mentioned in regulation 132.030 (approval of modifications and repairs for limited category aircraft) of CASR;

- (iii) a certificate mentioned in subregulation 132.105(3) (operation of an aircraft that has a major modification or repair for an adventure flight subject to limitations) of CASR;
 - (iv) a certificate stating an airframe life for the aircraft's airframe given by the administering authority for the aircraft;
 - (v) advice under regulation 132.175 (advice about modifications, repairs, damage etc.) of CASR;
 - (vi) an approval or certificate prescribed by the Part 132 Manual of Standards for the purposes of this paragraph.
- (4) An approval of a limited category organisation is subject to the condition that the organisation must keep the manual up-to-date.
- (5) CASA must not approve an organisation for the purposes of this regulation unless the organisation is an individual or a body corporate.

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Part 16—Refusal to grant, and suspension and cancellation of, approvals, authorities, certificates and licences

263 Interpretation

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

approval means:

- (a) an approval under regulation 262AN; or
- (b) an approval issued under regulation 145.030 or 147.030 of CASR.

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; or
- (c) a CAR certificate of validation within the meaning of subregulation 5.01(1); or
- (d) an ASAO certificate.

licence means:

- (a) an aircraft engineer licence; or
- (b) a flight crew licence, rating or endorsement; or
- (c) any of the following within the meaning of subregulation 5.01(1):
 - (i) a balloon class endorsement;
 - (ii) a balloon flight crew rating;
 - (iii) a commercial pilot (balloon) licence;
 - (iv) a flight radiotelephone operator licence.

- (2) A reference in this Part to a licence or an authority shall be read as including a reference to a rating or other endorsement on a licence or an authority by virtue of which the holder of a licence or an authority 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 or an authority shall be read as including a reference to the inclusion, deletion or alteration of an endorsement on a licence or an authority.

264 Refusal to grant certificate under Division 3 of Part 4

CASA must not refuse to grant a certificate under Division 3 of Part 4 except on one or more of the following grounds:

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- (a) that the applicant has failed to satisfy a requirement prescribed by or specified under these Regulations in relation to the grant of the 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;
 - (c) that a court has made an order under section 30A of the Act in relation to the applicant;
 - (d) in relation to the initial issue of a certificate:
 - (i) that the applicant was the holder of a 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 certificate.

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 299; 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.

267 Variation of authority, certificate or licence 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.

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269 Variation, suspension or cancellation of approval, authority, certificate or licence

- (1) Subject to this regulation, CASA may, by notice in writing served on the holder of an approval, authority, certificate or licence (an **authorisation**), vary, suspend or cancel the authorisation if CASA is satisfied that one or more of the following grounds exists, namely:
 - (a) that the holder of the authorisation 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 authorisation 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 an authorisation;
 - (c) that the holder of the authorisation 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 authorisation is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of such an authorisation;
 - (e) that the holder of the authorisation 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 an authorisation under subregulation (1) because of a contravention mentioned in paragraph (1)(a) unless:
 - (a) the holder of the authorisation 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 an authorisation, CASA must:
 - (a) give notice, in writing, to the holder of the authorisation of the facts and circumstances that, in the opinion of CASA, warrant consideration being given to the variation, suspension or cancellation of the authorisation under this regulation; and
 - (b) allow the holder of the authorisation to show cause, within such time as CASA specifies in that notice, why the authorisation 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 authorisation may show cause why the

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authorisation 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.

- (5) A reference in this regulation to these Regulations is a reference to these Regulations other than Subparts 99.C and 99.E of CASR.

270 Effect of effluxion of time for suspension of approval, authority, certificate or licence

- (1) Where an approval, authority, certificate or licence (an **authorisation**) is suspended under this Part, the authorisation has no force or effect for the duration of the suspension, but the period of currency of the authorisation continues to run.
- (2) Where the period for which an authorisation is suspended is a period expiring after the expiration of the current period of the authorisation, the holder of the authorisation is not eligible for renewal of the authorisation until the period of suspension has expired.

272A Effect of suspension of approval, authority, certificate or licence

If CASA suspends an approval, authority, certificate or licence (an **authorisation**), its holder is taken not to be the holder of the authorisation 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*.

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 these 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.

Regulation 291

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 17

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:

Regulation 296D

- (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

Regulation 296F

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) An 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.

Regulation 296H

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 Chicago 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 any of the following:
 - (i) a certified aerodrome;
 - (ii) an aerodrome registered under Part 139 before the commencement of the *Civil Aviation Safety Amendment (Part 139) Regulations 2019*;
 - (iii) licensed for use as an aerodrome;
 - (iv) 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:

Regulation 297

- (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

Decisions made by CASA

- (1) An application may be made to the Administrative Appeals Tribunal for the review of a decision of CASA mentioned in table 297A.

Table 297A Reviewable decisions	
Item	A decision...
1	under regulation 30A refusing to approve a change to a certificate of approval
2	under regulation 33B: (a) refusing to issue an airworthiness authority; or (b) issuing an airworthiness authority subject to conditions
3	under regulation 33D refusing to grant an aircraft welding authority
4	under regulation 33G refusing to renew an aircraft welding authority
5	under regulation 33H refusing to approve a change to an aircraft welding authority
6	under regulation 33I imposing a condition on an aircraft welding authority
7	under regulation 42M refusing to approve a system of maintenance
8	under regulation 42R refusing to approve a change to an approved system of maintenance
9	under regulation 42R modifying a change to an approved system of maintenance and approving the modified change
10	under regulation 42ZG refusing to approve a system of certification of completion of maintenance
11	under regulation 42ZK refusing to approve a change to a system of certification of completion of maintenance
12	under regulation 42ZS: (a) refusing to grant an exemption from, or a variation of, a requirement to which Division 7 of Part 4A applies; or (b) granting or approving the exemption or variation subject to conditions
13	under regulation 42ZW: (a) refusing to approve the appointment of a person as a maintenance controller; or (b) approving the appointment of a person as a maintenance controller subject to conditions
14	under regulation 42ZX suspending or cancelling the approval of a person's appointment as a maintenance controller
15	under regulation 5.14 refusing to issue or renew a balloon flight crew rating
16	under regulation 5.20 revoking a person's approval to give balloon flying training for the issue of a balloon flight crew rating
18	under regulation 5.23 refusing to issue a balloon class endorsement (within the meaning given by subregulation 5.01(1))

Regulation 298A

Table 297A Reviewable decisions	
Item	A decision...
22	under regulation 5.58 revoking an approval of a person's appointment as a chief balloon flying instructor
31	under regulation 262AN refusing to approve an organisation in relation to a limited category aircraft
32	under regulation 265 suspending a licence or authority (within the meaning given by subregulation 263(1))
33	under regulation 269 varying, suspending or cancelling an approval, authority, certificate or licence (within the meaning given by subregulation 263(1))
34	under subregulation 298A(4) that CASA is satisfied that a person has committed an act mentioned in subregulation 298A(1)

Decisions made by authorised persons

- (2) An application may be made to the Administrative Appeals Tribunal for the review of a decision that is:
- (a) mentioned in item 7, 8, 11 or 12 of table 297A; and
 - (b) made by a person who is an authorised person for the provision under which the decision is made.

Note 1: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person, whose interests are affected by the decision, notice of:

- (a) the making of the decision; and
- (b) the person's right to have the decision reviewed.

Note 2: A decision mentioned in this regulation that is made by a delegate of CASA is reviewable under this regulation: see subsection 25(3A) of the *Administrative Appeals Tribunal Act 1975*.

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;

Regulation 298A

- (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.

Regulation 298A

- (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:

authorisation means an airworthiness authority or an aircraft welding authority.

certificate means:

- (a) a certificate under Division 3 of Part 4; or
- (c) a certificate of validation; or
- (d) a CAR certificate of validation within the meaning of subregulation 5.01(1).

endorsement means:

- (a) an endorsement under Division 3 of Part 4; or
- (b) a flight crew endorsement; or
- (ba) a balloon class endorsement within the meaning of subregulation 5.01(1);
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
- (ba) a balloon flight crew licence within the meaning of subregulation 5.01(1);
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.

Regulation 298B

rating means:

- (a) a flight crew rating; or
- (aa) a balloon flight crew rating within the meaning of subregulation 5.01(1); 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.

Regulation 298D

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;

Regulation 298E

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 Further examination of holders of flight crew licences etc.

(1) This regulation applies to the holder of any of the following:

- (a) a flight crew licence, rating or endorsement;
- (b) a certificate of validation;
- (c) any of the following within the meaning of subregulation 5.01(1):
 - (i) a balloon class endorsement;
 - (ii) a balloon flight crew rating;
 - (iii) a CAR certificate of validation;
 - (iv) a commercial pilot (balloon) licence;
 - (v) a flight radiotelephone operator licence.

(2) If CASA considers it necessary in the interests of the safety of air navigation, CASA may give the holder a 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, rating, endorsement or certificate; 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.

(3) CASA must not set out a time under paragraph (2)(c) that is within 21 days after the date of the notice.

(4) A person who is given a notice under subregulation (2) commits an offence if the person:

- (a) refuses to undertake an examination; or
- (b) fails to attend at the time and place set out in the notice.

Regulation 301

Penalty: 50 penalty units.

- (5) An offence against this regulation is an offence of strict liability.

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.

- (1A) In subregulation (1), a reference to a document that is required to be kept under these Regulations includes a document that is required to be kept under:
- (a) a Civil Aviation Order; or
 - (b) a Manual of Standards; or
 - (c) another document that is required to be kept under these Regulations.
- (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

- (1) Any person required under these Regulations to be the holder of a licence, other than a flight crew 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, or a Manual of Standards, or both, 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:
licence includes:
 - (a) a flight crew rating or endorsement; or
 - (b) a balloon flight crew rating or balloon class endorsement within the meaning of subregulation 5.01(1).

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) must have access at all times during working hours to:
 - (i) premises at which an activity authorised by a civil aviation authorisation is being carried out; and
 - (ii) any documents or drawings associated with the activity; 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.

Regulation 306

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.

Part 20—Transitional provisions

Division 1—Transitional provisions—miscellaneous

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 for an aircraft component (other than an aircraft engine or propeller) 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.

Regulation 318

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.

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.

Division 2—Transitional provisions relating to Parts 42, 66, 145 and 147 of CASR

328 Application of Part 4A to aircraft

Part 4A does not apply to an aircraft to which Part 42 of CASR applies.

330 Application of Part 4B to aircraft

Subject to regulation 331, Part 4B does not apply to an aircraft:

- (a) to which Part 42 of CASR applies; and
- (b) for which maintenance services are being provided by a Part 145 organisation.

331 Application of Part 4B to Part 145 organisations—dealing with defects

If:

- (a) a person who is the holder of a certificate of approval that covers maintenance for an aircraft makes a report to CASA under regulation 51, 51A or 52 in relation to a defect in the aircraft; and
 - (b) after making the report, the person becomes a Part 145 organisation;
- Part 4B continues to apply to the person in relation to the defect.

Division 3—Transitional provisions—amendments made by the Civil Aviation Legislation Amendment Regulation 2013 (No. 1) (substitution of Part 5)

333 Certain civil aviation authorisations not affected by substitution of Part 5 on 1 September 2014

- (1) Subregulation (2) applies to a balloon-related civil aviation authorisation issued under Part 5 if the authorisation was in force immediately before 1 September 2014.
- (2) Despite the substitution of Part 5 on 1 September 2014, the authorisation continues in force according to its terms as if the substitution had not occurred.
- (3) Subregulation (4) applies to a balloon-related civil aviation authorisation if the authorisation was under suspension immediately before 1 September 2014.
- (4) Despite the substitution of Part 5 on 1 September 2014, the authorisation is not repealed, and its suspension continues according to its terms, as if the substitution had not occurred.

334 Civil Aviation Orders for Part 5—balloons

- (1) This regulation applies to a Civil Aviation Order made under a provision mentioned in subregulation (2) if the Order:
 - (a) was in force immediately before 1 September 2014; and
 - (b) related to balloons.
- (2) For subregulation (1) the provisions are the following:
 - (a) regulation 5.14;
 - (b) regulation 5.17;
 - (c) regulation 5.19;
 - (d) regulation 5.20;
 - (e) regulation 5.52;
 - (f) regulation 5.58;
 - (g) regulation 5.59.
- (3) Despite the substitution of Part 5 on 1 September 2014, the Civil Aviation Order continues in force according to its terms to the extent that it relates to balloons as if the substitution had not occurred.

335 Civil Aviation Orders—flight time limitations

- (1) This regulation applies to a Civil Aviation Order made under regulation 5.55 if the Order was in force immediately before 1 September 2014.
- (2) The Civil Aviation Order continues in force according to its terms as if it had been made on 1 September 2014 under regulation 210A.

Regulation 336

Division 4—Transitional provisions—amendments made by the Civil Aviation Legislation Amendment (Maintenance and Other Matters) Regulation 2013

Subdivision 1—Transitional provisions

336 References to certification of completion of maintenance and authorised release certificates (regulation 42W)

- (1) For paragraphs 42W(4)(a) and (b), a reference to the completion of maintenance being certified in accordance with regulation 42ZE or 42ZN is taken to include a reference to a certificate of release to service having been issued for the maintenance.
- (2) For paragraphs 42W(4)(d) and (e), a reference to an authorised release certificate is taken to include, for a component on which maintenance has been carried out under CASR, a reference to a certificate of release to service for the component in relation to the maintenance that is issued under Division 42.H.4 of CASR and is in the approved form.

337 Application of regulation 214 (Training of maintenance personnel)

Regulation 214 does not apply to an operator in relation to an aircraft for which a Part 145 organisation is:

- (a) providing maintenance services; or
- (b) undertaking CAR maintenance activities.

Subdivision 2—Part 145 organisations approved to undertake CAR maintenance activities

338 Definition of *approved system of certification of completion of maintenance*

The definition of *approved system of certification of completion of maintenance* in subregulation 2(1) is taken to include, for a Part 145 organisation that is approved to undertake CAR maintenance activities, the system of certification of completion of maintenance set out in the organisation's exposition.

339 Compliance with regulation 42G (Flight control system: additional requirements)

A Part 145 organisation that carries out maintenance to which regulation 42G applies is taken to have complied with that regulation in relation to the maintenance if the organisation:

- (a) is approved to undertake CAR maintenance activities for the aircraft on which the maintenance is carried out; and

-
- (b) carries out the maintenance in accordance with Division 42.D.5 (Requirements for independent inspection of critical control system maintenance) of CASR.

340 Compliance with Division 4 of Part 4A (How maintenance is to be carried out)

A Part 145 organisation that carries out maintenance on an aircraft is taken to have complied with Division 4 of Part 4A in relation to the maintenance if the organisation:

- (a) is approved to undertake CAR maintenance activities for the aircraft; and
- (b) carries out the maintenance in accordance with Divisions 42.D.4 (Requirements for carrying out maintenance) and 42.E.3 (Requirements for controlling unserviceable and unsalvageable parts) of CASR.

341 Who may carry out maintenance for regulation 42ZC (Maintenance on Australian aircraft in Australian territory)

- (1) Subregulation 42ZC(3) is taken to permit the following persons to carry out maintenance on a class A aircraft in Australian territory:
 - (a) a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft;
 - (b) an individual carrying out maintenance on behalf of a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft.
- (2) Subregulation 42ZC(4) is taken to permit the following persons to carry out maintenance on a class B aircraft in Australian territory:
 - (a) a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft;
 - (b) an individual carrying out maintenance on behalf of a Part 145 organisation that is approved to undertake CAR maintenance activities for the aircraft.

342 Application of regulations 42ZF to 42ZM (which deal with approved systems of certification of completion of maintenance)

Regulations 42ZF to 42ZM do not apply to a Part 145 organisation that is approved to undertake CAR maintenance activities.

Note: For an approved system of certification of completion of maintenance for a Part 145 organisation that is approved to undertake CAR maintenance activities, see regulation 338.

343 Compliance with Part 4B (Defect reporting)

A Part 145 organisation that carries out maintenance on an aircraft is taken to have complied with Part 4B in relation to a defect in the aircraft if the organisation:

- (a) is approved to undertake CAR maintenance activities for the aircraft; and

Part 20 Transitional provisions

Division 4 Transitional provisions—amendments made by the Civil Aviation Legislation Amendment (Maintenance and Other Matters) Regulation 2013

Regulation 343

- (b) complies with Subdivision 42.D.6.2 (Reporting defects) of CASR in relation to the defect.