



# Civil Aviation Safety Regulations 1998

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*Civil Aviation Act 1988*

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This compilation is in 5 volumes

Volume 1: regulations 1.001–42.1105  
Volume 2: regulations 45.005–92.205  
**Volume 3: regulations 99.005–135.465**  
Volume 4: regulations 137.005–175.500  
Volume 5: regulations 200.005–202.900  
Dictionary and Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Civil Aviation Safety Regulations 1998* that shows the text of the law as amended and in force on 11 April 2024 (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 Register ([www.legislation.gov.au](http://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 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 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 99—Drug and alcohol management plans and testing

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**99.005 Purposes of Part**

- (1) This Part provides for:
- (a) the development, implementation and enforcement of drug and alcohol management plans covering persons who perform, or are available to perform, an applicable SSAA; and
  - (b) drug and alcohol tests for persons who perform, or are available to perform, an applicable SSAA, including the following:
    - (i) the approval of testers to conduct drug and alcohol tests;
    - (ii) the approval of devices for use in conducting drug and alcohol tests;
    - (iii) identity cards for approved testers;
    - (iv) the conduct of drug and alcohol testing;
    - (v) the variation, suspension and cancelling of civil aviation authorisations and authorisations of approved testers; and
  - (c) offences relating to drug and alcohol management plans and drug and alcohol testing.

Note 1: Under this Part, a SSAA employee may be drug or alcohol tested by his or her DAMP organisation or by CASA under Subpart 99.C.

Note 2: Under Subpart 99.C, CASA may also test persons who are performing or available to perform an applicable SSAA and who are not covered by a DAMP organisation.

- (2) Unless otherwise stated, this Part is made for the purposes of Part IV of the Act, particularly sections 34, 35 and 36.



## Subpart 99.A—General

### 99.010 Definitions for Part 99

(1) In this Part:

**accident** means an occurrence that arises out of a person performing or being available to perform an applicable SSAA if either or both of the following applies:

- (a) the occurrence results in the death of, or serious harm to, a person;
- (b) the occurrence results in serious damage to an aircraft or property.

**aerodrome testing area** means:

- (a) any surface in a certified aerodrome over which an aircraft is able to be moved while in contact with the surface of the aerodrome, including any parking areas; and
- (b) any part of the surface of a certified aerodrome:
  - (i) that is not covered by paragraph (a); and
  - (ii) that does not have a building on it; and
  - (iii) from which access to a surface mentioned in paragraph (a) may be had; and
- (c) a building located on a certified aerodrome that is used:
  - (i) for maintenance of an aircraft or an aeronautical product; or
  - (ii) for the manufacture of aircraft or aeronautical products; or
  - (iii) by an air traffic service provider to control air traffic; or
  - (iv) by the holder of an AOC for flying training; or
  - (v) by a Part 141 operator conducting flying training in an aircraft; and
- (d) any part of an aircraft, aerobridge or other moveable structure in a certified aerodrome.

**airport security guard** has the meaning given in section 9 of the *Aviation Transport Security Act 2004*.

**allocated number**, in relation to an approved tester, means the number allocated to the tester under subregulation 99.445(5).

**applicable SSAA** means a safety-sensitive aviation activity to which this Part applies under regulation 99.015.

**appropriately qualified alcohol and other drug professional** means a person who:

- (a) materially works as a provider of clinical drug and alcohol treatment services; and
- (b) holds a bachelor degree, or postgraduate degree, in at least 1 of the following fields:
  - (i) health sciences;

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- (ii) medical science;
- (iii) social sciences;
- (iv) behavioural sciences.

**approved breathalyser** means a breathalyser approved by CASA under paragraph 99.130(a) for alcohol testing.

**approved drug testing device** means a device approved by CASA under paragraph 99.130(b) for testing for testable drugs.

**approved laboratory** means a person authorised under subregulation 99.450(3) to conduct confirmatory drug tests for Subpart 99.C.

**approved person**, in relation to an approved laboratory, means a person who is authorised under the laboratory's National Association of Testing Authorities accreditation to declare the results of drug tests conducted by that laboratory.

**approved tester** means a person who is authorised to:

- (a) take body samples for drug or alcohol tests under subregulation 99.450(1); and
- (b) conduct initial drug tests or alcohol tests under subregulation 99.450(2).

**ASIC** has the meaning given in the *Aviation Transport Security Regulations 2005*.

**CASA medical review officer** means a medical practitioner who for drug and alcohol testing under Subpart 99.C, and for Subparts 99.E and 99.H has:

- (a) been appointed by CASA under subregulation 99.390(1) for the purposes of Subpart 99.C; and
- (b) training and competence in the field of interpreting drug and alcohol test results; and
- (c) knowledge of substance use disorders; and
- (d) knowledge of the contents of this Part.

**commencement date** means the date on which this Part commences.

**comprehensive assessment**, in relation to a person's drug or alcohol use, means an examination of the person's physiological and psychosocial indicators carried out:

- (a) by a psychiatrist; or
- (b) by a medical practitioner who is a Fellow of the Australasian Chapter of Addiction Medicine; or
- (c) jointly by:
  - (i) a person entitled to practice as a medical practitioner under a law of a State or Territory; and
  - (ii) an appropriately qualified drug and alcohol professional.

**confirmatory alcohol test** means an alcohol test given in respect of an initial alcohol test to determine the presence and level of alcohol in a body sample.

**Note:** See paragraph (b) of the definition of drug or alcohol test in subsection 33(1) of the Act.

**confirmatory drug test** means a drug test given in respect of an initial drug test to determine the presence and level of a testable drug in a body sample.

**Note:** See paragraph (b) of the definition of drug or alcohol test in subsection 33(1) of the Act.

**DAMP** or **drug and alcohol management plan** means a drug and alcohol management plan that complies, or purports to comply, with the requirements of regulation 99.045.

**DAMP contact officer**, in relation to a DAMP organisation, means a person appointed by the DAMP organisation to liaise with CASA in relation to the organisation's responsibilities under this Part.

**DAMP contractor** means a person, or the employee of a person, who is:

- (a) a party to an ongoing written or ongoing oral contract with a DAMP organisation; or
- (b) a DAMP subcontractor to an ongoing written or ongoing oral contract with a DAMP organisation.

**DAMP medical review officer** means a medical practitioner who for drug or alcohol testing under a DAMP has:

- (a) competence in the field of interpreting drug and alcohol test results; and
- (b) knowledge of substance use disorders; and
- (c) knowledge of the contents of this Part.

**DAMP organisation** means a person that is required to have a DAMP under subregulation 99.030(1).

**DAMP reporting period**, for a DAMP organisation, means the period of 6 months immediately before each:

- (a) 1 March; and
- (b) 1 September.

**DAMP subcontractor**, means a person who is a party to:

- (a) an ongoing written or oral contract with a DAMP contractor within the meaning of paragraph (a) of the definition of **DAMP contractor**; or
- (b) an ongoing written or oral contract with another DAMP subcontractor (under a previous application of this definition).

**DAMP supervisor**, in relation to a DAMP organisation, means a person who:

- (a) has had relevant training to form an opinion as to whether a person may be adversely affected by a testable drug or under the influence of alcohol; and
- (b) is authorised by the organisation to do so for the purposes of paragraph 99.050(2)(c).

**donor** means a person who is asked to give, or has given, a body sample to an approved tester.

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**drug and alcohol education program**, for a DAMP organisation, means a program that includes the following components:

- (a) for SSAA employees—awareness of:
  - (i) the organisation’s policy on drug and alcohol use; and
  - (ii) drug and alcohol testing in the workplace; and
  - (iii) support and assistance services for people who engage in problematic use of drugs and alcohol; and
  - (iv) information about the potential risks to aviation safety from problematic use of drugs and alcohol;
- (b) for DAMP supervisors—education and training to manage people who engage in problematic use of drugs or alcohol.

**drug or alcohol intervention program**, in relation to a person who has a drug or alcohol problem, means a program that includes any of the following measures for that problem:

- (a) assessment;
- (b) treatment, including any of the following:
  - (i) education;
  - (ii) counselling;
  - (iii) consultation with health care professionals;
  - (iv) pharmacotherapy;
  - (v) residential or non-residential treatment programs;
- (c) monitoring and follow-up action.

**employee**, in relation to a DAMP organisation, includes a DAMP contractor of the DAMP organisation.

**foreign operator** means:

- (a) the holder of a foreign aircraft AOC; or
- (b) the operator of an aircraft operating in Australia in accordance with a permission granted by CASA under section 26 of the Act; or
- (c) the operator of an aircraft operating under a permission granted under section 27A of the Act; or
- (d) the holder of a New Zealand AOC with ANZA privileges; or
- (e) the operator of an aircraft that is operating in Australia in accordance with section 14 of the *Air Navigation Act 1920*.

**initial alcohol test** means an alcohol test to determine the presence of alcohol in a body sample.

Note: See paragraph (a) of the definition of drug or alcohol test in subsection 33(1) of the Act.

**initial drug test** means a drug test to determine the presence of a testable drug in a body sample.

Note: See paragraph (a) of the definition of drug or alcohol test in subsection 33(1) of the Act.

***nominated drug or alcohol intervention program***, in relation to a person who has undergone a comprehensive assessment, means a drug or alcohol intervention program considered suitable for the person by:

- (a) if the person is an employee of a DAMP organisation—a DAMP medical review officer; or
- (b) in any other case—a CASA medical review officer.

***passport*** means an Australian passport within the meaning of the *Australian Passports Act 2005*, or a passport issued by the Government of a country other than Australia.

***permitted level*** means:

- (a) for a testable drug—a level of the drug specified in subregulation (2A) for the purposes of this paragraph; and
- (b) for alcohol—a level of alcohol of less than 0.02 grams of alcohol in 210 litres of breath.

***positive result*** means the following:

- (a) for an initial drug test—a test result within the meaning of paragraph (a) of the definition of positive test result in subsection 33(1) of the Act;
- (b) for a confirmatory drug test—a test result within the meaning of paragraph (b) of the definition of positive test result in subsection 33(1) of the Act;
- (c) for an initial alcohol test—a test result within the meaning of paragraph (a) of the definition of positive test result in subsection 33(1) of the Act;
- (d) for a confirmatory alcohol test—a test result within the meaning of paragraph (b) of the definition of positive test result in subsection 33(1) of the Act.

***regular SSAA employee*** means a SSAA employee who is reasonably likely to perform an applicable SSAA at least 2 or more times every 90 days.

***relevant Standard*** means:

- (a) AS 3547, *Breath alcohol testing devices for personal use*; and
- (b) NMI R 126, *Pattern Approval Specifications for Evidential Breath Analysers*; and
- (c) AS 4760, *Procedures for specimen collection and the detection and quantitation of drugs in oral fluid*; and
- (d) AS/NZS 4308, *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine*.

***sample identifier*** means a number allocated to a body sample using the method specified in a legislative instrument made by CASA under regulation 99.150.

***screening officer*** has the meaning given in the *Aviation Transport Security Act 2004*.

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**serious incident** means an occurrence that arises out of a person performing or being available to perform an applicable SSAA if either or both of the following applies:

- (a) the occurrence gives rise to a danger of death or serious harm to a person;
- (b) the occurrence gives rise to a danger of serious damage to an aircraft or property.

**SSAA** means a safety-sensitive aviation activity.

**SSAA employee**, in relation to a DAMP organisation, means an employee of the DAMP organisation who performs or is available to perform an applicable SSAA.

**substantial compliance**, in relation to a drug or alcohol test, has the meaning given in subregulation 99.020(2).

**suitable test conditions** has the meaning given by subregulation (3).

Note 1: A number of other expressions used in this Part have the meanings given in the Act. For example:

- aeronautical product
- AOC
- body sample
- civil aviation authorisation
- drug or alcohol test
- foreign aircraft AOC
- New Zealand AOC with ANZA privileges
- positive test result
- safety-sensitive aviation activities
- testable drug.

Note 2: **Testable drugs** are specified in a legislative instrument made by the Minister under subsection 33(2) of the Act.

### *References to Standards and reports*

(2) In this Part:

**AS** followed by a number is a reference to the Australian Standard so numbered or identified, as in force or existing from time to time, published by Standards Australia.

**AS/NZS** followed by a number is a reference to the Australian/New Zealand Standard so numbered or identified, as in force or existing from time to time, published jointly by Standards Australia and Standards New Zealand.

**NMI R** followed by a number is a reference to the document with that designation and number, as in force from time to time, published by the National Measurement Institute established under the *National Measurement Act 1960*.

### *Permitted level*

(2A) For paragraph (a) of the definition of **permitted level**, the permitted level for each testable drug is specified in the following table.

<b>Testable Drug</b>	<b>Concentration - ng/mL</b>
$\Delta$ 9-tetrahydrocannabinol	10
6-Acetyl morphine	10
Amphetamine	25
Benzoylcegonine	25
Cocaine	25
Codeine	25
Ecgonine methyl ester	25
Methylamphetamine	25
Methylenedioxyamphetamine	25
Methylenedioxymethylamphetamine	25
Morphine	25

*Suitable test conditions*

- (3) ***Suitable test conditions*** means conditions that exist after an accident or serious incident if:
- (a) testing can be conducted within:
    - (i) for drug testing—32 hours after the accident or incident occurred; and
    - (ii) for alcohol testing—8 hours after the accident or incident occurred; and
  - (b) it is practicable to conduct a test.

**99.015 SSAAs to which this Part applies**

- (1) This Part applies to the SSAAs specified in this regulation.
- (2) The specified SSAAs are:
- (a) any activity undertaken by a person, other than as a passenger, in an aerodrome testing area; and
  - (b) calculation of the position of freight, baggage, passengers and fuel on aircraft; and
  - (c) the manufacture or maintenance of any of the following:
    - (i) aircraft;
    - (ii) aeronautical products;
    - (iii) aviation radionavigation products;
    - (iv) aviation telecommunication products;
    - (v) reserve parachutes or emergency parachutes; and
  - (d) the certification of maintenance of a kind mentioned in paragraph (c); and
  - (da) the issuing of a certificate of release to service for an aircraft or aeronautical product in relation to maintenance carried out on the aircraft or aeronautical product; and

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- (e) the fuelling and maintenance of vehicles that will be used to fuel aircraft on aerodrome testing areas; and
  - (f) activities undertaken by an airport security guard or a screening officer in the course of the person's duties as a guard or officer; and
  - (g) activities undertaken by a member of the crew of an aircraft in the course of the person's duties as a crew member; and
  - (h) the loading and unloading of trolleys containing baggage for loading onto aircraft and the driving of such trolleys; and
  - (i) activities undertaken by a holder of an ATC licence in the course of the person's duties as a controller; and
  - (j) activities undertaken by the supervisor of a holder of an ATC licence in the course of the person's duties as such a supervisor; and
  - (k) providing flight information and search and rescue alert services:
    - (i) to a pilot or operator of an aircraft immediately before the flight of the aircraft; or
    - (ii) to a pilot or operator of an aircraft, during the flight of the aircraft; or
    - (iii) as an intermediary for communications between a pilot or operator of the aircraft, and an air traffic controller; and
  - (l) providing aviation fire fighting services; and
  - (m) undertaking parachute descents; and
  - (n) supervising parachute descents.
- (3) This Part applies to the safety-sensitive aviation activities specified in paragraphs (2)(b) to (n) even if those activities do not occur in an aerodrome testing area.

### 99.020 Substantial compliance with requirements of Part required

- (1) A reference in this Part, other than in Subpart 99.B, to a test result for a drug or alcohol test is a reference to a test result that resulted from strict or substantial compliance with the requirements of this Part, including the following:
- (a) requirements relating to the taking of a body sample for the test;
  - (b) requirements relating to the dealing with the body sample by the approved tester who took the sample;
  - (c) requirements relating to the storage of the body sample (if applicable);
  - (d) requirements relating to the conduct of the drug or alcohol test;
  - (e) requirements relating to the giving of notice in respect of a positive result;
  - (f) a requirement that a person must not interfere with the integrity of a body sample.
- (2) For subregulation (1), there is taken to be **substantial compliance** with the requirements of this Part in relation to a drug or alcohol test that results in a test result if there is no reasonable doubt as to the accuracy of the test result even though one or more of the requirements of this Part may not have been strictly complied with in relation to that drug or alcohol test.

Example: If an approved tester fails to initial a specimen tube containing a part of a body sample that is to be the subject of a confirmatory drug test, the test result is likely to be one that



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resulted from substantial compliance with the requirements of this Part as there will be no reasonable doubt as to the accuracy of the test result. However, if a person interferes with the integrity of a body sample, the test result for that sample is unlikely to be one that resulted from substantial compliance with the requirements of this Part as there will be a reasonable doubt as to the accuracy of the test result.

- (3) In this regulation, the ***requirements of this Part*** include the following:
- (a) the requirements of any legislative instruments made under this Part;
  - (b) a relevant Standard.

**Part 99** Drug and alcohol management plans and testing

**Subpart 99.B** Drug and alcohol management plans

**Division 99.B.1** Purposes of Subpart

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## **Subpart 99.B—Drug and alcohol management plans**

### **Division 99.B.1—Purposes of Subpart**

#### **99.025 Purposes of Subpart**

This Subpart provides for the following:

- (a) the persons required to have a DAMP;
- (b) the matters required to be included in a DAMP;
- (c) the implementation of a DAMP;
- (d) requirements associated with a DAMP;
- (e) offences relating to a DAMP.

## **Division 99.B.2—Persons required to have a DAMP**

### **99.030 Who must develop and maintain a DAMP**

- (1) An organisation must develop a DAMP that complies with regulation 99.045 if:
  - (a) the organisation:
    - (i) has an employee; or
    - (ii) has a contractor (including the employee of, or a subcontractor for, the contractor);who performs or is available to perform a SSAA; and
  - (b) the organisation is listed in subregulation (2).

Penalty: 50 penalty units.

- (2) For paragraph (1)(b), the organisations are as follows:
  - (a) an AOC holder;
  - (b) a person issued with a production certificate under regulation 21.134;
  - (c) the holder of an aerodrome certificate;
  - (d) a person approved as an ARFFS under Division 139.H.5;
  - (e) an ATS training provider within the meaning of Part 143;
  - (f) an ATS provider within the meaning of Part 172;
  - (g) the provider of any of the following services within the meaning of Part 171:
    - (i) a telecommunication service;
    - (ii) a radionavigation service;
  - (i) the holder of a certificate of approval within the meaning of subregulation 2(1) of CAR;
  - (j) a Part 145 organisation;
  - (k) a Part 141 operator conducting flying training in aircraft;
  - (l) a screening authority within the meaning of the *Aviation Transport Security Regulations 2005*.

- (3) The DAMP must be developed within the time required for implementation of a DAMP under subregulation 99.035(2).

Penalty: 50 penalty units.

- (4) A person who, under subregulation (1), is required to develop a DAMP must continue to have a DAMP that complies with regulation 99.045 for the period the person has SSAA employees performing an applicable SSAA or available to perform an applicable SSAA.

Penalty: 50 penalty units.

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

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**99.035 DAMP must be implemented**

- (1) A person who is required to develop a DAMP must implement a DAMP by:
  - (a) giving effect to regulation 99.080; and
  - (b) making the DAMP available to the person's SSAA employees as required by this Subpart.

*Timeframe and implementation*

- (2) The DAMP must be implemented:
  - (a) if the person:
    - (i) is a DAMP organisation on the commencement date; or
    - (ii) becomes a DAMP organisation within the period of 6 months after the commencement date (the *transition period*);  
by the end of the transition period; or
  - (b) if the person becomes a DAMP organisation after the end of the transition period—immediately upon becoming a DAMP organisation.

**99.040 DAMP must be made available to SSAA employees**

- (1) Subject to subregulation (2), a DAMP organisation must ensure that its DAMP is made available to each of its SSAA employees before the employee begins to perform or becomes available to perform an applicable SSAA.

Penalty: 50 penalty units.

- (2) If a person is a SSAA employee of a DAMP organisation on the day the organisation implements its DAMP, the organisation must make the DAMP available to the employee by the end of the day the employee next performs or is available to perform an applicable SSAA for the DAMP organisation.

Penalty: 50 penalty units.

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

## **Division 99.B.3—Content and implementation of DAMP**

### **Subdivision 99.B.3.1—Content of DAMP**

#### **99.045 Content of DAMP**

A DAMP organisation's DAMP must:

- (a) apply to all SSAA employees of the organisation, and state each category of the organisation's SSAA employees covered by the DAMP; and
- (b) include the following:
  - (i) a drug and alcohol education program;
  - (ii) a drug and alcohol testing program, that meets the requirements specified in regulations 99.050, 99.055 and 99.060;
  - (iii) a drug and alcohol response program that meets the requirements specified in regulations 99.065, 99.070 and 99.075;and set out details of those programs; and
- (c) identify, and provide the contact details for, each person in the DAMP organisation who has any of the following roles:
  - (i) DAMP contact officer;
  - (ii) DAMP supervisor; and
- (d) be implemented as required by regulation 99.080 and set out the details of those requirements.

Note: A drug and alcohol education program includes the matters set out in the definition of drug and alcohol education program in subregulation 99.010(1).

### **Subdivision 99.B.3.2—Drug and alcohol testing program**

#### **99.050 Requirements for drug and alcohol testing**

- (1) For subparagraph 99.045(b)(ii), the DAMP must meet the following requirements:
  - (a) that any testing done under the organisation's DAMP will be conducted as follows:
    - (i) for breath alcohol testing—using a device that meets the Standard mentioned in paragraph (a) of the definition of relevant Standard, or a device that meets the Standard mentioned in paragraph (b) of that definition;
    - (ii) for oral fluid testing—in accordance with the Standard mentioned in paragraph (c) of the definition of relevant Standard;
    - (iii) for urine testing—in accordance with the Standard mentioned in paragraph (d) of the definition of relevant Standard;
  - (b) that drug and alcohol testing of SSAA employees under the DAMP will be conducted in the circumstances set out in subregulation (2).
- (2) For paragraph (1)(b), the circumstances in which drug and alcohol testing will be conducted on SSAA employees are as follows:

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- (a) when a person first joins the DAMP organisation, if the person will be working as a regular SSAA employee, or when an employee whose role in the organisation is to change to that of a regular SSAA employee on or after the commencement date, unless:
  - (i) the employee has been drug and alcohol tested; and
  - (ii) the tests were conducted less than 90 days before the employee is required to begin performing or being available to perform an applicable SSAA; and
  - (iii) each of the test results was not a positive result;
- (b) after an accident or serious incident involving a SSAA employee that occurs while he or she is performing, or available to perform, an applicable SSAA, if suitable test conditions exist;
- (c) if a DAMP supervisor has reasonable grounds to believe that a SSAA employee may be adversely affected by a testable drug or by alcohol while performing, or available to perform, an applicable SSAA;
- (d) if a SSAA employee is returning to work after a period during which the employee was not permitted, under paragraph 99.065(1)(c), (d) or (e), to perform or be available to perform an applicable SSAA because of testable drug use.

*Drug test results under DAMP*

- (3) A positive result for a confirmatory drug test conducted on a body sample under a drug and alcohol testing program mentioned in subparagraph 99.045(b)(ii), is taken not to be a positive result for the sample if a DAMP medical review officer has determined that the test result for the sample could be the result of legitimate therapeutic treatment or some other innocuous source.

**99.055 Requirements relating to DAMP medical review officer**

For subparagraph 99.045(b)(ii), the DAMP must include the requirement that the DAMP organisation must consult a DAMP medical review officer:

- (a) if a drug test conducted under the DAMP returns a confirmatory drug test result for a SSAA employee of the organisation that is a positive result—to determine if the presence and level of a testable drug detected by the test could be the result of legitimate therapeutic treatment or some other innocuous source; and
- (b) to review medical information concerning a person's failure to give a body sample for drug or alcohol testing because of a medical condition; and
- (c) to determine if the employee is fit to resume performing or being available to perform a SSAA.

**99.060 Requirements relating to use of testing devices**

For subparagraph 99.045(b)(ii), the DAMP must include the requirement that any devices used in drug or alcohol testing done under the DAMP must be used in a way that is not inconsistent with the instructions of the manufacturer of those devices.

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### **Subdivision 99.B.3.3—Drug and alcohol response program**

#### **99.065 Requirements relating to SSAA employees ceasing SSAAs**

- (1) For subparagraph 99.045(b)(iii), the DAMP must include the requirement that the DAMP organisation must not permit an employee to perform, or be available to perform, an applicable SSAA in any of the following circumstances:
  - (a) if the organisation is aware that a positive result for an initial drug test has been recorded for the employee and the employee has not, in respect of that test result, recorded a test result for a confirmatory drug test that is not a positive result;
  - (b) if the organisation is aware that a positive result for an initial alcohol test has been recorded for the employee and the employee has not, in respect of that test result, recorded a test result for a confirmatory alcohol test that is not a positive result;
  - (c) if the organisation is aware that:
    - (i) a positive result for a confirmatory drug test or a confirmatory alcohol test conducted under a drug and alcohol testing program mentioned in subparagraph 99.045(b)(ii) has been recorded for the employee; and
    - (ii) a DAMP medical review officer has not determined that the result recorded could be as a result of legitimate therapeutic treatment or some other innocuous source;
  - (d) if the organisation is aware that:
    - (i) a positive result for a confirmatory drug test or a confirmatory alcohol test conducted under Subpart 99.C has been recorded for the employee; and
    - (ii) a CASA medical review officer has not determined that the result recorded could be as a result of legitimate therapeutic treatment or some other innocuous source;
  - (e) if the organisation is aware that a SSAA employee after having been required to take a drug or alcohol test:
    - (i) refused to take the test; or
    - (ii) interfered with the integrity of the test.
- (2) For subparagraph 99.045(b)(iii), a DAMP must include the requirement that the DAMP organisation must not permit a SSAA employee to perform or be available to perform an applicable SSAA in the following circumstances:
  - (a) if a DAMP supervisor suspects the employee's faculties may be impaired due to the person being under the influence of a testable drug or of alcohol;
  - (b) if an accident or serious incident has occurred involving the employee while he or she is performing or available to perform an applicable SSAA and either of the following apply:
    - (i) for the period that suitable test conditions exist for conducting drug or alcohol tests on the employee—a test has not been conducted;
    - (ii) if tests have been conducted under suitable test conditions—the DAMP organisation has not been notified of the test results.

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**99.070 Requirements relating to returning to SSAAs**

- (1) For subparagraph 99.045(b)(iii), the DAMP must include the requirement that if:
  - (a) the DAMP organisation has not permitted a SSAA employee to perform, or be available to perform, an applicable SSAA; and
  - (b) the non-performance is a result of a circumstance mentioned in paragraph 99.065(1)(c), (d) or (e) (a *suspension event*),the organisation must only permit the employee to again begin performing or being available to perform an applicable SSAA if the circumstances set out in subregulation (2) apply.
- (2) For subregulation (1), the circumstances that must apply are as follows:
  - (a) the employee has undergone a comprehensive assessment for drug or alcohol use;
  - (b) if the comprehensive assessment recommended the employee commence a drug or alcohol intervention program—the employee has begun participating in a nominated drug or alcohol intervention program;
  - (c) the employee is considered fit to resume performing, or being available to perform, an applicable SSAA by:
    - (i) a DAMP medical review officer; and
    - (ii) the employee's treating clinician, if any;
  - (d) if the suspension event related to a drug test—at the time the employee was considered fit under paragraph (c), the employee receives a confirmatory drug test and records, for the test, a result that:
    - (i) was not a positive result; and
    - (ii) a DAMP medical review officer is satisfied indicates the absence of testable drug use.

**99.075 Requirements relating to intervention programs**

- (1) Subject to subregulation (2), for subparagraph 99.045(b)(iii) the DAMP must include the requirement that a DAMP organisation must permit a SSAA employee of the organisation time to attend a nominated drug or alcohol intervention program, if:
  - (a) a DAMP medical review officer has advised the DAMP organisation that the employee should attend the program; and
  - (b) the employee is returning to work after a period during which the employee was not permitted, under regulation 99.340 or 99.345, to perform or be available to perform an applicable SSAA because of testable drug use or alcohol use.
- (2) A reference to a SSAA employee in the requirement under subregulation (1) is a reference to a SSAA employee that the DAMP organisation intends to allow to continue to perform or be available to perform a SSAA.



## **Subdivision 99.B.3.4—Implementing a DAMP**

### **99.080 Implementing a DAMP**

- (1) For paragraph 99.045(d), the DAMP organisation, in implementing its DAMP, must ensure the following:
  - (a) that the organisation's SSAA employees and DAMP supervisors attend the organisation's drug and alcohol education program:
    - (i) for persons who begin work for the organisation after the commencement date—before commencing duties as a SSAA employee or DAMP supervisor; or
    - (ii) for persons working for the organisation as SSAA employees or DAMP supervisors on or before the commencement date—within 6 months of the commencement date; or
    - (iii) for persons working for the organisation as SSAA employees or DAMP supervisors who, after the commencement date, have attended the program—within 30 months of the person's last attendance at the program;
  - (b) that each SSAA employee of the DAMP organisation is informed that he or she must not perform, or be available to perform, an applicable SSAA if aware that he or she is adversely affected by a testable drug or by alcohol, until the employee is no longer adversely affected;
  - (c) that each SSAA employee of the DAMP organisation is subject to drug and alcohol testing under the DAMP while performing, or available to perform, a SSAA of the DAMP organisation.
- (2) The DAMP organisation must also do the following:
  - (a) encourage each of the organisation's SSAA employees to disclose if he or she has consumed a level of alcohol, or is taking any drug, that may affect his or her ability to carry out an applicable SSAA;
  - (b) inform each SSAA employee of the organisation that drug and alcohol testing under this Subpart will require a person who is to be tested to provide a body sample;
  - (c) record the policy and procedures of the organisation's DAMP using a controlled document protocol.

## **Division 99.B.4—Review and audit of DAMP**

### **99.085 Review of DAMP by DAMP organisation**

- (1) A DAMP organisation must review its DAMP to ensure compliance with the requirements of this Subpart:
  - (a) every 5 years, beginning on the date on which the DAMP was developed; and
  - (b) at any other time CASA directs.

Penalty: 50 penalty units.

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

### **99.090 Audit of DAMP organisation by CASA**

- (1) CASA may audit the operation of a DAMP organisation to ensure appropriate development, implementation and enforcement of a DAMP.
- (2) For the audit, CASA may require the DAMP organisation to provide to CASA:
  - (a) information and records, as specified by CASA, demonstrating that the organisation has:
    - (i) developed a DAMP; and
    - (ii) implemented the DAMP; and
  - (b) a copy of the DAMP that is being implemented; and
  - (c) any other information and records specified by CASA that are relevant to the audit.

- (3) The DAMP organisation must comply with the requirement.

Penalty: 50 penalty units.

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

### **99.095 CASA may direct changes to DAMP**

- (1) CASA may at any time, for the purpose of ensuring compliance by a DAMP organisation with the requirements of regulation 99.045, direct the organisation to do any of the following:
  - (a) make a change specified by CASA to a provision in the organisation's DAMP;
  - (b) prepare a new DAMP that complies with the requirements of this Subpart;
  - (c) submit any proposed changes to the organisation's DAMP or submit a newly prepared DAMP, as the case may be, to CASA.
- (2) The DAMP organisation must comply with the direction.

Penalty: 50 penalty units.

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

## Division 99.B.5—Provision of Information

### 99.100 DAMP organisation or DAMP contractor to provide information

*Information to be provided to CASA*

- (1) A DAMP organisation that has implemented a DAMP must provide the following information to CASA in respect of each DAMP reporting period, or part of a reporting period, during which the DAMP was implemented:
  - (a) the number of the organisation's employees who performed an applicable SSAA at least 2 or more times in the 90 days preceding the end of the reporting period;
  - (b) the number of the organisation's SSAA employees who attended a drug and alcohol education program during the period, including the number of employees who attended such a program:
    - (i) for the first time; and
    - (ii) for a second or subsequent time;
  - (c) the number and type of drug or alcohol tests undergone by SSAA employees under the DAMP during the period;
  - (d) the results of the tests, including the number of positive test results that a DAMP medical review officer has determined could be as a result of legitimate therapeutic treatment or some other innocuous source;
  - (e) the date and time that the tests under the DAMP were conducted;
  - (f) the role that each SSAA employee tested was undertaking at the time of being tested;
  - (g) the applicable SSAA that each SSAA employee tested was performing or available to perform at the time that he or she was tested;
  - (h) if testing was conducted following an accident or serious incident—information about the date, time and location of:
    - (i) the accident or serious incident; and
    - (ii) the testing conducted following the accident or serious incident;
  - (i) follow-up action taken by the organisation under the DAMP in respect of SSAA employees:
    - (i) who were drug or alcohol tested under this Subpart; and
    - (ii) whose test results were positive results;
  - (j) follow-up action taken by the organisation under the DAMP in respect of any SSAA employees:
    - (i) who were tested under Subpart 99.C; and
    - (ii) whose test results were positive results;
  - (k) follow-up action taken by the organisation under the DAMP in respect of any SSAA employees who refused to take a drug or alcohol test, or interfered with the integrity of a drug or alcohol test, under this Subpart or Subpart 99.C;
  - (l) the number of SSAA employees referred to a nominated drug or alcohol intervention program;

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- (m) any other information relating to the implementation of a DAMP, or a drug or alcohol test under this Part, that CASA requests of the organisation in writing.

Penalty: 50 penalty units.

- (2) The information must be given in writing within 21 days after the end of the reporting period to which it relates.
- (3) The information must not include any information, other than that listed in subregulation (1), in respect of a SSAA employee that might identify the employee.

Penalty: 50 penalty units.

- (4) A DAMP organisation that has implemented a DAMP must provide the name and contact details of the organisation's current DAMP contact officer to CASA.

Penalty: 50 penalty units.

*Information to approved testers*

- (5) If a DAMP organisation or a DAMP contractor is required to provide information by an approved tester in the circumstances specified in paragraph 99.125(2)(b), the organisation or contractor must comply with the requirement within 1 hour of being given notification by the tester of the requirement.

Penalty: 50 penalty units.

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

**99.105 DAMP record-keeping**

- (1) A DAMP organisation must keep the records used to provide information to CASA under regulation 99.100 for 5 years from the date the information was provided to CASA.

Penalty: 50 penalty units.

- (2) The records must be kept in a secure location.

Penalty: 50 penalty units.

- (3) Within 6 months after the end of the 5 year period, the organisation must destroy or delete:
- (i) the records; or
  - (ii) the parts of the records that relate to the results of drug or alcohol testing.

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

## Subpart 99.C—Drug and alcohol testing by CASA

### Division 99.C.1—Preliminary

#### 99.110 Purposes of Subpart

- (1) This Subpart provides for drug and alcohol testing by CASA.
- (2) The Subpart sets out the following matters:
  - (a) who may be tested (Subdivision 99.C.1.1);
  - (b) certain powers of approved testers (Subdivision 99.C.1.2);
  - (c) approved drug testing devices and breathalysers (Subdivision 99.C.1.3);
  - (d) the conduct of initial drug tests and confirmatory drug tests (Division 99.C.2);
  - (e) the conduct of initial alcohol tests and confirmatory alcohol tests (Division 99.C.3).

#### Subdivision 99.C.1.1—Who may be drug or alcohol tested

#### 99.115 Who may be drug or alcohol tested

- (1) An approved tester may require a body sample for the purposes of a drug or alcohol test under this Subpart from a person who is performing or available to perform an applicable SSAA.
- (2) However, an approved tester must not, for drug or alcohol testing under this Subpart, require a body sample from a passenger.

#### 99.120 Body samples may only be taken if person consents

An approved tester is not authorised to use force to take a body sample from a person.

#### Subdivision 99.C.1.2—Powers of approved testers

#### 99.125 Powers of approved testers

- (1) In addition to any other powers set out in this Part, an approved tester has the powers specified in subregulation (2) in respect of taking a body sample from a donor for the following purposes:
  - (a) conducting an initial drug test;
  - (b) conducting an initial alcohol test or a confirmatory alcohol test (an *alcohol test*).
- (2) For subregulation (1), the powers are the following:
  - (a) the approved tester may require the donor to:

- (i) produce identification of the kind mentioned in subregulation (3) to the tester; and
- (ii) inform the tester of the donor's date of birth, address and telephone number;
- (b) the tester may require from the donor's employer the donor's name, date of birth, address and telephone number if:
  - (i) on being required to produce identification, the donor is unable to produce identification of a kind set out in subregulation (3) to the tester; and
  - (ii) the donor's employer is a DAMP organisation or a DAMP contractor;
- (c) the tester may require the donor to give a body sample for the drug or alcohol test;
- (d) the tester may require the donor to stop performing, or stop being available to perform, an applicable SSAA, for the time it takes to take a body sample for testing and to conduct an initial drug test or alcohol test on the sample;
- (e) the tester may require the donor to remain in the tester's presence for the time it takes to take a body sample and conduct an initial drug test or alcohol test on the sample.

Note: An approved tester may also ask for a body sample for a confirmatory drug test—see regulation 99.170.

- (3) For subregulation (2), the kinds of identification are:
  - (a) identification that:
    - (i) contains a photograph of the donor and sets out the donor's name, date of birth and address; and
    - (ii) was issued by a Commonwealth, State, Territory or local government body; or
  - (b) identification that is issued by a DAMP organisation that contains a photograph of the donor and the donor's name; or
  - (c) an ASIC; or
  - (d) a passport.

### **Subdivision 99.C.1.3—CASA to approve testing devices**

#### **99.130 Approved drug and alcohol testing devices**

For drug and alcohol testing under this Subpart, CASA may by legislative instrument approve the following:

- (a) breathalysers for use in alcohol testing;
- (b) drug testing devices for use in initial drug testing.

Note: All approved breathalysers may be used for an initial alcohol test. Only some approved breathalysers may be used for a confirmatory alcohol test—see regulation 99.250.

## **Division 99.C.2—Drug testing**

### **Subdivision 99.C.2.1—General**

#### **99.135 Which body samples may be drug tested**

An approved tester may only take a sample of a person's oral fluid for drug testing under this Subpart.

#### **99.140 How samples are taken and tested**

An approved tester must take and prepare a body sample for drug testing in accordance with the procedures set out in a legislative instrument made by CASA for the purposes of this regulation.

#### **99.145 Approved drug testing devices to be used for initial drug tests**

- (1) If an approved tester is conducting an initial drug test under this Subpart, the tester must use an approved drug testing device to do the test.
- (2) The approved tester must ensure that the device is stored, tested, maintained and operated in accordance with the legislative instrument made by CASA for the purposes of this subregulation.

#### **99.150 Method for determining sample identifiers**

CASA must by legislative instrument specify a method for determining sample identifiers that are to be allocated to body samples that approved testers take under this Subpart and send for confirmatory drug tests.

### **Subdivision 99.C.2.2—Initial drug tests**

#### **99.155 Taking samples**

- (1) For the purposes of obtaining a body sample for drug testing, an approved tester may require a donor to do any or all of the following:
  - (a) swallow or otherwise remove substances from his or her mouth;
  - (b) demonstrate to the tester that the donor's mouth is free from foreign substances;
  - (c) in the tester's presence, rehydrate by drinking up to 300 ml of water within 15 minutes of being required to do so by the tester.
- (2) If the approved tester has required the donor to drink water, the tester:
  - (a) must not take the body sample sooner than the period of 10 minutes after the donor finishes drinking; and
  - (b) must take the body sample as soon as practicable after the end of the period referred to in paragraph (a).



- (3) For the purposes of obtaining the body sample, the approved tester may require the donor to:
- (a) abstain from smoking, eating, drinking or chewing for 10 minutes prior to the taking of sample; and
  - (b) remain in the tester's presence for that period.

### **99.160 Initial drug test**

As soon as practicable after the approved tester has taken a body sample from a donor for a drug test, the tester must conduct an initial drug test on the sample.

### **99.165 If initial drug test result is not positive**

If the result of an initial drug test is not a positive result, the approved tester must, as soon as practicable after the result is returned:

- (a) discard the body sample, or deal with the body sample in such a way that the sample cannot be identified as being given by the donor of it; and
- (b) tell the donor the approved tester's name and allocated number, if requested by the donor.

### **99.170 If initial drug test result is positive**

*Further body sample may be taken*

- (1) If the result of an initial drug test is a positive result, the approved tester may take a further body sample from the donor for a confirmatory drug test.
- (2) The further body sample, if any, must be taken as soon as practicable after the initial body sample was taken.
- (3) The approved tester may send either the initial body sample or the further body sample for a confirmatory drug test.
- (4) The approved tester must:
  - (a) inform the donor which body sample will be used for the confirmatory drug test; and
  - (b) discard the body sample that is not being used.

*Notice to be given*

- (5) If the result of an initial drug test is a positive result, the approved tester must, as soon as practicable:
  - (a) give the donor a notice that includes the information specified in subregulation 99.175(1) in respect of the test; and
  - (b) give the approved laboratory to whom the body sample will be sent for a confirmatory drug test a notice that includes the information specified in subregulation 99.175(3); and
  - (c) give CASA a notice that includes the information given to:
    - (i) the donor under the notice given under paragraph (a); and

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(ii) the laboratory under paragraph (b).

- (6) The notice to the approved laboratory under paragraph (5)(b) must accompany the body sample to the laboratory.

**99.175 Notices of initial drug test**

*Notice to donor*

- (1) The notice given to the donor under paragraph 99.170(5)(a) must contain the following:
- (a) the donor's name, date of birth, gender, residential address and telephone number, and an indication of whether those details were provided by the donor or the donor's DAMP organisation (if any) or a DAMP contractor;
  - (b) the date and time that the donor was asked by the approved tester to stop performing or being available to perform SSAAs for the purposes of giving a body sample for a drug test;
  - (c) the applicable SSAA that the donor was performing or available to perform at the time the donor was tested;
  - (d) the date, time and location of the place that an initial drug test was conducted on the donor's body sample;
  - (e) the test result for the initial drug test;
  - (f) the initials of the tester and his or her allocated number;
  - (g) the details of any photographic identification provided by the donor;
  - (h) the make, model and serial number of the approved drug testing device used to conduct the initial drug test;
  - (i) the sample identifier allocated to the body sample taken for a confirmatory drug test by the approved tester (see paragraph 99.180(1)(a));
  - (j) a certification by the tester about whether the body sample has been taken and tested in accordance with the requirements of the Regulations and any applicable legislative instrument made by CASA under regulation 99.140;
  - (k) a certification by the tester about whether the device has been stored, tested, maintained and operated in accordance with the legislative instrument made by CASA under subregulation 99.145(2).

Note: Subregulation 99.180(7) may also require the notice to contain certain things.

*Notice to approved laboratory*

- (3) For paragraph 99.170(5)(b), the notice must contain the following:
- (a) the sample identifier allocated to the body sample by the approved tester;
  - (b) the date time that the body sample was given;
  - (c) the results of the initial drug test;
  - (d) the list of testable drugs that the tester wants the approved laboratory to test for in the confirmatory drug test;
  - (e) the name of the approved tester.

**99.180 Dealing with samples for confirmatory drug test**

- (1) If the result of an initial drug test is a positive result, as soon as practicable after the result is known, the approved tester must:
  - (a) allocate to the body sample a sample identifier; and
  - (b) divide the body sample into approximately equal lots to be known as Sample A and Sample B; and
  - (c) place Sample A and Sample B into separate specimen tubes; and
  - (d) place both tubes into a single container.
- (2) In allocating the sample identifier under paragraph (1)(a), the approved tester must use the method specified in a legislative instrument made by CASA under regulation 99.150.
- (3) The amount of body sample in Sample A and Sample B must be sufficient for a confirmatory drug test to be conducted.
- (4) Immediately before the body sample is placed in them, the tubes must:
  - (a) be in the packages provided by the manufacturer; and
  - (b) not have been used for any purpose; and
  - (c) be in such a condition that they do not affect the quality of the body sample taken.
- (5) As soon as practicable after placing Sample A and Sample B into separate specimen tubes, the approved tester must:
  - (a) securely seal each tube with tamper-evident seals; and
  - (b) label each tube with the following information:
    - (i) the tester's initials;
    - (ii) the sample identifier for the body sample;
    - (iii) information about whether the tube contains Sample A or Sample B.
- (6) The approved tester must ask the donor to:
  - (a) witness the tester's actions under this regulation in respect of the body sample; and
  - (b) initial the tamper-evident seals on the tubes; and
  - (c) sign the notice given to the donor under regulation 99.175.
- (7) If the donor refuses a request made by the approved tester under subregulation (6), the tester must, in the notice given under paragraph 99.170(5)(a), set out that fact.

**99.185 Transporting samples**

- (1) As soon as practicable after placing a body sample into specimen tubes, the approved tester must cause the tubes to be sent to an approved laboratory for confirmatory drug testing.

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- (2) The approved tester must send the specimen tubes in a way that results in the tubes arriving at the approved laboratory as soon as practicable after the tester places the body sample into the tubes.

Note: Under subregulation 99.170(6), a notice from the approved tester must accompany the samples to the approved laboratory.

- (3) The specimen tubes must be stored prior to transport and transported in such a way that the integrity of the body sample is preserved.

### Subdivision 99.C.2.3—Receipt and storage of samples by approved laboratories

#### 99.190 Receipt of samples

- (1) If an approved laboratory receives a body sample divided into Sample A and Sample B for a confirmatory drug test, the laboratory must, as soon as practicable after receiving the specimen tubes:
- inspect each tube for damage; and
  - check that the seals on the tubes are intact.
- (2) If a seal on a specimen tube is not intact, or a specimen tube is damaged in such a way that the integrity of the body sample may have been compromised, the laboratory must:
- not test the part of the body sample contained in the tube; and
  - discard the contents of the tube.
- (3) If the laboratory discards the contents of both of the specimen tubes, as soon as practicable after the day the laboratory received the tubes, the laboratory must send to CASA a dated, written notice that includes the following information:
- the date and time of receipt of the body sample at the laboratory;
  - the sample identifier for the body sample;
  - a statement about why both tubes were discarded.
- (4) As soon as practicable after CASA receives the notice from the laboratory, CASA must give a written notice to the donor that includes the following:
- the sample identifier for the body sample;
  - a statement:
    - that neither Sample A nor Sample B could be tested because the integrity of the body samples had been compromised; and
    - that both Sample A and Sample B were discarded by the laboratory.

#### 99.195 Storage of samples

*If neither Sample A nor Sample B is discarded*

- (1) Subregulations (2), (3) and (4) apply if:
- an approved laboratory receives a body sample for a confirmatory drug test that is divided into Sample A and Sample B; and

- (b) neither Sample A nor Sample B is discarded under subregulation 99.190(2) or (3).
- (2) Sample A and Sample B must be stored in a secured refrigeration unit until Sample A is tested.
- (3) If the test result for the confirmatory drug test on Sample A is a positive result, Sample B must be:
  - (a) stored in a secure freezer; and
  - (b) kept for 100 days from the date of the positive result and then discarded.
- (4) If the test result for Sample A is not a positive result, Sample B must be discarded.

*If one of the specimen tubes is discarded*

- (5) If:
  - (a) an approved laboratory receives a body sample for a confirmatory drug test that is divided into Sample A and Sample B; and
  - (b) either Sample A or Sample B is discarded under subregulation 99.190(2);then the remaining specimen tube must be stored in a secured refrigeration unit until it is tested.

### **Subdivision 99.C.2.4—Conduct of drug tests by approved laboratories**

#### **99.200 Testing Sample A**

- (1) An approved laboratory must test Sample A of a body sample it receives for confirmatory drug testing if the laboratory is satisfied that Sample A retains its integrity.
- (2) If the integrity of Sample A of a body sample may have been compromised, or the Sample A is for some reason unavailable for confirmatory drug testing, the approved laboratory must deal with Sample B of the body sample as if it were Sample A.
- (3) These Regulations apply to the Sample B accordingly.
- (4) If Sample B of the body sample is to be dealt with as if it were Sample A, Sample B is to be known as Sample A from the time that Sample B, under this regulation, is required to be dealt with as Sample A.

#### **99.205 Samples to be tested in accordance with National Association of Testing Authorities' accreditation**

An approved laboratory must test body samples received under this Subpart in accordance with the laboratory's accreditation by the National Association of Testing Authorities.

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**99.210 Notices of Sample A results**

*Laboratory to CASA*

- (1) As soon as practicable after a confirmatory test is conducted on Sample A of a body sample by an approved laboratory, the laboratory must send to CASA a dated, written notice that includes the following:
  - (a) the date and time of receipt of the body sample at the laboratory;
  - (b) the sample identifier for the body sample;
  - (c) a statement as to whether the tamper-evident seals on the specimen tubes containing the body sample were intact on receipt by the laboratory;
  - (d) the list of testable drugs that the approved tester of the initial drug test asked to be tested;
  - (e) the date and time that Sample A was tested;
  - (f) the method used for the testing;
  - (g) the target concentrations of the testing;
  - (h) the result of the test;
  - (i) a statement about whether the body sample has been tested in accordance with these Regulations, and any conditions attached to the laboratory's National Association of Testing Authorities accreditation;
  - (j) the name of the person who declared the results of the test.
- (2) The notice must be signed by the laboratory's approved person.

*CASA to donor—oral notice*

- (3) As soon as practicable after CASA receives the notice from the laboratory, CASA must give oral notice to the donor of the body sample of the confirmatory test result on Sample A.

*CASA to donor—written notice*

- (4) As soon as practicable after CASA gives the oral notice, CASA must give a written notice to the donor that includes the following:
  - (a) the sample identifier for Sample A and Sample B;
  - (b) the list of testable drugs that were tested for;
  - (c) a statement as to whether the tamper-evident seals on the specimen tubes containing the body sample were intact on receipt by the approved laboratory that tested them;
  - (d) the date and time that Sample A was tested;
  - (e) the method used for the testing;
  - (f) the target concentrations of the testing;
  - (g) the result of the test;
  - (h) a statement about whether the body sample has been tested in accordance with these Regulations and any conditions attached to the laboratory's National Association of Testing Authorities accreditation;
  - (i) if the result of the test is a positive result:

- (i) information about the donor's rights to have Sample B tested; and
- (ii) information about how the donor gets Sample B tested and the costs associated with that testing.

### **99.215 Donor may request testing of Sample B**

- (1) If the test result for Sample A of a body sample is a positive result, the donor of the body sample may apply to CASA to either:
  - (a) have conducted on Sample B of the body sample a further confirmatory drug test by the approved laboratory (the ***original laboratory***) that tested Sample A; or
  - (b) have Sample B transferred to another approved laboratory (the ***second laboratory***) for a further confirmatory drug test.

Note: If the integrity of either Sample A or Sample B of a body sample has been compromised, the compromised specimen tube will have been discarded. There will not be a Sample B to be tested because, under regulation 99.200, Sample B will become known as Sample A.

- (2) The application must be made within 90 days of the date of the written notice of the test result for the confirmatory drug test on Sample A being given to the donor.
- (3) The donor is liable to pay the costs of testing Sample B and any transportation costs associated with transporting Sample B to the second laboratory (if any).

#### *Original laboratory to test Sample B*

- (4) If the original laboratory is advised by CASA to test Sample B, it must do so.

#### *Second laboratory to test Sample B*

- (5) If the original laboratory is notified by CASA to transport Sample B to a specified second laboratory for testing, the original laboratory must package and transport Sample B as provided for in regulation 99.185 as if the original laboratory were the approved tester for the body sample.
- (6) The original laboratory must send the specimen tube in a way that results in the tube arriving at the approved laboratory as soon as practicable.
- (7) The specimen tubes must be stored prior to transport and transported in such a way that the integrity of the body sample is preserved.
- (8) CASA must notify the second laboratory of the matters specified in subregulation 99.175(3) in respect of Sample B.
- (9) On receipt of Sample B, the second laboratory must:
  - (a) test the sample in accordance with the notice; and
  - (b) deal with the sample as if it were the original laboratory and these Regulations apply to that second laboratory accordingly.

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**99.220 Approved laboratory to keep Sample B**

- (1) This regulation applies if:
  - (a) an approved laboratory receives a body sample for a confirmatory drug test that is divided into Sample A and Sample B; and
  - (b) the test result for the confirmatory drug test on Sample A is a positive result; and
  - (c) there is a Sample B remaining after Sample A is tested.
- (2) The approved laboratory must keep Sample B for the 100-day period specified in paragraph 99.195(3)(b), unless the donor:
  - (a) applies to CASA to have a confirmatory drug test conducted on Sample B; and
  - (b) applies within 90 days of the date of the written notice of the test result for the confirmatory drug test on Sample A being given to the donor.
- (3) If the donor does not apply to CASA within the 90-day period mentioned in subregulation (2), the approved laboratory must discard Sample B at the end of the 100-day period specified in paragraph 99.195(3)(b).

**99.225 Notices of Sample B results**

- (1) If a confirmatory drug test is conducted on Sample B of a body sample, the notices specified in subregulation 99.210(1) and (3) must be given in respect of that test.
- (2) The notices must be given in the form and within the timeframes required by regulation 99.210.
- (3) The written notice to the donor must contain the following:
  - (a) the sample identifier for Sample A and Sample B;
  - (b) a statement that Sample B was tested;
  - (c) a statement as to whether the tamper-evident seals on the specimen tubes containing the body sample were intact on receipt by the approved laboratory that tested them;
  - (d) the list of testable drugs that were tested for;
  - (e) the date and time that Sample B was tested;
  - (f) the method used for the testing;
  - (g) the target concentrations of the testing;
  - (h) the result of the test;
  - (i) a statement about whether the sample has been tested in accordance with these Regulations and any conditions attached to the laboratory's National Association of Testing Authorities accreditation.



### **99.230 Test results**

- (1) If a confirmatory drug test is conducted on Sample A of a body sample and the result is not a positive result, then the test result for the body sample is taken not to be a positive result.
- (2) Subject to subregulations (4) and (5), if a confirmatory drug test is conducted on Sample A of a body sample and the result is a positive result, then the test result for the body sample is taken to be a positive result.
- (3) Subject to subregulation (5), if:
  - (a) a confirmatory drug test is conducted on Sample A of a body sample and the result is a positive result; and
  - (b) the donor applies to CASA to have a confirmatory drug test conducted on Sample B of a body sample before the expiry of the period mentioned in subregulation 99.215(2); and
  - (c) the result of the test on Sample B is a positive result;then the test result for the body sample is taken to be a positive result.
- (4) If:
  - (a) a confirmatory drug test is conducted on Sample A of a body sample and the result is a positive result; and
  - (b) the donor applies to CASA to have a confirmatory drug test conducted on Sample B of the sample before the expiry of the period mentioned in subregulation 99.215(2); and
  - (c) the result of the test on Sample B is not a positive result, or Sample B is not available to be tested;then, despite the positive result for Sample A, the test result for the body sample is taken not to be a positive result.

Note: Under regulation 99.200, Sample B may have been dealt with as if it were Sample A. In that case, there will not be a Sample B to test.
- (5) A positive result for a confirmatory drug test on either Sample A or Sample B of a body sample is taken not to be a positive result for the sample if a CASA medical review officer has determined that the test result for the sample could be the result of legitimate therapeutic treatment or some other innocuous source.

### **Subdivision 99.C.2.5—Record-keeping**

#### **99.235 Approved laboratory to keep records**

- (1) An approved laboratory must keep a copy of a notice sent under regulation 99.210 for 7 years from the date the notice was sent.

Penalty: 50 penalty units.
- (2) The laboratory must keep the copy in a secure location.

Penalty: 50 penalty units.

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- (3) During the 7-year period, the laboratory must provide a copy of the notice to CASA if required to.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.
- (5) Subject to any requirement in any other Commonwealth, State or Territory law, the copy must be destroyed at the end of the 7-year period.

## **Division 99.C.3—Alcohol testing**

### **99.240 Which body samples may be alcohol tested**

An approved tester conducting an alcohol test under this Subpart may only take a sample of a person's breath for testing.

### **99.245 How samples are taken and tested**

An approved tester must take body samples for alcohol testing in accordance with the procedures set out in a legislative instrument made by CASA for the purposes of this regulation.

### **99.250 Approved breathalysers to be used in alcohol tests**

- (1) If an approved tester is conducting an initial alcohol test under this Subpart, the tester must only use an approved breathalyser to conduct the test.
- (2) If the approved tester is conducting a confirmatory alcohol test under this Subpart, the tester must only use a breathalyser that:
  - (a) is an approved breathalyser; and
  - (b) meets the requirements of NMI R 126, *Pattern Approval Specifications for Evidential Breath Analysers*.
- (3) The approved tester must ensure that the breathalyser is stored, tested, maintained and operated in accordance with a legislative instrument made for the purposes of this subregulation.

### **99.255 Alcohol tests**

- (1) To conduct an initial alcohol test, an approved tester must take a breath sample.
- (3) If the result of the initial alcohol test is a positive result, the approved tester must take a further breath sample from the donor for a confirmatory alcohol test.
- (4) The further sample must be taken as soon as practicable, but not sooner than 15 minutes, after the initial alcohol test sample was taken.
- (5) After the result of the confirmatory alcohol test is available, the approved tester must give the donor a notice that includes the information specified in subregulation 99.265(1).

### **99.260 Test results**

- (1) If an initial alcohol test is conducted on a body sample and the result is not a positive result, then the test result for the body sample is taken not to be a positive result.
- (2) If:

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- (a) an initial alcohol test is conducted on a body sample and the result is a positive result; and
  - (b) a confirmatory alcohol test in respect of the initial alcohol test is conducted on a body sample; and
  - (c) the result of the confirmatory alcohol test is a positive result;
- then the test result for the body sample is taken to be a positive result.

(3) If:

- (a) an initial alcohol test is conducted on a body sample and the result is a positive result; and
- (b) a confirmatory alcohol test is conducted on the body sample and the result of the test is not a positive result;

then, despite the positive result for the initial alcohol test, the result for the body sample is taken not to be a positive result.

**99.265 Notice of alcohol test**

- (1) The notice given to the donor under subregulation 99.255(5) must contain the following:
  - (a) the donor's name, date of birth, gender, residential address and telephone number, and an indication of whether those details were provided by the donor or the donor's DAMP organisation (if any);
  - (b) the date and time that the donor was asked by the approved tester to stop performing or being available to perform SSAAs for the purposes of giving a body sample for an alcohol test;
  - (c) the date, time and location of the place that the donor's body sample was taken and tested;
  - (d) the test result;
  - (e) the applicable SSAA that the donor was performing or available to perform at the time the donor was tested;
  - (f) the make, model and serial number of the approved breathalyser used to conduct the testing of the body sample;
  - (g) the details of any photographic identification provided by the donor;
  - (h) a certification by the approved tester about whether the body sample has been taken and tested in accordance with the requirements of the Regulations and any applicable legislative instrument made under regulation 99.245;
  - (i) a certification by the tester about whether the breathalyser has been stored, tested, maintained and operated in accordance with the legislative instrument made under subregulation 99.250(3);
  - (j) the initials of the tester and his or her allocated number.
- (2) The approved tester must ask the donor to sign the notice at the time the approved tester gives the notice to the donor.

## **Subpart 99.D—Evidentiary certificates and prescribed proceedings**

### **Division 99.D.1—Purposes of Subpart**

#### **99.275 Purposes of Subpart**

This Subpart provides for the following:

- (a) evidentiary certificates (Division 99.D.2);
- (b) prescribed proceedings for paragraph 36(4)(d) of the Act (Division 99.D.3).

## Division 99.D.2—Evidentiary certificates

### 99.280 Certificates by approved tester

#### *Matters relating to samples for initial drug tests*

- (1) A certificate that under subsection 36(4) of the Act is admissible in proceedings concerning an initial drug test must:
  - (a) be signed by an approved tester; and
  - (b) be in respect of a body sample taken by the tester for an initial drug test; and
  - (c) be in respect of a body sample that the tester conducted an initial drug test on; and
  - (d) state one or more of the matters set out in subregulation (3).
- (2) Subject to regulation 99.305, if subregulation (1) is complied with, then the certificate is admissible as evidence of the matters stated in the certificate in any proceedings under the Act, these Regulations or the *Criminal Code*.

Note: Regulation 99.315 prescribes proceedings under the *Criminal Code* for the purposes of paragraph 36(4)(d) of the Act.

- (3) For paragraph (1)(d), the matters are as follows:
  - (a) the approved tester's allocated number;
  - (b) that the tester who signed the certificate was an approved tester at the time the body sample was taken;
  - (c) when the body sample was taken;
  - (d) from whom the body sample was taken;
  - (e) the applicable SSAA that the donor was performing or available to perform at the time the body sample was taken;
  - (f) the make, model and serial number of the approved drug testing device used to conduct the test on the body sample;
  - (g) a description of the method of sampling;
  - (h) whether the test conducted on the body sample was an initial drug test;
  - (i) the result of the test conducted;
  - (j) the sample identifier, if any, for the body sample.

#### *Matters relating to alcohol tests*

- (4) A certificate that under subsection 36(4) of the Act is admissible in proceedings concerning an alcohol test under Subpart 99.C must:
  - (a) be signed by an approved tester; and
  - (b) be in respect of a body sample taken by the tester for an alcohol test; and
  - (c) state one or more of the matters set out in subregulation (6).

- (5) Subject to regulation 99.305, if subregulation (4) is complied with, then the certificate is admissible as evidence of the matters stated in the certificate in any proceedings under the Act, these Regulations or the *Criminal Code*.

Note: Regulation 99.315 prescribes proceedings under the *Criminal Code* for the purposes of paragraph 36(4)(d) of the Act.

- (6) For paragraph (4)(c), the matters are as follows:
- (a) the approved tester's allocated number;
  - (b) that the tester who signed the certificate was an approved tester at the time the body sample was taken;
  - (c) when the body sample was taken;
  - (d) from whom the body sample was taken;
  - (e) the applicable SSAA that the donor was performing or available to perform at the time the body sample was taken;
  - (f) the make, model and serial number of the approved breathalyser used to take the body sample and conduct the test;
  - (g) a description of the method of sampling;
  - (h) the alcohol test conducted on the body sample;
  - (i) the result of the test conducted.

### **99.285 Certificates by approved laboratory**

- (1) A certificate that under subsection 36(4) of the Act is admissible in proceedings concerning a confirmatory drug test must:
- (a) be signed by an approved laboratory; and
  - (b) be in respect of a body sample on which a confirmatory drug test was conducted by the laboratory; and
  - (c) state one or more of the matters set out in subregulation (3).

- (2) Subject to regulation 99.305, if subregulation (1) is complied with, then the certificate is admissible as evidence of the matters stated in the certificate in any proceedings under the Act, these Regulations or the *Criminal Code*.

Note: Regulation 99.315 prescribes proceedings under the *Criminal Code* for the purposes of paragraph 36(4)(d) of the Act.

- (3) For paragraph (1)(c), the matters are as follows:
- (a) the sample identifier for the body sample;
  - (b) that the person who signed the certificate was an approved laboratory or the laboratory's approved person at the time the certificate was signed;
  - (c) when the body sample was received;
  - (d) what, if any, labels or other means of identifying the body sample accompanied the body sample when it was received;
  - (e) what container or containers the body sample was contained in when it was received;
  - (f) the state of the seals on the container or containers when the body sample was received;
  - (g) the state of the container or containers when the body sample was received;
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- (h) when the body sample was tested;
- (i) a description of the way in which the body sample was stored by the laboratory;
- (j) a description of the method of testing;
- (k) the testable drugs tested for;
- (l) the result of the test conducted.

### **99.290 Document taken to be a certificate unless contrary intention established**

For the purposes of this Subpart, a document purporting to be a certificate referred to in regulation 99.280 or 99.285 is, unless the contrary intention is established, taken to be such a certificate and to have been duly given.

### **99.295 Certificate not to be admitted unless copy given**

A certificate must not be admitted in evidence under regulation 99.280 or 99.285 in any proceedings under the Act, these Regulations or the *Criminal Code* unless:

- (a) the person charged with the offence; or
- (b) a barrister or solicitor who has appears for the person in those proceedings; has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with reasonable notice of the intention to produce the certificate as evidence in the proceedings.

### **99.300 Person signing the certificate may be called to give evidence**

- (1) Subject to subregulation (2), if, under regulation 99.280 or 99.285, a certificate is admitted in evidence in proceedings, the person charged with the offence may require the person who signed the certificate to be called as a witness for the prosecution and cross-examined as if he or she had given evidence of the matters stated in the certificate.
- (2) Subregulation (1) does not entitle the person charged to require the person who signed the certificate to be called as a witness for the prosecution unless:
  - (a) the prosecutor has been given at least 4 days notice of the person's intention to require the person who signed the certificate to be so called; or
  - (b) the Court, by order, grants the person's application to require the calling of the witness.

### **99.305 Rebuttal evidence**

- (1) Any evidence given in support, or in rebuttal, of a matter stated in a certificate given under regulation 99.280 or 99.285 must be considered on its merits, and the credibility and probative value of such evidence must be neither increased nor diminished because of this Subpart.
- (2) The evidential burden in rebutting a matter stated in a certificate given under regulation 99.280 or 99.285 is on the balance of probabilities.



**99.310 CASA may ask for full certificate**

- (1) CASA may, by notice in writing, ask:
  - (a) an approved tester to provide a certificate, under subregulation 99.280(1) or (4); or
  - (b) an approved laboratory to provide a certificate, under regulation 99.285; that contains all of the matters listed in the particular provision.
- (2) The approved tester or approved laboratory must comply with the notice within 7 days of receiving it.

Penalty: 50 penalty units.

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

## **Division 99.D.3—Prescribed proceedings**

### **99.315 Prescribed proceedings**

For paragraph 36(4)(d) of the Act, proceedings under the *Criminal Code* are prescribed.

## **Subpart 99.E—Offences for Subpart 99.C**

### **Division 99.E.1—Purposes of Subpart**

#### **99.320 Purposes of Subpart**

This Subpart provides for the following:

- (a) offences relating to Subpart 99.C (Division 99.E.2);
- (b) CASA medical review officers (Division 99.E.3).

## Division 99.E.2—Offences

### Subdivision 99.E.2.1—Offences relating to giving a body sample

#### 99.325 Failing to carry identification whilst undertaking applicable SSAA

- (1) If:
- (a) a person is performing or available to perform an applicable SSAA; and
  - (b) as part of the process of taking a body sample for a drug or alcohol test under Subpart 99.C, an approved tester requires the person to produce identification of a kind set out in subregulation (2);
- the person must either:
- (c) immediately produce to the tester the identification; or
  - (d) produce to the tester the identification within 1 hour after being required to do so.

Penalty: 10 penalty units.

- (2) For subregulation (1), the kinds of identification are as follows:
- (a) identification that:
    - (i) contains a photograph of the person and sets out the person's name, date of birth and address; and
    - (ii) was issued by a Commonwealth, State, Territory or local government body;
  - (b) identification that is issued by a DAMP organisation that contains a photograph of the person and the person's name;
  - (c) an ASIC;
  - (d) a passport.
- (3) An offence against subregulation (1) is an offence of strict liability.

#### 99.330 Refusing or failing to give a body sample

- (1) A person must not refuse or fail to give a body sample to an approved tester for a drug or alcohol test under Subpart 99.C if:
- (a) the person is performing or available to perform an applicable SSAA; and
  - (b) at the time the person is performing or available to perform the applicable SSAA, the person is required to give a body sample for a drug or alcohol test by the approved tester; and
  - (c) the approved tester, in requiring and taking or seeking to take the body sample, complies with the requirements of this Part or any legislative instrument made under this Part.

Penalty: 50 penalty units.

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- (2) It is a defence to subregulation (1) if a person failed to give a body sample because the person had a medical condition that rendered the person unable to give the body sample.
- (3) An offence against subregulation (1) is an offence of strict liability.

**99.335 Continuing to perform applicable SSAA after refusing a drug or alcohol test or failing to give a body sample**

- (1) This regulation applies if:
  - (a) a person is performing or available to perform an applicable SSAA; and
  - (b) the person is required by an approved tester to provide a body sample for a drug or alcohol test under Subpart 99.C; and
  - (c) the person:
    - (i) refuses to provide a body sample to be tested; or
    - (ii) fails to provide a body sample to be tested.
- (2) The person must not again perform or be available to perform an applicable SSAA until the person is drug or alcohol tested under this Part.

Penalty: 50 penalty units.

Note 1: If the person receives a confirmatory drug test and the result is a positive result, the person may be liable to an offence if the person contravenes regulation 99.380.

Note 2: It is an offence for the person to contravene regulation 99.345 or 99.380 in respect of the drug test.

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

**99.340 Failing to stop performing an applicable SSAA**

- (1) If an approved tester requires a person to stop performing or being available to perform an applicable SSAA for the time it takes for the tester to take a body sample from the person and conduct a drug or alcohol test under Subpart 99.C on the body sample, the person must comply with the requirement.

Penalty: 50 penalty units.

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

**99.345 Failing to remain in approved tester's presence**

- (1) If an approved tester requires a person to remain in the tester's presence for the time it takes for the tester to take a body sample from the person and conduct a drug or alcohol test under Subpart 99.C on the body sample, the person must comply with the requirement.

Penalty: 50 penalty units.

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

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**99.350 Person must not interfere with integrity of body sample**

- (1) If a person is giving, or has given, a body sample for a drug or alcohol test under this Part, a person must not interfere with the integrity of that sample.

Penalty: 50 penalty units.

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

**Subdivision 99.E.2.2—Offences occurring after positive test result**

**99.355 Continuing to perform applicable SSAA between having initial drug test and confirmatory drug test**

- (1) This regulation applies if:
- (a) a person is performing or available to perform an applicable SSAA; and
  - (b) the person receives an initial drug test; and
  - (c) the result of the initial drug test is a positive result; and
  - (d) the person's body sample in respect of the initial drug test is being subjected to confirmatory drug testing by an approved laboratory.
- (2) The person must not again perform or become available to perform an applicable SSAA until the person has received a confirmatory drug test in respect of the initial drug test.

Penalty: 50 penalty units

Note: Regulation 99.360 provides an offence for performing or being available to perform an applicable SSAA after a confirmatory drug test has been given and before the results of that confirmatory drug test are returned.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) It is not an offence against subregulation (2) for a person to perform or become available to perform an applicable SSAA if the person's body sample cannot be subjected to confirmatory drug testing by an approved laboratory.

**99.360 Continuing to perform applicable SSAA after having confirmatory drug test and before result returned**

- (1) This regulation applies if:
- (a) a person is performing or available to perform an applicable SSAA; and
  - (b) the person receives an initial drug test; and
  - (c) the result of the initial drug test is a positive result; and
  - (d) the person receives a confirmatory drug test in respect of the initial drug test; and
  - (e) the test result for the confirmatory drug test has not been returned to the person.

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- (2) The person must not again perform or be available to perform an applicable SSAA until the result of the confirmatory drug test has been returned to the person.

Penalty: 50 penalty units.

Note: If the returned test result is a positive result, then the person may be liable to an offence if the person contravenes regulation 99.380.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) It is not an offence against subregulation (2) for a person to perform or become available to perform an applicable SSAA if a test result for the confirmatory drug test cannot be returned to the person because it was not possible to conduct the confirmatory drug test.

**99.365 Continuing to perform applicable SSAA before confirmatory alcohol test result returned**

- (1) This regulation applies if:
- (a) a person is performing or available to perform an applicable SSAA; and
  - (b) the person receives an initial alcohol test; and
  - (c) the initial alcohol test result is a positive result.
- (2) The person must not again perform or be available to perform an applicable SSAA until the person has:
- (a) received a confirmatory alcohol test in respect of the initial alcohol test; and
  - (b) the test result for the confirmatory alcohol test has been returned to the person.

Penalty: 50 penalty units

Note: If the returned test result is a positive result, then the person may be liable to an offence if the person contravenes regulation 99.385.

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

**99.370 Performing applicable SSAA showing positive result for testable drug**

- (1) A person must not perform or be available to perform an applicable SSAA if:
- (a) while the person is performing or available to perform an applicable SSAA, the person gives a body sample for an initial drug test under Subpart 99.C; and
  - (b) a confirmatory drug test in respect of the initial drug test is conducted on Sample A of the person's body sample; and
  - (c) the result of the confirmatory drug test on Sample A is a positive result.

Penalty: 50 penalty units.

Note: Regulation 99.230 deals with how you determine the results of confirmatory drug tests.

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- (2) It is a defence to subregulation (1) if Sample B of the person's body sample is tested within the period specified in subregulation 99.215(2) and returns a result that is not positive.
- (3) Subregulation (1) applies to create an offence in respect only of the applicable SSAA that the person was performing or available to perform at the time that the body sample for the initial drug test was taken.
- (4) An offence against subregulation (1) is an offence of strict liability.

**99.375 Performing applicable SSAA while showing positive result for a confirmatory alcohol test**

- (1) A person must not perform or be available to perform an applicable SSAA if:
  - (a) while the person is performing or available to perform an applicable SSAA, the person gives a body sample for an initial alcohol test under Subpart 99.C; and
  - (b) the person gives a body sample for a confirmatory alcohol test in respect of the initial alcohol test; and
  - (c) the result of the confirmatory alcohol test is a positive result.

Penalty: 50 penalty units.

Note: Regulation 99.260 deals with how you determine the results of alcohol tests.

- (2) Subregulation (1) applies to create an offence in respect only of the applicable SSAA that the person was performing or available to perform at the time that the body sample for the initial alcohol test was taken.
- (3) An offence against subregulation (1) is an offence of strict liability.

**Subdivision 99.E.2.3—Offences relating to returning to SSAAs after positive test result**

**99.380 Continuing to perform applicable SSAA after having confirmatory drug test**

- (1) This regulation applies if:
  - (a) a person is performing or available to perform an applicable SSAA; and
  - (b) the person receives an initial drug test; and
  - (c) the initial drug test result is a positive result; and
  - (d) the person receives a confirmatory drug test in respect of the initial drug test; and
  - (e) the test result for the confirmatory drug test is a positive result.
- (2) The person must not again perform or be available to perform an applicable SSAA until all of the following have occurred:
  - (a) the person has undergone a comprehensive assessment;



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- (b) if the comprehensive assessment recommended the person commence a drug or alcohol intervention program—the person has begun participating in a nominated drug or alcohol intervention program;
- (c) the person is considered fit to resume performing, or being available to perform, an applicable SSAA by:
  - (i) if the person is an employee of a DAMP and the DAMP was notified of the test result for the confirmatory drug test by CASA—a DAMP medical review officer; or
  - (ii) in any other case—a CASA medical review officer;
- (d) the person is considered fit to resume performing, or being available to perform, an applicable SSAA by the person’s treating clinician, if any;
- (e) at the time the person was considered fit under paragraphs (c) and (d), the person receives a confirmatory drug test and records, for the test, a result that was not a positive result.

Penalty: 50 penalty units.

Note: Regulation 99.230 deals with test results for body samples that are drug tested.

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

**99.385 Continuing to perform applicable SSAA after confirmatory alcohol test**

- (1) This regulation applies if:
  - (a) a person was performing or available to perform an applicable SSAA; and
  - (b) the person has had an initial alcohol test; and
  - (c) the test result for the initial alcohol test was a positive result; and
  - (d) the person has had a confirmatory alcohol test in respect of the initial alcohol test; and
  - (e) the test result for the confirmatory alcohol test was again a positive result.
- (2) The person must not again perform or become available to perform an applicable SSAA until all of the following have occurred:
  - (a) the person has undergone a comprehensive assessment;
  - (b) if the comprehensive assessment recommended the person commence a drug or alcohol intervention program—the person has begun participating in a nominated drug or alcohol intervention program;
  - (c) the person is considered fit to resume performing, or being available to perform, an applicable SSAA by:
    - (i) if the person is an employee of a DAMP and the DAMP was notified of the test result for the confirmatory alcohol test by CASA—a DAMP medical review officer; or
    - (ii) in any other case—a CASA medical review officer;
  - (d) the person is considered fit to resume performing, or being available to perform, an applicable SSAA by the person’s treating clinician, if any.

Penalty: 50 penalty units.

Note: Regulation 99.260 deals with test results for body samples that are alcohol tested.

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**Division 99.E.2** Offences

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

## **Division 99.E.3—CASA medical review officers**

### **99.390 CASA medical review officers**

- (1) CASA may, in writing, appoint a person entitled to practice as a medical practitioner under a law of a State or Territory to be a CASA medical review officer for the purposes of Subpart 99.C.
- (2) A CASA medical review officer must review:
  - (a) a positive result for a drug or alcohol test; and
  - (b) medical information concerning a person's failure to give a body sample for drug or alcohol testing because of a medical condition;before the result or failure is referred for action for an offence under this Subpart, or for other action under the Act or these Regulations.
- (3) CASA must take into account the results of a review carried out by a CASA medical review officer under subregulation (2) before it makes a decision to refer a positive result for action for an offence under this Subpart or for other action under the Act or these Regulations.

**Part 99** Drug and alcohol management plans and testing

**Subpart 99.F** Provision of information

**Division 99.F.1** Purposes of Subpart

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## **Subpart 99.F—Provision of information**

### **Division 99.F.1—Purposes of Subpart**

#### **99.395 Purposes of Subpart**

This Subpart provides for the exchange of information about drug and alcohol tests between CASA and DAMP organisations, and CASA and foreign operators.

## **Division 99.F.2—Information**

### **99.400 Drug or alcohol test information given or required by CASA**

- (1) If:
- (a) a drug or alcohol test is conducted on a person under Subpart 99.C; and
  - (b) the person is a SSAA employee of a DAMP organisation or an employee of a foreign operator; and
  - (c) the result of the test is a positive result;

CASA may notify the organisation or foreign operator of the matters set out in a notice given to the person under Subpart 99.C.

*If CASA notifies a DAMP organisation*

- (2) If CASA notifies a DAMP organisation under subregulation (1) of the results of the test, CASA may require the organisation, by notice in writing, to provide CASA with the information set out in subregulation (3) in respect of the employee.
- (2A) If, under subregulation (2), CASA requires a DAMP organisation to provide CASA with information, the DAMP organisation must, in writing, provide CASA with that information.

Penalty: 50 penalty units.

- (3) CASA may require:
- (a) information about what, if any, action was taken by the DAMP organisation under its DAMP in respect of the employee and the test result; and
  - (b) information about when, after the result of the test became known, the employee again performed or became available to perform a SSAA; and
  - (c) if the employee ceases to be a SSAA employee of the organisation—information about whether the employee so ceased:
    - (i) before the employee had completed attending a nominated drug or alcohol intervention program; or
    - (ii) before the employee had been approved by the organisation to again perform or be available to perform a SSAA.

*If CASA notifies foreign operator*

- (4) If CASA notifies the foreign operator under subregulation (1) of the results of the test, CASA may require the operator, by notice in writing, to provide CASA with the information relating to the test result specified in the notice.
- (5) If, under subregulation (4), CASA requires a foreign operator to provide CASA with information, the operator must, in writing, provide CASA with that information.

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Penalty: 50 penalty units.

- (6) An offence against subregulation (2A) or (5) is an offence of strict liability.

**99.405 Information that must be given to CASA following drug or alcohol test**

- (1) This regulation applies if:
- (a) CASA notifies a DAMP organisation of a person's test results in accordance with subregulation 99.400(1); and
  - (b) the person is a SSAA employee of the DAMP; and
  - (c) the person ceases to be a SSAA employee of the DAMP organisation for any reason; and
  - (d) the cessation occurs after the test and before the employee:
    - (i) resumes performing or being available to perform an applicable SSAA with the organisation; or
    - (ii) satisfactorily completes a nominated drug or alcohol intervention program.
- (2) The DAMP organisation must, in writing, provide CASA with the information set out in subregulation (3) in respect of the employee.

Penalty: 50 penalty units.

- (3) The information is the following:
- (a) the employee's name and address;
  - (b) the employee's ARN, if any;
  - (c) the date the employee ceased to work for the DAMP organisation.
- (4) An offence against subregulation (2) is an offence of strict liability.

## **Subpart 99.G—CASA's powers in relation to civil aviation authorisations**

### **Division 99.G.1—Purposes of Subpart**

#### **99.410 Purposes of Subpart**

This Subpart provides for CASA to vary, suspend or cancel a person's civil aviation authorisation in certain circumstances.

Note: CAR 269 allows CASA to vary, suspend or cancel a licence, certificate or authority, but under that regulation CASA must give the holder of the licence, certificate or authority notice and allow the holder an opportunity to show cause why the licence, certificate or authority should not be varied, suspended or cancelled.

#### **99.415 When CASA may vary, suspend or cancel a civil aviation authorisation**

- (1) CASA may, in writing, vary, suspend or cancel a person's civil aviation authorisation in the interests of aviation safety in the following circumstances:
  - (a) if:
    - (i) the person gives a body sample for drug or alcohol testing under Subpart 99.C; and
    - (ii) a confirmatory alcohol test or confirmatory drug test is conducted on the sample; and
    - (iii) the test result is a positive result;
  - (b) if a person refuses to give a body sample for drug or alcohol testing under Subpart 99.C.
- (2) If CASA determines that a person has contravened the requirements of a regulation in Division 99.E.2 (other than subregulation 99.325(1)), CASA may, in writing, vary, suspend or cancel the person's civil aviation authorisation in the interests of aviation safety.
- (3) If:
  - (a) CASA determines that a person has contravened the requirements of a regulation in Subpart 99.B or 99.F; and
  - (b) the person holds a civil aviation authorisation;CASA may, in writing, vary, suspend or cancel the person's civil aviation authorisation in the interests of aviation safety.
- (4) Before making a decision to vary, suspend or cancel a person's civil aviation authorisation under subregulation (3), CASA must:
  - (a) give the person a notice setting out the reasons why CASA is considering making the decision; and
  - (b) allow the person to show cause, within such reasonable time as CASA specifies in the notice, why CASA should not make the decision.

Note: See section 31 of the Act for review of a decision under this regulation.

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**99.420 When variation, suspension or cancellation takes effect**

A variation, suspension or cancellation of a civil aviation authorisation under regulation 99.415 takes effect from the date and time (if any) specified in the variation, suspension or cancellation.

**99.425 Notice**

- (1) If CASA varies, suspends or cancels a person's civil aviation authorisation under regulation 99.415, CASA must, as soon as practicable after the variation, suspension or cancellation, give the person a notice of the variation, suspension or cancellation that contains the following information:
  - (a) whether the person's authorisation is varied, suspended or cancelled;
  - (b) the authorisation that is so varied, suspended or cancelled;
  - (c) the reason for the variation, suspension or cancellation;
  - (d) the time (if any) and date that the variation, suspension or cancellation takes effect.
- (2) If the notice given under subregulation (1) is not a written notice, CASA must, within 48 hours after giving the notice under that subregulation, give the person a written notice of the matters specified in that subregulation.

**99.430 Effect of effluxion of time in relation to the suspension of civil aviation authorisation**

- (1) If a civil aviation authorisation is suspended under this Subpart, 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) If the period for which the 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.

**99.435 Effect of suspension of civil aviation authorisation**

If CASA suspends a civil aviation authorisation under this Subpart, its holder is taken not to be the holder of the authorisation during the period of the suspension.



## **Subpart 99.H—Approved testers and authorisations to conduct drug and alcohol tests**

### **Division 99.H.1—Purposes of Subpart**

#### **99.440 Purposes of Subpart**

This Subpart provides for the following:

- (a) approvals and authorisations of persons to take body samples and conduct drug and alcohol tests (Division 99.H.2);
- (b) obligations on approved testers, and protection of approved testers from liability in certain cases (Division 99.H.3);
- (c) powers of approved testers (Division 99.H.4);
- (d) identity cards for approved testers (Division 99.H.5);
- (e) notices for approved testers (Division 99.H.6).

## Division 99.H.2—Approvals and authorisations

### 99.445 CASA may approve persons to take body samples and conduct tests

- (1) A person may apply to CASA, in writing, for approval to take body samples for the purposes of Part IV of the Act.
  - (1A) Subject to regulation 11.055, CASA must grant the approval.
  - (2) A person may apply to CASA, in writing, for approval to conduct alcohol tests and initial drug tests for the purposes of Part IV of the Act.
    - (2A) Subject to regulation 11.055, CASA must grant the approval.
    - (2B) A person may apply to CASA, in writing, for approval to conduct confirmatory drug tests for the purposes of Part IV of the Act.
  - (3) Subject to regulation 11.055, CASA must grant the approval if the National Association of Testing Authorities accredits the person:
    - (a) to AS 4760, *Procedures for specimen collection and the detection and quantitation of drugs in oral fluid*; or
    - (b) another Standard that is declared by CASA in a legislative instrument made for the purposes of this paragraph.
- Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.
- Note 2: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:
  - (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
  - (b) a decision imposing a condition on an approval.
- (5) If CASA approves a person under subregulation (1) or (2), CASA must allocate to the person a unique identifying number (an **allocated number**) for the purposes of this Subpart.
- (6) The allocation must be in accordance with a method approved by CASA for the purposes of this subregulation.
- (7) The allocated number may include a numeral, letter or other character.

### 99.450 Persons authorised to take body samples and conduct tests

- (1) For subsection 36(2) of the Act, a person is authorised to take body samples for drug or alcohol tests under Subpart 99.C if the person is approved by CASA to do so under subregulation 99.445(1).
- (2) For subsection 36(3) of the Act, a person is authorised to conduct alcohol tests or initial drug tests under Subpart 99.C if the person is approved by CASA to do that under subregulation 99.445(2).

- (3) For subsection 36(3) of the Act, a person is authorised to conduct confirmatory drug tests under Subpart 99.C if the person is approved by CASA to do that under subregulation 99.445(3).

## **Division 99.H.3—Obligations on approved testers and protection from liability**

### **99.455 Obligations on approved testers**

- (1) An approved tester who wants to take a body sample from a donor must comply with the requirements of this Part in requiring, taking and dealing with the body sample.
- (2) Before taking a body sample from a donor, an approved tester must give the donor notice, in relation to any information about the donor that is collected by the tester, that meets the requirements of Information Privacy Principle 2 of the *Privacy Act 1988*.
- (3) The tester must ensure that he or she does not delay the donor for longer than is necessary to take the body sample and to conduct the test.

### **99.460 Approved testers not liable in certain cases**

An approved tester is not liable to an action, suit or proceeding for or in relation to an act done or omitted to be done, in good faith in the performance or exercise, or the purported performance or exercise, of a function or power conferred by this Part.

## **Division 99.H.4—Powers of approved testers**

### **99.465 Approved testers' powers to access premises**

- (1) Subject to any aviation security requirements, an approved tester must, at all reasonable times, have access to any place to which access is necessary for the purposes of carrying out any of the approved tester's powers and functions under this Part.
- (2) A person must not prevent, or hinder, access by an approved tester to any place to which access is necessary for the purposes of carrying out any of the approved tester's powers or functions under this Part.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) An approved tester must produce his or her identity card for inspection if asked to do so by the occupier or person in charge, or apparently in charge, of the place to which the tester seeks access.
- (5) If an approved tester:
  - (a) is acting as an approved tester; and
  - (b) seeks or is allowed access to a place specified in subregulation (1); and
  - (c) fails to produce his or her identity card for inspection when asked to do so;the tester is not authorised to access the place under that subregulation and, if access has been given to the tester, the tester must leave the place.

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## **Division 99.H.5—Identity cards**

### **99.470 Identity cards**

- (1) CASA must issue an approved tester with an identity card for the purposes of this Part.
- (2) The identity card is valid for the period that the person has been approved under regulation 99.445, or until that approval is suspended or revoked.
- (3) The card must:
  - (a) contain a recent photograph of the person; and
  - (b) specify whether the person is authorised to take body samples for drug or alcohol tests, or both; and
  - (c) specify that the person is authorised to conduct alcohol tests or initial drug tests, or both; and
  - (d) state the person's allocated number; and
  - (e) state the period for which the person is authorised to be an approved tester.

### **99.475 Return of identity card**

- (1) If:
  - (a) a person has been issued with an identity card; and
  - (b) either:
    - (i) the person ceases to be an approved tester; or
    - (ii) the person's approval under regulation 99.445 is suspended;the person must return the card to CASA within 7 days of the person ceasing to be an approved tester, or of the person's approval being suspended, as the case may be.

Penalty: 10 penalty unit.

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

### **99.480 Display and production of identity cards**

- (1) If an approved tester is performing functions or exercising powers under this Part, the tester must:
  - (a) wear his or her identity card so that it can be readily seen; and
  - (b) upon request, show his or her identity card to a person from whom the approved tester intends to take a body sample for a drug or alcohol test.
- (2) A donor who has been required by an approved tester to give a body sample for a drug or alcohol test may refuse to give the body sample if:
  - (a) the donor requests the tester to show the donor the tester's identity card; and
  - (b) the tester does not show the donor the card.

### **99.485 Suspension or revocation of authorisation**

- (1) This regulation applies if an approved tester:
  - (a) breaches a condition of the tester's approval given under regulation 99.445;  
or
  - (b) does not comply with the requirements of this Part in performing functions or exercising powers under this Part.
- (2) CASA may do any or all of the following in respect of the breach:
  - (a) impose a further condition of approval;
  - (b) suspend the approved tester's authorisation under regulation 99.450;
  - (c) revoke the tester's authorisation under regulation 99.450.
- (3) If:
  - (a) CASA takes an action mentioned in paragraph (2)(a) or (b) because of a breach of a condition (the *first breach*); and
  - (b) CASA later becomes satisfied that the approved tester is not complying with a condition of the approval under regulation 99.445;CASA may revoke the tester's authorisation even if the period for fulfilling any condition, or the period of any suspension for the first breach, has not ended.

### **99.490 Notices**

- (1) If CASA imposes on an approved tester a further condition of approval under paragraph 99.485(2)(a), CASA must give the tester notice in writing of the imposition of the condition, the terms of the condition and the date from which the condition takes effect.
- (2) If CASA suspends the approved tester's authorisation under paragraph 99.485(2)(b), CASA must give the tester notice in writing of the suspension, the date that the suspension takes effect and the period of the suspension.
- (3) If CASA revokes the approved tester's authorisation under paragraph 99.485(2)(c), CASA must give the tester notice in writing of the revocation and the date from which the revocation takes effect.
- (4) The date under this regulation must not be a date before the day the notice is given.
- (5) A notice under this regulation must also include a statement setting out the reason that the condition was imposed or that the authorisation was suspended or revoked, as the case may be.

**Part 99** Drug and alcohol management plans and testing

**Subpart 99.H** Approved testers and authorisations to conduct drug and alcohol tests

**Division 99.H.6** Notices to approved testers

Regulation 99.495

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## **Division 99.H.6—Notices to approved testers**

### **99.495 Notice to approved testers**

If a provision of these Regulations requires CASA to give a notice to an approved tester, the requirement is met if CASA gives that notice to the person who, as CASA's delegate, approved the tester as an approved tester.



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## Subpart 101.A—Preliminary

### 101.005 Applicability of this Part

- (1) This Part sets out the requirements for the operation of unmanned aircraft (including model aircraft), and (to the extent that the operation of rockets and fireworks affects or may affect the safety of air navigation) the operation of rockets and the use of certain fireworks.
- (2) Nothing in this Part applies to the operation of a manned balloon or a hot air balloon.
- (3) Subparts 101.C to 101.I do not apply to the operation of:
  - (a) a control-line model aircraft (that is, a model aircraft that is constrained to fly in a circle, and is controlled in attitude and altitude, by means of inextensible wires attached to a handle held by the person operating the model); or
  - (b) a model aircraft indoors; or
  - (c) an unmanned airship indoors; or
  - (d) a small balloon within 100 metres of a structure and not above the top of the structure; or
  - (e) an unmanned tethered balloon that remains below 400 feet AGL; or
  - (f) a firework rocket not capable of rising more than 400 feet AGL.

Note: Subpart 101.B applies to the operation of all unmanned aircraft (including model aircraft) and rockets, including firework rockets.

- (4) For paragraph (3)(c), a flight does not take place indoors if the building in which it takes place has the roof, or 1 or more walls, removed.

### 101.010 Application to rocket-powered unmanned aircraft

This Part applies to a rocket-powered unmanned aircraft, and to the operation of such an aircraft, unless the contrary intention appears.

### 101.020 Exemption from certain provisions of CAR

Parts 4, 4A, 4B, 4C, 5, 9, 10 and 14 of CAR do not apply to an aircraft to which this Part applies, nor to a micro RPA.

### 101.021 Meaning of *RPA*

An *RPA* is a remotely piloted aircraft, other than the following:

- (a) a balloon;
- (b) a kite;
- (c) a model aircraft.

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### 101.022 Types of RPA

The defined terms listed in the following table have the meaning indicated in the table.

Types of RPA		
Item	The term ...	means ...
1	<i>micro RPA</i>	an RPA with a gross weight of not more than 250 g.
2	<i>very small RPA</i>	an RPA with a gross weight of more than 250 g, but not more than 2 kg.
3	<i>small RPA</i>	an RPA with a gross weight of more than 2 kg, but not more than 25 kg.
4	<i>medium RPA</i>	(a) an RPA with a gross weight of more than 25 kg, but not more than 150 kg; or (b) a remotely piloted airship with an envelope capacity of not more than 100 m <sup>3</sup> .
5	<i>large RPA</i>	(a) a remotely piloted aeroplane with a gross weight of more than 150 kg; or (b) a remotely piloted powered parachute with a gross weight of more than 150 kg; or (c) a remotely piloted rotorcraft with a gross weight of more than 150 kg; or (d) a remotely piloted powered-lift aircraft with a gross weight of more than 150 kg; or (e) a remotely piloted airship with an envelope capacity of more than 100 m <sup>3</sup> .

Note: For the meaning of *excluded RPA*, see regulation 101.237.

### 101.023 Meaning of *model aircraft*

- (1) A ***model aircraft*** is an aircraft (other than a balloon or a kite) that does not carry a person:
- (a) if the aircraft:
    - (i) is being operated for the purpose of sport or recreation; and
    - (ii) has a gross weight of not more than 150 kg; or
  - (b) if the aircraft has a gross weight of not more than 7 kg, and is being operated in connection with the educational, training or research purposes of:
    - (i) a school in relation to which there is an approved authority under the *Australian Education Act 2013*; or
    - (ii) a higher education provider within the meaning of the *Higher Education Support Act 2003*.

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- (2) However, paragraph (1)(b) does not apply in relation to education, training or research conducted by or on behalf of an entity other than a school or higher education provider mentioned in subparagraph (1)(b)(i) or (ii).

Note: A model aircraft is not an RPA (see the definition of **RPA** in regulation 101.021).

**101.024 Types of model aircraft**

The defined term listed in the following table has the meaning indicated in the table.

<b>Types of model aircraft</b>		
<b>Item</b>	<b>The term ...</b>	<b>means ...</b>
1	<b><i>giant model aircraft</i></b>	a model aircraft that has a take-off weight (excluding fuel) of more than 25 kilograms.

**101.025 Meaning of *populous area***

For this Part, an area is a ***populous area*** in relation to the operation of an unmanned aircraft if the area has a sufficient density of population for some aspect of the operation, or some event that might happen during the operation (in particular, a fault in, or failure of, the aircraft) to pose an unreasonable risk to the life, safety or property of somebody who is in the area but is not connected with the operation.

**101.028 Issue of Manual of Standards for Part 101**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 101 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

**101.029 Approvals for Part 101**

- (1) If a provision in this Part refers to a person holding an approval under this regulation, the person may apply to CASA for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval if:
  - (a) for an approval relating to a training course:
    - (i) the course covers the units of competency (if any) prescribed by the Part 101 Manual of Standards for the course; and
    - (ii) the course meets the standards (if any) prescribed by the Part 101 Manual of Standards for the course; or

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- (b) for an approval relating to any other thing for which requirements are prescribed by the Part 101 Manual of Standards—the prescribed requirements are met.

**101.030 Approval of areas for operation of unmanned aircraft or rockets**

- (1) A person may apply to CASA for the approval of an area as an area for the operation of:
  - (a) unmanned aircraft generally, or a particular class of unmanned aircraft; or
  - (b) rockets.
- (2) For paragraph (1)(a), the classes of unmanned aircraft are the following:
  - (a) tethered balloons and kites;
  - (b) unmanned free balloons;
  - (c) RPA;
  - (d) model aircraft.
- (3) In considering whether to approve an area for any of those purposes, CASA must take into account the likely effect on the safety of air navigation of the operation of unmanned aircraft in, or the launching of rockets in or over, the area.
- (4) An approval has effect from the time written notice of it is given to the applicant, or a later day or day and time stated in the approval.
- (5) An approval may be expressed to have effect for a particular period (including a period of less than 1 day), or indefinitely.
- (6) CASA may impose conditions on the approval in the interests of the safety of air navigation.
- (7) If CASA approves an area under subregulation (1), it must publish details of the approval (including any condition) in NOTAM or on an aeronautical chart.
- (8) CASA may revoke the approval of an area, or change the conditions that apply to such an approval, in the interests of the safety of air navigation, but must publish details of any revocation or change in NOTAM or on an aeronautical chart.
- (9) CASA must also give written notice of the revocation or change:
  - (a) to the person who applied for the approval of the area; or
  - (b) if that person applied for that approval as an officer of an organisation concerned with unmanned aircraft or rockets, and no longer holds that office—to the person who now holds the office.
- (10) In the case of an approval of an area as an area for the operation of model aircraft:
  - (a) subregulation (7) does not apply; and
  - (b) subregulation (8) does not require the publication of any details of a revocation or change in NOTAM or on an aeronautical chart.



### **101.035 Requirements in this Part to give information to CASA**

- (1) If a provision of this Part requires a person to give information to CASA about the operation, launching or release of an unmanned aircraft or rocket, then, unless the provision says otherwise, the person may do so by giving the information to:
  - (a) if the person is an approved aviation administration organisation—the Australian NOTAM Office; or
  - (b) an appropriate approved aviation administration organisation.
- (2) However, subregulation (1) does not apply in relation to the release of small balloons, or in relation to a firework display.
- (3) The information need not be given in writing unless:
  - (a) CASA or the authority to which it is given asks for it to be given in writing in the particular case; or
  - (b) another provision of these Regulations requires it to be given in writing.
- (4) If a person gives the information to an authority mentioned in paragraph (1)(a) or (b), then, subject to subregulation (6), the person is taken, for all purposes, to have complied with the requirement to give the information.
- (5) If in a particular case CASA or the authority to which the information is given reasonably requires extra information about the operation, launching or release, CASA or the authority may ask the person for the extra information.
- (6) If CASA or an authority asks for more information under subregulation (5), the person is not taken to have complied with the requirement mentioned in subregulation (1) to give the information until the person gives to CASA or the authority the extra information.
- (7) If a day is not a working day for the office of CASA or an authority to which notice of an event is given or an application made, that day does not count for the purpose of working out how many working days' notice of the event has been given, or how many working days before an event the application has been made.
- (8) In subregulation (7):

**working day**, in relation to an office of CASA or an authority, means a day on which that office is open for business.

## Subpart 101.AB—Authorisations for sections 20AA and 20AB of the Act

### 101.046 Flying without a certificate of airworthiness

For the purposes of paragraph 20AA(3)(b) of the Act, a flight of an RPA (other than a large RPA) is authorised without a certificate of airworthiness.

Note: For requirements in relation to large RPA, see regulation 101.255.

### 101.047 Performance of duties during flight time—balloons, kites and model aircraft

- (1) This regulation applies to an Australian aircraft that is an unmanned aircraft if it is:
  - (a) a balloon; or
  - (b) a kite; or
  - (c) a model aircraft.
- (2) For the purposes of paragraph 20AB(1)(b) of the Act, a person performing a duty that is essential to the operation of the aircraft during flight time is authorised to do so without a civil aviation authorisation mentioned in paragraph 20AB(1)(a) of the Act.

### 101.048 Performance of duties during flight time—remotely piloted aircraft

- (1) For the purposes of paragraph 20AB(1)(b) of the Act, a person performing a duty that is essential to the operation of an RPA during flight time is authorised to do so without a civil aviation authorisation mentioned in paragraph 20AB(1)(a) of the Act.

#### *Operating excluded RPA and micro RPA*

- (2) Subregulation (1) applies to a person operating an RPA only if:
  - (a) the RPA is an excluded RPA or a micro RPA; and
  - (b) the operation is of a kind mentioned in subregulation 101.374B(4) (which covers supervised operation by a person under the age of 16).

Note: These Regulations allow a person to operate an RPA other than an excluded RPA or micro RPA only if the person holds a remote pilot licence. A person is allowed to operate an excluded RPA or micro RPA if the person is accredited or holds a remote pilot licence, or in the circumstance mentioned in paragraph (2)(b) of this regulation. See regulation 101.252 and subregulations 101.374B(1) and (4).

## **Subpart 101.B—General prohibition on unsafe operation**

### **101.050 Applicability of this Subpart**

This Subpart applies to the operation of all unmanned aircraft and rockets that are not aircraft, whether or not any of Subparts C to I applies.

### **101.055 Hazardous operation prohibited**

- (1) A person must not operate an unmanned aircraft in a way that creates a hazard to another aircraft, another person, or property.

Penalty: 50 penalty units.

- (2) A person must not launch a rocket that is not an aircraft in a way that creates a hazard to an aircraft.

Penalty: 50 penalty units.

- (3) A person must not launch a rocket that:

- (a) is not an aircraft; and
- (b) is not a high power rocket within the meaning of the *Space (Launches and Returns) Act 2018*; and
- (c) is not a space object or part of a space object within the meaning of that Act;

in a way that creates a hazard to another person or to property.

Penalty: 50 penalty units.

Note: Hazards from high power rockets and space objects are regulated under the *Space (Launches and Returns) Act 2018*.

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

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

- (4) It is not a defence to a charge of contravening subregulation (1), (2) or (3) that the relevant unmanned aircraft was being operated, or the relevant rocket was launched, in a way that complied with the operations manual of an approved aviation administration organisation.

- (5) In subregulations (2) and (3):

**rocket** includes a firework rocket.

## Subpart 101.C—Provisions applicable to unmanned aircraft generally

### 101.060 Applicability of this Subpart

This Subpart applies to the operation of unmanned aircraft of all kinds, except operation mentioned in subregulation 101.005(3).

Note: Rockets that are not aircraft are dealt with separately in Subpart 101.H.

### 101.065 Operation in prohibited or restricted area

- (1) A person may operate an unmanned aircraft in or over a prohibited area, or in or over a restricted area, only with the permission of, and in accordance with any conditions imposed by, the authority controlling the area.

Penalty: 25 penalty units.

Note: Details of prohibited and restricted areas are published in the AIP or NOTAMS.

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

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

- (2) In subregulation (1):

***authority controlling the area*** means:

- (a) in the case of a prohibited area—the Secretary of the Department administered by the Minister administering section 1 of the *Defence Act 1903*; and
- (b) in the case of a restricted area—the authority mentioned in AIP (as issued from time to time) as the controlling authority for the area.

- (3) For subregulation (1):

- (a) the authority controlling the area must give a written statement of any condition so imposed to the person who applied for the permission; and
- (b) unless the authority gives the statement to the person, the person is not bound by the condition.

### 101.066 Operation in prescribed area—requirements prescribed by the Part 101 Manual of Standards

- (1) The Part 101 Manual of Standards may prescribe requirements relating to the operation of unmanned aircraft in an area prescribed by the Part 101 Manual of Standards.
- (2) A person commits an offence of strict liability if:
- (a) the person operates an unmanned aircraft in an area prescribed under subregulation (1); and

- (b) the person is subject to a requirement under subregulation (1) in relation to the operation; and
- (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

### **101.070 Operation in controlled airspace above 400 ft AGL**

- (1) A person may operate an unmanned aircraft above 400 feet AGL in controlled airspace only:
  - (a) in an area approved under regulation 101.030 as an area for the operation of unmanned aircraft of the same kind as the aircraft, and in accordance with any conditions of the approval; and
  - (b) in accordance with an air traffic control clearance.

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*.

### **101.072 Operation in controlled airspace—requirements prescribed by the Part 101 Manual of Standards**

- (1) The Part 101 Manual of Standards may prescribe requirements relating to the operation of unmanned aircraft in controlled airspace.
- (2) A person commits an offence of strict liability if:
  - (a) the person operates an unmanned aircraft in controlled airspace; and
  - (b) the person is subject to a requirement under subregulation (1) in relation to the operation; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

### **101.073 Operation must generally be within visual line of sight**

*Unmanned aircraft must be operated within visual line of sight*

- (1) A person commits an offence of strict liability if:
  - (a) the person operates an unmanned aircraft; and
  - (b) the aircraft is not operated within the person's visual line of sight.

Penalty: 50 penalty units.

*Exception—CASA approval*

- (2) Subregulation (1) does not apply if:
  - (a) the person holds an approval under regulation 101.029 to operate the unmanned aircraft beyond the person's visual line of sight; and

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(b) the conditions (if any) imposed on the approval are complied with.

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

### *Meaning of operated within visual line of sight*

(3) An unmanned aircraft is being ***operated within the visual line of sight*** of the person operating the aircraft if the person can continually see, orient and navigate the aircraft to meet the person's separation and collision avoidance responsibilities, with or without corrective lenses, but without the use of binoculars, a telescope or other similar device.

## **101.075 Operation near aerodromes**

(1) A person may operate an unmanned aircraft at an altitude above 400 feet AGL within 3 nautical miles of an aerodrome only if:

- (a) the operation is permitted by another provision of this Part; or
- (b) permission has been given for the operation under regulation 101.080.

Penalty: 25 penalty units.

(2) A person may operate an unmanned aircraft over an area mentioned in paragraph (3)(a) or (b) only if:

- (a) the operation is permitted by another provision of this Part; or
- (b) permission has been given for the operation under regulation 101.080.

Penalty: 25 penalty units.

(3) The areas for subregulation (2) are:

- (a) a movement area or runway of an aerodrome; and
- (b) the approach or departure path of a runway of an aerodrome.

(4) A person must not operate an unmanned aircraft in such a manner as to create an obstruction to an aircraft taking off from, or approaching for landing at, a landing area or a runway of an aerodrome.

Penalty: 25 penalty units.

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

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

## **101.080 Permission for operation of unmanned aircraft near aerodrome**

(1) The authority from which permission must be obtained for the purposes of regulation 101.075 is:

- (a) if the aerodrome concerned is a controlled aerodrome—the air traffic control service for the aerodrome; or
- (b) in the case of any other aerodrome—CASA.

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- (2) A person applies for permission under this regulation by giving to the relevant authority mentioned in subregulation (1) the information required by table 101.080, so far as relevant to the proposed operation.

**Table 101.080 Details of operation of unmanned aircraft to be given to CASA or ATC**

Item	Information to be provided
1	In all cases: (a) the name, address, email address and telephone number of the person who will operate the aircraft or (if the aircraft concerned is an unmanned free balloon) release the balloon (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the operation); and (b) the date and time the operation or release is to begin and how long it is to last; and (c) where it is to be carried out; and (d) if more than 1 unmanned aircraft is to be operated at a time, how many unmanned aircraft are to be operated at that time
2	In the case of the operation of a tethered balloon or a kite: (a) a brief description of the balloon or kite, including its predominant colour; and (b) the height to which it is to be operated; and (c) its mass
3	In the case of the release of an unmanned free balloon: (a) how many balloons are to be released; and (b) the estimated size and mass of the balloon's payload
4	In the case of the release of a medium or heavy balloon: (a) the balloon's flight identification or its project code name; and (b) the balloon's classification, or a description of the balloon; and (c) the balloon's SSR code or NDB frequency, and its Morse identification; and (d) the expected horizontal direction of the balloon's ascent, and the balloon's expected rate of climb; and (e) the balloon's float level (given as pressure altitude); and (f) when the balloon is expected to reach 60 000 feet pressure altitude, and the location over which it is expected to do so; and (g) when the flight is expected to end, and where the balloon and its payload are expected to fall

Note: For **free balloon** and **heavy balloon**, see regulation 101.145. For **tethered balloon**, see regulation 101.105.

- (3) If more than 1 aircraft is to be operated at a time, such a requirement is a requirement to give the information about each such aircraft.
- (4) Regulation 101.035 does not authorise a person who or that applies for permission under this regulation to make the application to a body mentioned in paragraph 101.035(1)(a) or (b).
- (5) If the authority grants the permission, it may impose conditions on the permission in the interests of the safety of air navigation.

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- (6) A person must not contravene a condition imposed under subregulation (5).

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*.

### **101.085 Maximum operating height**

- (1) A person may operate an unmanned aircraft above 400 feet AGL only:
- (a) in an area approved under regulation 101.030 as an area for the operation of unmanned aircraft of the same class as the aircraft concerned, and in accordance with any conditions of the approval; or
  - (b) as otherwise permitted by this Part.

Penalty: 50 penalty units.

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

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

### **101.090 Dropping or discharging of things**

- (1) A person must not cause a thing to be dropped or discharged from an unmanned aircraft in a way that creates a hazard to another aircraft, a person, or property.

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*.

### **101.095 Weather and day limitations**

- (1) A person may operate an unmanned aircraft:
- (a) in or into cloud; or
  - (b) at night; or
  - (c) in conditions other than VMC;
- only if permitted by another provision of this Part, or in accordance with an air traffic control direction.

Penalty: 25 penalty units.

- (1A) Subregulation (1) does not apply if the person holds an approval under regulation 101.029 for the purposes of this subregulation.

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

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

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



**101.097 Autonomous aircraft—launch or release without approval prohibited**

- (1) This regulation:
  - (a) applies to an unmanned aircraft (an *autonomous aircraft*) that does not allow pilot intervention during all stages of the flight of the aircraft; but
  - (b) does not apply to balloons, kites or model aircraft.
- (2) A person commits an offence of strict liability if the person causes an autonomous aircraft to be launched or released.

Penalty: 50 penalty units.

- (3) Subregulation (2) does not apply if:
  - (a) the person holds an approval under regulation 101.029 to launch or release the autonomous aircraft; and
  - (b) the conditions (if any) imposed on the approval are complied with.

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

**101.098 Identification of certain RPA—requirements prescribed by the Part 101 Manual of Standards**

- (1) The Part 101 Manual of Standards may prescribe requirements relating to the identification of RPA required to be registered under Division 47.C.2.
- (2) A person commits an offence of strict liability if:
  - (a) the person operates, or conducts an operation using, an RPA required to be registered under Division 47.C.2; and
  - (b) the person is subject to a requirement prescribed for the purposes of subregulation (1) in relation to that operation or conduct; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

**101.099 Foreign registered RPA and model aircraft—requirements prescribed by the Part 101 Manual of Standards**

- (1) The Part 101 Manual of Standards may prescribe requirements relating to the operation of, or the conduct of operations using, RPA or model aircraft registered under a law of a foreign country.
- (2) A person commits an offence of strict liability if:
  - (a) the person operates, or conducts an operation using, an RPA, or a model aircraft, within Australian territory; and
  - (b) the person is subject to a requirement prescribed under subregulation (1) in relation to that operation or conduct; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

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**101.099AA Foreign registered RPA—unmanned aircraft levy**

*Payment of unmanned aircraft levy*

- (1) An application under Chapter 13 of the *Part 101 (Unmanned Aircraft and Rockets) Manual of Standards 2019* for permission to operate, or to conduct operations using, an RPA registered under a law of a foreign country must be accompanied by the unmanned aircraft levy (if any) for the application.

*Waiver or refund of unmanned aircraft levy*

- (2) CASA may, on behalf of the Commonwealth, waive the payment of unmanned aircraft levy under subregulation (1), or refund levy that has been paid under that subregulation, if CASA is satisfied that there are exceptional circumstances justifying the waiver or refund.
- (3) The waiver or refund:
  - (a) may be of the whole or part of the levy; and
  - (b) may be made by CASA on its own initiative, or on written application in the approved form by the applicant for the registration.

**101.099A Modifications of certain RPA—requirements prescribed by the Part 101 Manual of Standards**

- (1) The Part 101 Manual of Standards may prescribe requirements relating to the modification of an RPA registered under Division 47.C.2, including the extent to which modifications may be made to such an aircraft before the aircraft is considered to be no longer the aircraft to which the aircraft's registration applies.
- (2) A person commits an offence of strict liability if:
  - (a) the RPA is registered under Division 47.C.2; and
  - (b) the aircraft is modified after it is registered under that Division; and
  - (c) the person operates the modified aircraft, or conducts an operation using the modified aircraft; and
  - (d) the person is subject to a requirement prescribed for the purposes of subregulation (1) in relation to that operation or conduct; and
  - (e) the person does not comply with the requirement.

Penalty: 50 penalty units.

**101.099B Test flights of certain RPA—circumstances and requirements prescribed by the Part 101 Manual of Standards**

*Circumstances in which aircraft may be operated for test flights while not registered for the flights*

- (1) The Part 101 Manual of Standards may prescribe the circumstances in which an RPA that is not required to be registered under Division 47.C.1, and is not

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registered under Division 47.C.2, may be operated for the purposes of a test flight.

- (2) For the purposes of subregulation (1), circumstances in which an aircraft may be operated for the purposes of a test flight may be prescribed only if the circumstances are relevant to the development, manufacture, repair or maintenance of the aircraft or of equipment associated with the aircraft.

*Requirements for aircraft operated for test flights while not registered for the flights*

- (3) The Part 101 Manual of Standards may prescribe requirements relating to the operation of an aircraft mentioned in subregulation (1) for the purposes of a test flight.
- (4) A person commits an offence of strict liability if:
- (a) the person operates, or conducts an operation using, an RPA for the purposes of a test flight; and
  - (b) the person is subject to a requirement prescribed for the purposes of subregulation (3) in relation to that operation or conduct; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

## Subpart 101.D—Tethered balloons and kites

### 101.100 Applicability of this Subpart

This Subpart applies to the operation of tethered balloons and kites.

- Note: This Subpart does not apply to:
- (a) the shielded operation (that is, operation within 100 metres of a structure and not above the top of the structure) of a small balloon; or
  - (b) the operation of an unmanned tethered balloon or kite below 400 feet AGL.
- See subregulation 101.005(3).

### 101.105 Definitions for Subpart

- (1) In this Subpart:

**tethered balloon** means an unmanned balloon that is attached to the ground, or an object on the ground, by a cable.

- (2) For this Subpart, the height of a tethered balloon is taken to be the height above ground or water level of the topmost part of its envelope.

### 101.110 Tethered balloons and kites that may be operated outside approved areas

- (1) A person may operate a tethered balloon or a kite above 400 feet AGL outside an area approved under regulation 101.030 as an area for the operation of unmanned balloons or kites (as the case requires) only if:
- (a) the mass of the balloon or kite is no more than 15 kilograms; and
  - (b) the horizontal visibility at the time is at least 5 kilometres; and
  - (c) the person gives to CASA the information required by table 101.110 about the proposed operation at least 1 working day before it is due to start.

Penalty: 10 penalty units.

- Note 1: A person can comply with this requirement by telling:
- (a) if the person is an approved aviation administration organisation—the Australian NOTAM Office; or
  - (b) the appropriate approved aviation administration organisation.
- See regulation 101.035.

Note 2: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

- (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) If more than 1 tethered balloon or kite is to be operated at a time, such a requirement is a requirement to give the information about each such balloon or kite.

**Table 101.110 Details of operation of tethered balloon or kite to be given to CASA**

<b>Item</b>	<b>Information to be provided</b>
1	The name, address, email address and telephone number of the person who will operate the balloon or kite (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the operation)
2	The date and time the operation is to begin, and how long it is to last
3	Where it is to be carried out
4	A brief description of the balloon or kite, including its predominant colour
5	The height to which it is to be operated
6	Its mass
7	If more than 1 tethered balloon or kite is to be operated at a time, how many tethered balloons or kites are to be operated at the time

### **101.115 Mooring-line marking**

- (1) A person may operate a tethered balloon only if:
  - (a) each mooring line has coloured streamers attached at intervals of no more than 15 metres along it, with the first streamer no more than 150 feet AGL; and
  - (b) the streamers would be visible in normal daylight for at least 1.5 kilometres.

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*.

### **101.120 Operation of tethered balloon or kite under cloud**

- (1) A person may operate a tethered balloon or kite under cloud only if he or she keeps the balloon or kite at least 500 feet (measured vertically) below the cloud.

Penalty: 10 penalty units.

Note: For *tethered balloon*, see regulation 101.105.

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

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

### **101.125 Tethered balloon to be lit at night**

- (1) A person may operate a tethered balloon at night at or above 400 feet AGL only if it is lit so as to be visible in VMC from at least 4 kilometres away.

Penalty: 10 penalty units.

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

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

- (2) The lighting required by subregulation (1) may be inside the balloon, on its outside, or on the ground.

### **101.130 Rapid deflation device required**

- (1) A person may operate a tethered balloon only if it is fitted with a device that will cause it to deflate rapidly and completely if it escapes from its mooring.

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*.

### **101.135 What to do if tethered balloon escapes**

- (1) If a tethered balloon escapes from its mooring, and the deflation device does not cause it to deflate, the person operating it must tell Airservices Australia as soon as possible:
  - (a) where the balloon was launched; and
  - (b) what time it broke free; and
  - (c) the direction it was headed when last seen.

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*.

## Subpart 101.E—Unmanned free balloons

### 101.140 Applicability of this Subpart

This Subpart applies to the operation of an unmanned free balloon.

### 101.145 Kinds of unmanned free balloons

- (1) There are 4 kinds of unmanned free balloon. These are defined (in order of ascending size) in the following 4 subregulations.
- (2) A **small balloon** is an unmanned free balloon that:
  - (a) has a diameter of 2 metres or less at launch; and
  - (b) either:
    - (i) is not carrying a payload; or
    - (ii) is carrying a payload with a combined mass of 50 g or less.
- (3) A **light balloon** is an unmanned free balloon that:
  - (a) carries a payload to which all of the following apply:
    - (i) the payload does not include a heavy package;
    - (ii) the payload has a combined mass of more than 50 g but less than 4 kg;
    - (iii) if a rope or other device has been used for the suspension of the payload—an impact force of less than 230 N is required to separate the suspended payload from the balloon; or
  - (b) has a diameter of greater than 2 metres at launch and either:
    - (i) is not carrying a payload; or
    - (ii) is carrying a payload with a combined mass of 50 g or less.
- (4) A **medium balloon** is an unmanned free balloon that carries a payload to which all of the following apply:
  - (a) the payload includes at least 2 packages but no heavy packages;
  - (b) the payload has a combined mass of at least 4 kg but less than 6 kg;
  - (c) if a rope or other device has been used for the suspension of the payload—an impact force of less than 230 N is required to separate the suspended payload from the balloon.
- (5) A **heavy balloon** is an unmanned free balloon that carries a payload to which any of the following apply:
  - (a) the payload includes a heavy package;
  - (b) the combined mass of the payload is at least 6 kg;
  - (c) if a rope or other device has been used for the suspension of the payload—an impact force of 230 N or more is required to separate the suspended payload from the balloon.
- (6) A **heavy package** means a package that:

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- (a) weighs at least 3 kg; or
  - (b) weighs at least 2 kg and has an area density of more than 13 g per cm<sup>2</sup>.
- (7) For paragraph (6)(b), the area density of a package is worked out by dividing the total mass in grams of the package by the area in square centimetres of its smallest surface.

### 101.150 Definition for Subpart—*approved area*

In this Subpart:

***approved area*** means an area approved under regulation 101.030 as an area for the operation or release of unmanned free balloons.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(7).

### 101.155 Releasing small balloons

- (1) A person may release a small balloon only if the person has first complied with any requirements as to approval or notice set out in table 101.155-1.

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) Subregulation (1) does not apply if no more than 100 balloons are to be released at once.

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**Table 101.155-1 Requirements for release of small balloons**

Item	Number of balloons to be released at once	Distance from place of release to nearest aerodrome			
		less than 3 nautical miles	3–6 nautical miles	6–12 nautical miles	over 12 nautical miles
1	101–1 000	approval required	NOTAM	no approval required	no approval required
2	1 001–10 000	approval required	approval required	NOTAM	no approval required
3	Over 10 000	approval required	approval required	approval required	NOTAM

- (3) In the table, for a combination of a number of balloons to be released and a distance to an aerodrome:

***approval required*** means that an approval under subregulation (5) is required for the release of that number of balloons at a place within that distance from the nearest aerodrome.



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***no approval required*** means that no such approval is required for the release of that number of balloons at a place within that distance from the nearest aerodrome.

***NOTAM*** means that CASA's approval is not required, but the person intending to release that number of balloons at a place that distance from the nearest aerodrome must give to CASA the information about the proposed release required by table 101.155-2.

**Table 101.155-2 Details of release of small balloons to be given to CASA**

<b>Item</b>	<b>Information to be provided</b>
1	The name, address, email address and telephone number of the person who will release the balloons (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the release)
2	The date and time the release is to begin, and how long it will take
3	Where it is to be carried out
4	How many balloons are to be released
5	The estimated size and mass of any payload

Note: CASA will tell the NOTAM Office about the release.

- (4) A person may apply to CASA, in writing, for approval to release small balloons.

Note: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

- (5) Subject to regulation 11.055, if approval is required under subregulation (1) to release small balloons, CASA must grant the approval.

Note 1: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

Note 2: CASA will tell the NOTAM Office about the release.

### **101.160 Light balloons that may be released outside approved areas**

- (1) A person may release a light balloon outside an approved area only if the person gives to CASA the information required by table 101.160 at least 1 working day before the proposed release.

Penalty: 10 penalty units.

Note 1: A person can comply with this requirement by telling:

- (a) if the person is an approved aviation administration organisation—the Australian NOTAM Office; or
- (b) the appropriate approved aviation administration organisation.

See regulation 101.035.

Note 2: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

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(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) If more than 1 balloon is to be released at a time, such a requirement is a requirement to give the information about each such balloon.

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**Table 101.160 Details of release of light balloon to be given to CASA**

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Item	Information to be provided
1	The name, address, email address and telephone number of the person who will release the balloon (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the release)
2	The date and time the release is to begin
3	Where it is to be carried out
4	The estimated size and mass of the balloon's payload
5	If more than 1 balloon is to be released at a time, how many balloons are to be released at the time

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(3) Subregulation (1) does not require the Bureau of Meteorology to give notice of the proposed release of a light balloon if:

- (a) the release is part of the Bureau's normal meteorological procedures; and
- (b) the release location has been notified in AIP or NOTAM.

## 101.165 Release of medium and heavy balloons outside approved areas

(1) Subject to subregulation (3), a person may release a medium or heavy balloon outside an approved area only if the person gives to CASA the information required by table 101.165 at least 2 working days before the proposed release.

Penalty: 10 penalty units.

Note 1: A person can comply with this requirement by telling:

- (a) if the person is an approved aviation administration organisation—the Australian NOTAM Office; or
- (b) the appropriate approved aviation administration organisation.

See regulation 101.035.

Note 2: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

(2) If more than 1 balloon is to be operated at a time, such a requirement is a requirement to give the information about each such balloon.

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**Table 101.165 Details of release of medium or heavy balloon to be given to CASA**

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Item	Information to be provided
1	The name, address, email address and telephone number of the person who will release the balloon (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the release)
2	The date and time the release is to begin

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**Table 101.165 Details of release of medium or heavy balloon to be given to CASA**

<b>Item</b>	<b>Information to be provided</b>
3	Where it is to be carried out
4	The estimated size and mass of the balloon's payload
5	The balloon's flight identification or the project code name
6	The balloon's classification, or a description of the balloon
7	The balloon's SSR code or NDB frequency, and its Morse identification
8	The expected horizontal direction of the balloon's ascent, and the balloon's expected rate of climb
9	The balloon's planned float level (given as pressure altitude)
10	The time the balloon is expected to reach 60 000 feet pressure altitude, and the location over which it is expected to do so
11	The time the flight is expected to end, and where the balloon and its payload are expected to fall
12	If more than 1 balloon is to be released at a time, how many balloons are to be released at the time

- (3) Subregulation (1) does not require the Bureau of Meteorology to give notice of the proposed release of a medium balloon if:
- (a) the release is part of the Bureau's normal meteorological procedures; and
  - (b) the release location has been notified in AIP or NOTAM.
- (4) Subject to subregulation (5), the person must also confirm the details of the proposed release to the air traffic control service that has responsibility for the airspace within which the balloon will be released no later than the earlier of:
- (a) 6 hours before the expected release time; or
  - (b) the time the balloon begins to be inflated.

Penalty: 10 penalty units.

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

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

- (5) Subregulation (4) does not require the Bureau of Meteorology to confirm the details of the release of a medium balloon with an air traffic control service if:
- (a) the release is part of the Bureau's normal meteorological procedures; and
  - (b) the release location has been notified in AIP or NOTAM.

### **101.170 Medium and heavy balloons not to be flown low**

- (1) A person who is operating a medium or heavy balloon must not allow it to go below 3 000 feet AGL while it is over a populous area.

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*.

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### 101.175 Medium and heavy balloons to be flown in clear sky

- (1) Subject to subregulations (3) and (4), a person must not operate a medium or heavy balloon below 60 000 feet pressure altitude if, at the altitude at which the balloon is being operated, the horizontal visibility is less than 8 kilometres.

Penalty: 10 penalty units.

- (2) Subject to subregulations (3) and (4), a person who is operating a medium or heavy balloon must not allow it to remain at an altitude below 60 000 feet pressure altitude at which cloud, fog or mist obscures more than half the sky.

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) Subregulations (1) and (2) do not apply to operation outside controlled airspace if CASA approves the operation and the operation is carried out in accordance with the approval.
- (4) Those subregulations also do not apply to operation in controlled airspace in accordance with an air traffic control clearance.

### 101.180 How payload must be supported—medium and heavy balloons

- (1) A person may operate a medium or heavy balloon only if the means by which the payload is attached to the balloon can support at least 10 times the mass of the payload.

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*.

### 101.185 Equipment that must be carried—medium and heavy balloons

- (1) A person may operate a medium or heavy balloon only if:
  - (a) the balloon is fitted with at least 2 independent ways (either automatic or remotely-operated) of releasing its payload; and
  - (b) if the balloon is not a zero-pressure balloon, it has at least 2 independent ways of ending the flight of the balloon envelope; and
  - (c) either:
    - (i) the balloon envelope carries a radar reflector, or radar-reflective material, that will return an echo to a surface radar operating in the frequency range 200 megahertz to 2 700 megahertz; or
    - (ii) the balloon is fitted with a device to allow it to be continuously tracked by the operator beyond the range of ground-based radar; and
  - (d) if the balloon is operated in an area in which ground-based secondary surveillance radar is in use, it is fitted with an SSR transponder (with

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altitude-reporting capability) that either operates continuously or can be turned on by the operator if an air traffic control service so requires.

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*.

### **101.190 Lighting—medium and heavy balloons**

- (1) A person may operate a medium or heavy balloon below 60 000 feet pressure altitude at night only if both the balloon and its payload are lit (whether or not they become separated during the operation) so as to be visible, under the prevailing conditions, for at least 4 kilometres in all directions.

Penalty: 25 penalty units.

- (2) For subregulation (1), a balloon is being operated at night if the sun is below the balloon's horizon.

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

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

### **101.195 Marking—unmanned free balloons generally**

- (1) A person may operate an unmanned free balloon that carries a trailing antenna that requires a force of more than 230 newtons to break it only if the antenna has coloured streamers or pennants attached to it every 15 metres.

Penalty: 25 penalty units.

- (2) A person may operate an unmanned free balloon that carries a payload only if the payload has fixed to it a durable identification plate carrying sufficient information:

- (a) to identify the payload; and
- (b) to enable somebody who finds the payload to contact the person who released the balloon.

Penalty: 10 penalty units.

- (3) Subregulation (2) does not apply to a light or medium balloon operated by the Bureau of Meteorology.

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

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

### **101.200 Marking by day—heavy balloons**

- (1) A person may operate a heavy balloon (being a heavy balloon that has its payload suspended more than 15 metres below the envelope) above 60 000 feet pressure altitude by day only if:

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- (a) the payload's suspension is coloured in alternate bands of conspicuous colours, or has coloured pennants attached to it; or
- (b) the balloon has a conspicuous payload-recovery parachute suspended under the envelope, or the balloon is suspended beneath a conspicuous open parachute.

Penalty: 25 penalty units.

- (2) For subregulation (1), a balloon is being operated by day if the sun is above the balloon's horizon.
- (3) An offence against subregulation (1) is an offence of strict liability.

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

### **101.205 Lighting by night—heavy balloons**

- (1) A person may operate a heavy balloon above 60 000 feet pressure altitude at night only if it is lit so as to be visible in VMC from at least 4 kilometres away.

Penalty: 25 penalty units.

- (2) For subregulation (1), a balloon is being operated at night if the sun is below the balloon's horizon.
- (3) The lighting required by subregulation (1) may be inside the balloon, on its outside, or on the ground.
- (4) An offence against subregulation (1) is an offence of strict liability.

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

### **101.210 Obligation to stay in communication with ATC—medium and heavy balloons**

- (1) The operator of a medium or heavy balloon must establish and maintain communication with the relevant air traffic control service from the time the balloon begins to be inflated until the flight ends.

Penalty: 25 penalty units.

- (2) The operator must tell the relevant air traffic control service at least 1 hour before the balloon is launched.

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*.

### **101.215 Tracking of flight—medium and heavy balloons**

- (1) The operator of a medium or heavy balloon must track its flight continuously.

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Penalty: 10 penalty units.

- (2) While the balloon is below 60 000 feet pressure altitude, if it cannot be tracked visually from the ground or by radar, the operator must ensure that a tracking aircraft accompanies it continuously.

Penalty: 10 penalty units.

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

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

**101.220 Flight reporting—medium and heavy balloons**

- (1) The operator of a medium or heavy balloon must report the progress of the balloon's flight to the relevant air traffic control service as follows:
- (a) the operator must tell the service immediately when the balloon is released;
  - (b) the operator must tell the service when the balloon leaves each 10 000-foot level up to 60 000 feet (pressure altitude);
  - (c) the operator must report the balloon's position to the relevant air traffic control service periodically, as follows:
    - (i) when required to do so by the service;
    - (ii) while the balloon is below 60 000 feet pressure altitude—every 10 minutes;
    - (iii) while the balloon is at or above 60 000 feet pressure altitude—every 2 hours;
  - (d) if the operator loses the balloon's position, the operator must tell the service immediately that tracking has been lost and the balloon's last known position;
  - (e) after having re-established tracking of the balloon, the operator must tell the service immediately that tracking has been re-established and the balloon's position at that time.

Penalty: 10 penalty units.

- (2) If the balloon is being accompanied by a tracking aircraft, the operator must ensure that the crew of the aircraft maintains continuous 2-way communication with the relevant air traffic control service.

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) A reference in this regulation to the relevant air traffic control service is to be read, at a particular time, as a reference to the air traffic control service that is responsible for the airspace in which the balloon is located at the time.

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### 101.225 Ending flight and recovery—medium and heavy balloons

- (1) The operator of a medium or heavy balloon must give to the relevant air traffic control service at least 1 hour's notice of the time the flight is planned to end, and when doing so must also give to the air traffic control service the following information:
  - (a) the balloon's current position and altitude;
  - (b) the estimated time at which, and the estimated location over which, the balloon will pass through 60 000 feet pressure altitude during its descent;
  - (c) the estimated time when, and place where, the payload will fall.

Penalty: 10 penalty units.

- (2) The operator may command the balloon to end its flight only:
  - (a) in an emergency; or
  - (b) if cleared to do so by the relevant air traffic control service.

Penalty: 50 penalty units.

- (3) If the operator commands the balloon to end its flight when not cleared by air traffic control to do so, the operator must tell the relevant air traffic control service immediately, and when doing so must also give to it the following information:
  - (a) the balloon's current position and altitude;
  - (b) the estimated time when and place where the payload will fall.

Penalty: 10 penalty units.

- (4) The operator must tell the relevant air traffic control service as soon as possible after the balloon's payload falls.

Penalty: 10 penalty units.

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

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

- (5) A reference in this regulation to the relevant air traffic control service is to be read, at a particular time, as a reference to the air traffic control service that is responsible for the airspace in which the balloon is located at the time.

### 101.230 Direction by ATC to end flight in certain circumstances

- (1) If a balloon is in controlled airspace and an air traffic control service considers that it poses a hazard to other aircraft, or to people or property on the ground, that service may direct the balloon's operator to end the balloon's flight immediately.
- (2) The operator must comply with the direction by ending the balloon's flight by the fastest possible method.



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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*.

## Subpart 101.F—Remotely piloted aircraft

### Division 101.F.1—General

#### 101.235 Application of Subpart 101.F

This Subpart applies to the operation of the following:

- (a) very small RPA;
- (b) small RPA;
- (c) medium RPA;
- (d) large RPA.

Note 1: This Subpart does not apply to model aircraft, as they are not RPA—see the definitions of *RPA* in regulation 101.021 and *model aircraft* in regulation 101.023.

Note 2: This Subpart also does not apply to micro RPA—see the definition of *micro RPA* in regulation 101.022.

#### 101.236 Meaning of *approved area*

In this Subpart:

*approved area* means an area approved under regulation 101.030 as an area for the operation of RPA.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAMS or on an aeronautical chart: see subregulation 101.030(7).

#### 101.237 Meaning of *excluded RPA*

- (1) This regulation sets out what is an *excluded RPA*.

Note: A remote pilot licence is not required to operate an excluded RPA. An accreditation is sufficient—see regulation 101.252 and Subpart 101.FA.

- (3) A very small RPA is an *excluded RPA* if it is being operated in standard RPA operating conditions.
- (4) A small RPA is an *excluded RPA* if it is being operated:
- (a) by or on behalf of the owner of the RPA; and
  - (b) over land owned or occupied by the owner of the RPA; and
  - (c) in standard RPA operating conditions; and
  - (d) for the purposes of one or more of the following:
    - (i) aerial spotting;
    - (ii) aerial photography;
    - (iii) agricultural operations;
    - (iv) aerial communications retransmission;
    - (v) the carriage of cargo;
    - (vi) any other activity that is similar to an activity mentioned in the subparagraphs above; and

for which no remuneration is received by the operator or the owner of the RPA, the owner or occupier of the land or any person on whose behalf the activity is being conducted.

- (6) A small RPA is an **excluded RPA** if it is being operated in standard RPA operating conditions by:
- (a) a person for the sole purpose of meeting the experience requirement mentioned in paragraph 101.295(2)(c) for the grant of a remote pilot licence; or
  - (b) the holder of a remote pilot licence for the sole purpose of getting practical experience and gaining competency in the operation of an RPA of a category that is specified in the licence.

Note: For paragraph (b), for example, if a remote pilot licence states that the holder is authorised to operate a small RPA with a gross weight of not more than 7 kg that is an aeroplane, a small RPA with a gross weight of 10 kg that is an aeroplane may be an excluded RPA when operated by that holder. However, a small RPA (of any weight) that is a helicopter cannot be an excluded RPA when operated by that holder, because an aeroplane is not of the same category of RPA as a helicopter (see the definition of **category** in Part 1 of the Dictionary).

- (7) A medium RPA is an **excluded RPA** if it is being operated:
- (a) by or on behalf of the owner of the RPA; and
  - (b) by a person who holds a remote pilot licence that authorises the person to operate the RPA; and
  - (c) over land owned or occupied by the owner of the RPA; and
  - (d) in standard RPA operating conditions; and
  - (e) for the purposes of one or more of the following:
    - (i) aerial spotting;
    - (ii) aerial photography;
    - (iii) agricultural operations;
    - (iv) aerial communications retransmission;
    - (v) the carriage of cargo;
    - (vi) any other activity that is similar to an activity mentioned in the subparagraphs above; andfor which no remuneration is received by the operator or owner of the RPA, the owner or occupier of the land or any person on whose behalf the activity is being conducted.
- (8) An RPA is an **excluded RPA** if it is being operated:
- (a) by a person solely for the purpose of the person receiving training from an RPA operator who holds a certificate under Division 101.F.4 that authorises the operator to conduct operations using the RPA; and
  - (b) in accordance with the operator's documented training procedures.

### 101.238 Meaning of standard RPA operating conditions

An RPA is operated in **standard RPA operating conditions** if, at all times during the operation:

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- (aa) the RPA is operated in Australian territory; and
- (a) the RPA is operated within the visual line of sight of the person operating the RPA; and
- (b) the RPA is operated at or below 400 ft AGL by day; and
- (c) the RPA is not operated within 30 m of a person who is not directly associated with the operation of the RPA; and
- (d) the RPA is not operated:
  - (i) in a prohibited area; or
  - (ii) in a restricted area that is classified as RA3; or
  - (iii) in a restricted area that is classified as RA2 or RA1 otherwise than in accordance with regulation 101.065; or
  - (iv) over a populous area; or
  - (v) within 3 nautical miles of the movement area of a controlled aerodrome; and
- (e) the RPA is not operated over an area where a fire, police or other public safety or emergency operation is being conducted without the approval of a person in charge of the operation; and
- (f) the person operating the RPA operates only that RPA.

## **Division 101.F.2—Operation of RPA generally**

### **101.245 Operation near people**

- (1) Subject to subregulations (2) and (3), a person must not operate an RPA within 30 metres of a person (the *second person*) who is not directly associated with the operation of the RPA.

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) Subregulation (1) does not apply if the second person is standing behind the RPA while the RPA is taking off.

- (3) Subregulation (1) does not apply if:

- (a) the RPA is a very small RPA, small RPA or medium RPA; and
- (b) the second person has consented to the RPA operating within 30 m of him or her; and
- (c) the RPA is operated no closer than 15 m of him or her.

- (4) Subregulation (1) does not apply if:

- (a) the RPA is an airship; and
- (b) the airship approaches no closer to the second person than 10 m horizontally and 30 ft vertically.

- (5) Subregulation (1) does not apply if the person holds an approval under regulation 101.029 for the purposes of this subregulation.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (2) to (5): see subsection 13.3(3) of the *Criminal Code*.

### **101.250 Where very small, small and medium RPA may be operated**

- (1) A person may operate a very small RPA, a small RPA or a medium RPA outside an approved area only if:

- (a) where the RPA is operated above 400 feet AGL, the operator has CASA's approval to do so; and
- (b) the RPA stays clear of populous areas.

Penalty: 10 penalty units.

Note 2: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

Note 3: This Subpart only applies to the operation of certain RPA: see regulation 101.235.

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

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

## Regulation 101.252

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### **101.252 Certain RPA—requirement for remote pilot licence**

- (1) This regulation does not apply in relation to the operation of an excluded RPA.
- (2) A person commits an offence of strict liability if:
  - (a) the person operates an RPA; and
  - (b) the person does not hold a remote pilot licence that authorises the person to operate the RPA.

Penalty: 50 penalty units.

- (3) A person (the **offender**) commits an offence of strict liability if:
  - (a) the offender operates an RPA; and
  - (b) one of the following persons demands the offender to produce, for inspection by the person, a remote pilot licence that authorises the offender to operate the RPA:
    - (i) an authorised person;
    - (ii) a member or special member of the Australian Federal Police;
    - (iii) a member of a police force or a police service of a State or Territory;and
  - (c) the offender fails to comply with the demand.

Penalty: 5 penalty units.

- (4) Subregulation 302(1) of CAR does not apply in relation to a remote pilot licence.

### **101.255 Large RPA—requirement for certificate**

- (1) A person may operate a large RPA only if either a special certificate of airworthiness (restricted category), or an experimental certificate, has been issued for it under Subpart 21.H of Part 21.

Penalty: 50 penalty units.

Note 1: For **large RPA**, see regulation 101.022.

Note 2: A large RPA is required to carry a manufacturer's data plate and an aircraft registration identification plate—see respectively regulation 21.820 and Subpart 45.D of Part 45.

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

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

### **101.260 Maintenance of large RPA**

- (1) Subdivision 2 of Division 2 of Part 4A of CAR applies to large RPA.

Note: That is, a large RPA must be maintained as a Class B aircraft.

- (2) A person who carries out maintenance on a large RPA must comply with any directions given in writing by CASA in relation to the maintenance of the RPA, or the maintenance of RPA of a class that includes the RPA.

### **101.265 Large RPA—persons permitted to carry out maintenance**

- (3) For subsection 20AB(2) of the Act, and despite anything in regulation 42ZC of CAR 1988, a person may carry out maintenance on:
- (a) a large RPA that is an Australian aircraft; or
  - (b) an aircraft component for such an RPA; or
  - (c) aircraft material for such an RPA;
- if the person:
- (d) holds an airworthiness authority that authorises the maintenance; or
  - (e) carries out the maintenance under the supervision of a person who holds such an authority.

### **101.270 Certain RPA—requirement for RPA operator’s certificate**

- (1) This regulation does not apply in relation to the operation of an excluded RPA.
- (2) A person commits an offence of strict liability if:
- (a) the person conducts operations using RPA; and
  - (b) the person does not hold a certificate as an RPA operator under Division 101.F.4 that authorises the person to conduct the operations.

Penalty: 50 penalty units.

### **101.272 Certain RPA—requirement to keep records or give information to CASA**

- (1) The Part 101 Manual of Standards may require a person who operates, or proposes to operate, RPA to do either or both of the following:
- (a) keep records, in accordance with the requirements prescribed by the Part 101 Manual of Standards;
  - (b) give information to CASA, in accordance with the requirements prescribed by the Part 101 Manual of Standards.
- (2) A person commits an offence of strict liability if:
- (a) the person is subject to a requirement under subregulation (1); and
  - (b) the person does not comply with the requirement.

Penalty: 50 penalty units.

### **101.275 Approval of operation of large RPA**

- (1) A person may operate a large RPA only with CASA’s approval.

Penalty: 50 penalty units.

- (1A) A person may apply to CASA, in writing, for approval to operate a large RPA.

Note 1: An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

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Note 2: Part 11 deals with applications and decision making.

- (1B) Subject to regulation 11.055, CASA must grant the approval if:
- (a) the person is certified as an operator of large RPA; and
  - (b) the operation would not contravene any condition of the certification.

Note 1: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to issue, or cancelling, suspending or varying, an approval; or
- (b) a decision imposing a condition on an approval.

Note 2: For certification as an operator of RPA, see Division 101.F.4.

- (3) Without limiting regulations 11.056 and 11.067, CASA may impose conditions on an approval:
- (a) prohibiting the operation of the relevant RPA at night or in conditions other than VMC; or
  - (b) restricting the extent to which the RPA may be operated at night or in conditions other than VMC; or
  - (c) requiring the RPA to stay within a specified area, or
  - (d) requiring the operator to make specified broadcasts.
- (6) An offence against subregulation (1) is an offence of strict liability.

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

### **101.280 RPA not to be operated over populous areas**

- (1) In this regulation:

**certificated RPA** means an RPA for which a certificate of airworthiness has been issued.

- (2) A person must not operate an RPA that is not a certificated RPA over a populous area at a height less than the height from which, if any of its components fails, it would be able to clear the area.

Penalty: 50 penalty units.

Note 1: For **populous area**, see regulation 101.025. For **RPA**, see regulation 101.022.

Note 2: For the kinds of RPA operation to which this Subpart applies, see regulation 101.235.

- (3) Without the approval of CASA, a person must not operate a certificated RPA over a populous area at a height less than the height from which, if any of its components fails, it would be able to clear the area.

Penalty: 50 penalty units.

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

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

- (4) In considering whether to give an approval under subregulation (3), CASA must take into account:



- (a) the degree of redundancy in the RPA's critical systems; and
  - (b) any fail-safe design characteristics of the RPA; and
  - (c) the security of its communications and navigation systems.
- (5) Before giving an approval under subregulation (3), CASA must be satisfied that the person who intends to operate the RPA will take proper precautions to prevent the proposed flight being dangerous to people and property.

### 101.285 Use of aeronautical radio

- (1) A person may operate an RPA (other than a very small RPA) in controlled airspace only if he or she:
- (a) holds a relevant qualification; and
  - (b) maintains a listening watch on a specified frequency or frequencies; and
  - (c) makes broadcasts on a specified frequency or frequencies at the specified interval giving the specified information.

Penalty: 25 penalty units.

Note: This Subpart only applies to the operation of certain RPA: see regulation 101.235.

- (2) In this regulation:

**relevant qualification** means any of the following qualifications:

- (a) an aeronautical radio operator certificate;
- (b) a flight crew licence;
- (c) an ATC licence;
- (d) a military qualification equivalent to a licence mentioned in paragraph (b) or (c);
- (e) a flight service licence.

**specified frequency** for particular airspace means a frequency specified from time to time in AIP or by ATC as a frequency for use in the airspace.

**specified information** for particular airspace means information specified from time to time in AIP or by ATC as information that must be broadcast in the airspace.

**specified interval** for particular airspace means the interval specified from time to time in AIP or by ATC as the interval at which broadcasts must be made while in that airspace.

- (3) CASA may direct that a particular person must not operate an RPA unless the person:
- (a) holds a relevant qualification; and
  - (b) maintains a listening watch on a frequency or frequencies specified in the direction; and
  - (c) makes broadcasts:
    - (i) on a frequency or frequencies; and
    - (ii) at intervals; and

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(iii) giving information—  
specified in the direction.

(4) The person must comply with the direction.

Penalty: 50 penalty units.

(5) CASA may direct, in regard to a particular RPA or type of RPA, that a person must not operate the RPA, or an RPA of that type, unless he or she:

(a) holds a relevant qualification; and

(b) maintains a listening watch on a frequency or frequencies specified in the direction; and

(c) makes broadcasts:

(i) on a frequency or frequencies; and

(ii) at intervals; and

(iii) giving information—  
specified in the direction.

(6) The person must comply with the direction.

Penalty: 50 penalty units.

(7) For subregulations (3) and (5), CASA may specify that a frequency is to be a frequency prescribed by the Part 91 Manual of Standards for the purposes of subregulation 91.255(1) or paragraph 91.630(1)(b).

(8) An offence against subregulation (1), (4) or (6) is an offence of strict liability.

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

## **Division 101.F.3—Remote pilot licences**

Note: In addition to the provisions of this Division, Part 11 contains provisions relating to an application for a remote pilot licence.

### **101.290 Application for remote pilot licence**

(1A) An individual may apply to CASA, in writing, for a licence (a *remote pilot licence*) to operate an RPA.

Note: For the kinds of RPA to which this Subpart applies, see regulation 101.235.

- (1) An application for a remote pilot licence must include the following information:
- (a) details of any flight crew licence, ATC licence or flight service licence that the applicant holds (including details of ratings, endorsements and qualifications);
  - (aa) details of any military qualification the applicant holds that is equivalent to a licence mentioned in paragraph (a);
  - (b) details of any aeronautical experience that the applicant has;
  - (c) details of any of the following examinations the applicant has passed (other than any examination passed in the course of gaining a licence mentioned in paragraph (a)):
    - (i) an aeronautical examination (within the meaning of Part 61);
    - (ii) an aviation licence theory examination before 1 September 2014 that is taken to be an equivalent requirement for the grant of a flight crew licence under regulation 202.274;
  - (d) if the applicant does not hold a licence mentioned in paragraph (a), details of any aeronautical radio operator certificate that the applicant holds;
  - (e) details of the applicant's experience in operating RPA;
  - (f) evidence of the completion of any training course in RPA operation that the applicant has undertaken.

### **101.295 Eligibility for remote pilot licence**

- (2) Subject to regulation 11.055, CASA must grant a remote pilot licence to the applicant if he or she:
- (a) has passed:
    - (i) an aeronautical knowledge examination (within the meaning of Part 61) for a flight crew licence under Part 61; or
    - (ii) an aviation licence theory examination before 1 September 2014 that is taken to be an equivalent requirement for the grant of a flight crew licence under regulation 202.274; or
    - (iii) the theory component of an RPL training course; or
    - (iv) the theory component of a course conducted in a foreign country which CASA is satisfied is equivalent to the theory component of an RPL training course; and
  - (b) has completed:

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- (i) an RPL training course in the manual or automated operation of a category of RPA that he or she proposes to operate; or
  - (ii) before 1 June 2017, a training course in the operation of a category of RPA that he or she proposes to operate, conducted by the RPA's manufacturer or an agent of the manufacturer; or
  - (iii) a flight test conducted by CASA for the purposes of this subparagraph; and
- (c) has at least 5 hours experience in operating an RPA under standard RPA operating conditions.

Note: Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to grant, or cancelling, suspending or varying, a licence; or
- (b) a decision imposing a condition on a licence.

See also section 31 of the Act.

- (3) A person who holds or has held:
- (a) a flight crew licence; or
  - (b) a military qualification equivalent to a flight crew licence; or
  - (c) an ATC licence, or a military qualification equivalent to an ATC licence;
- is taken to satisfy the condition in paragraph (2)(a).

### **101.300 Conditions on remote pilot licences**

- (2) Without limiting regulations 11.056 and 11.067, a condition may:
- (a) allow the person to operate RPA of only specified kinds; or
  - (b) limit the areas where he or she may operate RPA; or
  - (c) allow him or her to operate RPA only in VMC.
- (3) It is a condition of a remote pilot licence that the licence holder must not operate an RPA above 400 ft AGL in controlled airspace, or within 3 nautical miles of the movement area of a controlled aerodrome, unless he or she holds at least one of the following qualifications:
- (a) an aeronautical radio operator certificate;
  - (b) a flight crew licence;
  - (c) an ATC licence;
  - (d) a military qualification equivalent to a licence mentioned in paragraph (b) or (c);
  - (e) a flight service licence.
- (4) It is a condition of a remote pilot licence that an RPA must be operated within the visual line of sight of the licence holder unless he or she:
- (a) has passed:
    - (i) an aeronautical knowledge examination (within the meaning of Part 61) for the grant of an instrument rating under Part 61; or
    - (ii) an aviation licence theory examination before 1 September 2014 that is taken to be an equivalent requirement for the grant of an instrument rating under regulation 202.274; or

- (iii) an approved examination; and
- (b) either:
  - (i) holds both a certificate as an RPA operator under Division 101.F.4 and an approval under regulation 101.029 to operate the RPA beyond the person's visual line of sight; or
  - (ii) is a member of an RPA operator's personnel and the RPA operator holds both a certificate as an RPA operator under Division 101.F.4 and an approval under regulation 101.029 for the operator's personnel to operate RPA beyond their visual line of sight.
- (5) It is a condition of a remote pilot licence that the licence holder must not operate more than 1 RPA at a time unless:
  - (a) he or she holds an approval under regulation 101.029 to operate more than 1 RPA at a time; and
  - (b) the conditions (if any) imposed on the approval are complied with.
- (6) The holder of a remote pilot licence commits an offence of strict liability if the holder contravenes a condition mentioned in subregulation (3), (4) or (5).

Penalty: 50 penalty units.

### **101.315 Notice to holder of remote pilot licence to show cause**

#### *Show cause notice—variation, cancellation or suspension*

- (1) CASA may give a show cause notice to the holder of a remote pilot licence if there are reasonable grounds for believing that there are facts or circumstances that would justify the variation, suspension or cancellation of the licence under regulation 101.320.
- (2) A show cause notice must:
  - (a) tell the holder of the licence of the facts and circumstances that, in CASA's opinion, would justify the variation, suspension or cancellation of the licence under regulation 101.320; and
  - (b) invite the holder of the licence to show in writing, within a reasonable time stated in the notice, why the licence should not be varied, suspended or cancelled.

#### *Immediate suspension if serious risk to the safety of air navigation*

- (3) The remote pilot licence is suspended from the time the show cause notice is given to the holder, if:
  - (a) CASA reasonably considers that there may be a serious risk to the safety of air navigation if the licence were not suspended; and
  - (b) the show cause notice states that the licence is suspended for that reason.
- (5) CASA may at any time revoke the suspension.
- (6) If the licence is suspended under subregulation (3):

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- (a) the holder is taken not to be the holder of a remote pilot licence during the period of suspension; and
- (b) the licence is not in force while suspended; and
- (c) if CASA has not dealt with the suspension under regulation 101.320 within 90 days after the day the licence is suspended, the suspension lapses at the end of that period (if it is not earlier revoked under subregulation (5) of this regulation or subregulation 101.320(2)).

Note: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

### **101.320 Variation, suspension or cancellation of remote pilot licence**

- (1) CASA may vary, suspend or cancel a remote pilot licence by written notice to the holder of the licence, if:
  - (a) CASA has given to the holder a show cause notice under regulation 101.315 in relation to it; and
  - (b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and
  - (c) there are reasonable grounds for believing that the holder:
    - (i) has operated an RPA in contravention of these Regulations, an instrument under these Regulations or a condition of the licence; or
    - (ii) has operated an RPA negligently or carelessly; or
    - (iii) in operating an RPA, has recklessly endangered human life or property; or
    - (iv) at the time of the grant of the licence did not meet, or now no longer meets, the criteria for eligibility under regulation 11.055 as they applied at the time of the grant.

Note: For subparagraph (iv), in determining whether the criteria for eligibility were or are met, CASA may take into account the matters mentioned in subregulation 11.055(4).

#### *Notice of decision*

- (2) If CASA has given a show cause notice under regulation 101.315 to the holder of a remote pilot licence:
  - (a) in the event that CASA decides to vary, suspend or cancel the licence—CASA must give the holder notice of the decision, including (in the case of a decision to suspend the licence) notice of the period of suspension; and
  - (b) in the event that CASA decides not to vary, suspend or cancel the licence—CASA must, in writing:
    - (i) give the holder notice accordingly; and
    - (ii) if the licence was suspended under subregulation 101.315(3)—revoke the suspension.

#### *Effect of suspension*

- (3) If a remote pilot licence is suspended under this regulation:

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- (a) the holder is taken not to be the holder of a remote pilot licence during the period of suspension; and
- (b) the licence is not in force during the period of suspension stated in the notice under paragraph (2)(a).

Note 1: CASA may also impose a condition on the licence, or vary an existing condition of the licence—see regulation 11.067.

Note 2: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

## **Division 101.F.4—Certification of RPA operators**

**Note:** In addition to the provisions of this Division, Part 11 contains provisions relating to an application for certification as an RPA operator.

### **101.330 Application for certification as RPA operator**

(1A) A person may apply to CASA, in writing, for certification as an RPA operator.

**Note:** An application must be in the approved form, include all the information required by these Regulations and be accompanied by every document required by these Regulations—see regulation 11.030.

- (1) An application for certification as an RPA operator must include:
- (a) details of:
    - (i) the applicant's structure and organisation; and
    - (ii) its staff and their qualifications and experience (including, in particular, the names, qualifications, experience, duties and functions of the persons who are to be the applicant's chief remote pilot and maintenance controller); and
    - (iii) its facilities and equipment; and
    - (iv) its practices and procedures; and
  - (b) a general description of the proposed operations, including the type or types of RPA to be used; and
  - (c) if the applicant proposes to conduct an RPL training course—details of the proposed training.
- (2) The application must be accompanied by a copy of each of the applicant's manuals relevant to the operation of RPA.

### **101.335 Eligibility for certification as RPA operator**

(1A) Subject to regulation 11.055, CASA must certify an applicant as an RPA operator if the applicant is eligible to be certified as an RPA operator in accordance with this regulation.

**Note:** Under regulation 201.004, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision refusing to grant, or cancelling, suspending or varying, a certificate; or
- (b) a decision imposing a condition on a certificate.

See also section 31 of the Act.

- (1) A person is eligible to be certified as an RPA operator if:
- (a) the person has an organisation and structure that is appropriate for safe operation of RPA; and
  - (b) the person has enough qualified and experienced personnel to undertake the proposed operations safely; and
  - (c) the person has facilities and equipment appropriate to carry out the proposed operations using RPA of the type to be used; and



- (d) the person has suitable documented practices and procedures to do so, including practices and procedures for the maintenance of the operator's RPASs; and
  - (f) the person has nominated suitable persons to be its chief remote pilot and maintenance controller.
- (2) A body that is not a legal person is not eligible to be certified as an RPA operator.
- (3) Two or more persons cannot be certified jointly as an RPA operator.

### **101.340 Conditions on certification**

- (1) It is a condition of the certification of a person as an RPA operator that the person:
- (a) maintains within its organisation a position of chief remote pilot having at least the functions and duties set out in regulation 101.342; and
  - (b) employs as its chief remote pilot a person who holds a remote pilot licence under Division 101.F.3 and who is competent to carry out those duties and perform those functions; and
  - (c) either:
    - (i) maintains a position within its organisation of maintenance controller, with the functions and duties set out in an advisory circular issued by CASA from time to time; or
    - (ii) has an arrangement with another qualified and competent person to carry out those functions and duties; and
  - (d) if it maintains within its organisation a position of maintenance controller—employs as its maintenance controller a person who is competent to carry out the duties and perform the functions of a maintenance controller; and
  - (e) complies with the operator's documented practices and procedures.
- (4) Without limiting regulations 11.056 and 11.067, a condition may:
- (a) allow the person to operate RPA of only specified kinds; or
  - (b) allow the person to operate RPA only for specified purposes; or
  - (c) limit the areas where the person may operate RPA; or
  - (d) allow the person to operate RPA only in VMC; or
  - (e) limit the number of RPA that an RPA operator may operate.

### **101.342 Functions and duties of chief remote pilot**

For paragraph 101.340(1)(a), the functions and duties of a chief remote pilot are as follows:

- (a) ensuring the operator's RPA operations are conducted in accordance with the civil aviation legislation;
- (b) maintaining a record of the qualifications held by each person operating RPA for the operator;

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- (c) monitoring the operational standards and proficiency of each person operating RPA for the operator;
- (d) maintaining a complete and up-to-date reference library of operational documents required by CASA under subregulation 101.335(1) for the types of operations conducted by the operator.

### **101.360 Notice to certified RPA operator to show cause**

#### *Show cause notice—variation, cancellation or suspension*

- (1) CASA may give a show cause notice to a certified RPA operator if there are reasonable grounds for believing that there are facts or circumstances that would justify the variation, suspension or cancellation of the certification under regulation 101.365.
- (2) A show cause notice must:
  - (a) tell the operator of the facts and circumstances that, in CASA's opinion, would justify the variation, suspension or cancellation of the certification under regulation 101.365; and
  - (b) invite the operator to show in writing, within a reasonable time stated in the notice, why the certification should not be varied, suspended or cancelled.

#### *Immediate suspension if serious risk to the safety of air navigation*

- (3) The certification is suspended from the time the show cause notice is given to the operator, if:
  - (a) CASA reasonably considers that there may be a serious risk to the safety of air navigation if the certification were not suspended; and
  - (b) the show cause notice states that the certification is suspended for that reason.
- (5) CASA may at any time revoke the suspension.
- (6) If the certification of a person as an RPA operator is suspended under subregulation (3):
  - (a) the operator is taken not to be a certified RPA operator during the period of suspension; and
  - (b) the certification is not in force while suspended; and
  - (c) if CASA has not dealt with the suspension under regulation 101.365 within 90 days after the day the certification is suspended, the suspension lapses at the end of that period (if it is not earlier revoked under subregulation (5) of this regulation or subregulation 101.365(2)).

Note: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

### **101.365 Variation, suspension or cancellation of RPA operator's certification**

- (1) CASA may vary, suspend or cancel a certified RPA operator's certification by written notice to the operator, if:
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- (a) CASA has given to the operator a show cause notice under regulation 101.360 in relation to it; and
- (b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the operator; and
- (c) there are reasonable grounds for believing that:
  - (i) the operator has operated an RPA in contravention of these Regulations, an instrument under these Regulations or a condition of the certification; or
  - (ii) a person engaged or employed by the operator has operated an RPA negligently or carelessly; or
  - (iii) a person engaged or employed by the operator, in operating an RPA, has recklessly endangered human life or property; or
  - (iv) at the time the operator was certified the operator did not meet, or now no longer meets, the criteria for eligibility under regulation 11.055 as they applied at the time of certification.

Note: For subparagraph (iv), in determining whether the criteria for eligibility were or are met, CASA may take into account the matters mentioned in subregulation 11.055(4).

*Notice of decision*

- (2) If CASA has given a show cause notice under regulation 101.360 to a certified RPA operator:
  - (a) in the event that CASA decides to vary, suspend or cancel the certification—CASA must give the operator notice of the decision, including (in the case of a decision to suspend the certification) notice of the period of suspension; and
  - (b) in the event that CASA decides not to vary, suspend or cancel the certification—CASA must, in writing:
    - (i) give the operator notice accordingly; and
    - (ii) if the certification was suspended under subregulation 101.360(3)—revoke the suspension.

*Effect of suspension*

- (3) If the certification of a person as an RPA operator is suspended under this regulation:
  - (a) the operator is taken not to be a certified RPA operator during the period of suspension; and
  - (b) the certification is not in force during the period of suspension stated in the notice under paragraph (2)(a).

Note 1: CASA may also impose a condition on the certification, or vary an existing condition of the certification—see regulation 11.067.

Note 2: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

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**101.370 Compliance with RPA operator's practices and procedures**

A person commits an offence of strict liability if the person:

- (a) is a member of an RPA operator's personnel; and
- (b) is subject to a requirement under the RPA operator's documented practices and procedures; and
- (c) does not comply with the requirement.

Penalty: 50 penalty units.

## **Division 101.F.5—Operation of certain RPA for hire or reward**

### **101.371 Application of Division 101.F.5**

- (1) This Division applies in relation to the first operation of a very small RPA, a small RPA or a medium RPA while the RPA is an excluded RPA under any of the following provisions:
  - (a) subregulation 101.237(3) (a very small RPA being operated in standard RPA operating conditions);
  - (b) subregulation 101.237(4) (a small RPA being operated in certain circumstances);
  - (c) subregulation 101.237(7) (a medium RPA being operated in certain circumstances).
- (2) The *first operation* of an RPA while it is an excluded RPA under a provision mentioned in subregulation (1) is its first operation, while it is such an excluded RPA, in each period during which it is registered under Subpart 47.C.

### **101.372 Notice of certain operations**

- (1) Before the first operation of an RPA to which this Division applies (whether by the registration holder for the RPA or another person), the registration holder must notify CASA of the operation, in writing, in a form and manner approved by CASA.
- (2) A registration holder for an RPA commits an offence of strict liability if:
  - (a) the registration holder is subject to the requirement under subregulation (1) in relation to the RPA; and
  - (b) the registration holder fails to comply with the requirement.

Penalty: 50 penalty units.

- (3) Subregulations (1) and (2) do not apply if the registration holder, or another person, is certified under Division 101.F.4 to conduct the operation.

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

### **101.373 Notification of changes in relation to operating very small RPA for hire or reward etc.**

- (1) If:
  - (a) a person has given CASA a notice under regulation 101.372; and
  - (b) a change, event or other matter of a kind prescribed by the Part 101 Manual of Standards occurs;the person must notify CASA of the change, event or matter within 21 business days of the change, event or matter occurring.

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- (2) The notification must be given in the form, and in the manner or way, approved by CASA.
- (3) A person commits an offence of strict liability if:
  - (a) the person is subject to a requirement under subregulation (1); and
  - (b) the person does not comply with the requirement.

Penalty: 50 penalty units.

**101.374 Database of notifications**

- (1) CASA may establish and maintain a database of information that relates to notifications given under regulations 101.372 and 101.373.
- (2) Without limiting subregulation (1), the database may contain the following information in relation to each notification:
  - (a) the name of the person who gave the notification;
  - (b) the person's contact details;
  - (c) the locations at which the operations will take place;
  - (d) the types of RPA covered by the notification.
- (3) The database may be made publicly available.
- (4) The database may be kept and made publicly available in electronic form.

## **Subpart 101.FA—Excluded RPA and micro RPA accreditation**

### **Division 101.FA.1—General**

#### **101.374A Application of this Subpart**

This Subpart applies to the operation of excluded RPA and micro RPA.

Note 1: See the definition of *excluded RPA* in regulation 101.237.

Note 2: This Subpart does not apply to model aircraft, as they are not RPA—see the definitions of *RPA* in regulation 101.021 and *model aircraft* in regulation 101.023.

## **Division 101.FA.2—Accreditation requirements**

### **101.374B Excluded RPA and micro RPA—requirement for accreditation or remote pilot licence**

*Excluded RPA and micro RPA*

- (1) A person commits an offence of strict liability if:
  - (a) the person operates an excluded RPA or a micro RPA; and
  - (b) the person holds neither of the following:
    - (i) an accreditation authorising the person to operate excluded RPA and micro RPA;
    - (ii) a remote pilot licence.

Penalty: 50 penalty units.

*General exception—excluded RPA operated by child under adult supervision*

- (4) Subregulation (1) does not apply to a person under 16 years old (the *child*) operating an excluded RPA or a micro RPA if:
  - (a) when the aircraft is being operated, the child is being supervised by another person (the *supervisor*); and
  - (b) the supervisor is at least 18 years old; and
  - (c) the supervisor holds:
    - (i) an accreditation authorising the supervisor to operate excluded RPA and micro RPA; or
    - (ii) a remote pilot licence.

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

### **101.374C Excluded RPA and micro RPA—requirement to produce accreditation or remote pilot licence**

*General requirement*

- (1) A person who operates an excluded RPA or micro RPA must produce an accreditation or licence covered by subregulation (2) that authorises the person to do so, or a copy of such an accreditation or licence, for inspection on a demand made by a person covered by subregulation (3).

*Accreditations and licences covered*

- (2) The following accreditations and licences are covered by this subregulation:
  - (a) an accreditation authorising the operation of excluded RPA and micro RPA;
  - (b) a remote pilot licence.



*Persons who may demand production of accreditations and licences*

- (3) The following persons are covered by this subregulation:
- (a) an authorised person;
  - (b) a member or special member of the Australian Federal Police;
  - (c) a member of a police force or a police service of a State or Territory.

*Offence for failing to comply with demand*

- (4) A person (the **offender**) commits an offence of strict liability if:
- (a) the offender operates an excluded RPA or micro RPA; and
  - (b) a person makes a demand of the offender under subregulation (1); and
  - (c) the offender fails to comply with the demand.

Penalty: 5 penalty units.

*Operation permissible without an accreditation or licence*

- (5) Subregulations (1) to (4) do not apply to a person operating an excluded RPA or micro RPA if:
- (a) such operation by the person without an accreditation or licence covered by subregulation (2) of this regulation does not constitute an offence under regulation 101.374B; or
  - (b) subregulation (4) applies in relation to such operation.

*Supervised operations*

- (6) A person who supervises the operation by another person of an excluded RPA or micro RPA must produce an accreditation or licence covered by subregulation (2) for that RPA, or a copy of such accreditation or licence, for inspection on a demand made by a person covered by subregulation (3).
- (7) A person (the **supervisor**) commits an offence of strict liability if:
- (a) the supervisor supervises the operation by another person of an excluded RPA or micro RPA; and
  - (b) the other person is under 16 years old; and
  - (c) a person makes a demand of the supervisor under subregulation (6); and
  - (d) the supervisor fails to comply with the demand.

Penalty: 5 penalty units.

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## **Division 101.FA.3—Grant of accreditation to operate excluded RPA and micro RPA**

Note: In addition to the provisions of this Division, Part 11 contains provisions relating to an application for accreditation under this Division.

### **101.374D Accreditation—application**

An individual may apply to CASA, in writing, for accreditation authorising the holder to operate excluded RPA and micro RPA.

### **101.374E Accreditation—grant**

- (1) Subject to regulation 11.055, CASA must give an applicant under regulation 101.374D the accreditation applied for if the applicant is eligible for that accreditation under this regulation.

Note: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal. See also section 31 of the Act.

- (2) The applicant is eligible for the accreditation mentioned in regulation 101.374D if the applicant:
  - (a) is at least 16 years old; and
  - (b) has completed an online training course provided by CASA for that accreditation, to the standard required by CASA, in accordance with any conditions for completing the course required by CASA; and
  - (c) has achieved a standard required by CASA in an examination (including an online examination) for that accreditation, administered by CASA, in accordance with any conditions for undertaking that examination required by CASA.
- (3) However, the applicant is not eligible for the accreditation:
  - (a) if an accreditation formerly held by the applicant has been cancelled within the 12 months before the date of the application; or
  - (b) while an accreditation currently held by the applicant is suspended under regulation 101.374H or 101.374J.

- (3A) An applicant may undertake a course or an examination mentioned in subsection (2) only if the applicant is at least 16 years old at that time.
- (4) Two or more persons cannot jointly hold the accreditation.
- (5) The accreditation authorises the holder to operate excluded RPA and micro RPA as stated in the accreditation.

Note: Any conditions imposed on the accreditation under regulation 11.056 must also be set out in, or attached to, the accreditation.

### **101.374F Accreditation—conduct of online courses and examinations**

- (1) The Part 101 Manual of Standards may prescribe requirements in relation to the following:
  - (a) the completion of an online training course under paragraph 101.374E(2)(b) (including conditions relating to cheating in such a course);
  - (b) the conduct of an online examination under paragraph 101.374E(2)(c) (including conditions relating to cheating in such an examination);
  - (c) the disclosure and use of information or documents which form part of, or are related to, such a training course or examination.
- (2) A person commits an offence if:
  - (a) the person completes, or attempts to complete:
    - (i) an online training course under paragraph 101.374E(2)(b); or
    - (ii) an online examination under paragraph 101.374E(2)(c); and
  - (b) the person is subject to a requirement under subregulation (1) of this regulation in relation to completing the course or examination; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

- (3) A person commits an offence if:
  - (a) the person discloses or uses information or a document which forms part of, or is related to:
    - (i) an online training course under paragraph 101.374E(2)(b); or
    - (ii) an online examination under paragraph 101.374E(2)(c); and
  - (b) the person is subject to a requirement under subregulation (1) of this regulation in relation to disclosing or using the information or document; and
  - (c) the person does not comply with the requirement.

Penalty: 50 penalty units.

### **101.374G Accreditation—cessation**

An accreditation ceases at the start of the earlier of the following days (unless sooner cancelled):

- (a) if the person holding the accreditation is granted a remote pilot licence—the day after the licence is granted;
- (b) the day after the end of the period of 3 years beginning on the day the accreditation comes into effect.

Note 1: For when an accreditation comes into effect, see regulation 11.065.

Note 2: For cancellation, see regulation 101.374J.

## Regulation 101.374H

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### **101.374H Notice to accreditation holder to show cause**

#### *Show cause notice—cancellation or suspension*

- (1) CASA may give a show cause notice to a person who holds an accreditation (the **accreditation holder**) if there are reasonable grounds for believing that there are facts or circumstances that would justify the suspension or cancellation of the accreditation under regulation 101.374J.
- (2) A show cause notice must:
  - (a) tell the accreditation holder of the facts and circumstances that, in CASA's opinion, would justify the suspension or cancellation of the accreditation; and
  - (b) invite the accreditation holder to show in writing, within a reasonable time stated in the notice, why the accreditation should not be suspended or cancelled.

#### *Immediate suspension if serious risk to the safety of air navigation*

- (3) The accreditation is suspended from the time the show cause notice is given to the accreditation holder, if:
  - (a) CASA reasonably considers that there may be a serious risk to the safety of air navigation if the accreditation were not suspended; and
  - (b) the show cause notice states that the accreditation is suspended for that reason.
- (4) CASA may at any time revoke the suspension.
- (5) If the accreditation is suspended under subregulation (3):
  - (a) the accreditation holder is taken not to be the holder of an accreditation during the period of suspension; and
  - (b) the accreditation is not in force while suspended; and
  - (c) the period of the accreditation under paragraph 101.374G(b) continues to run; and
  - (d) if CASA has not dealt with the suspension under regulation 101.374J within 90 days after the day the accreditation is suspended, the suspension lapses at the end of that period (if it is not earlier revoked under subregulation (4) of this regulation or subregulation 101.374J(2)).

Note: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

### **101.374J Suspension or cancellation of accreditation**

#### *Suspension or cancellation of accreditation*

- (1) CASA may suspend or cancel an accreditation by written notice to the accreditation holder, if:
  - (a) CASA has given the accreditation holder a show cause notice under regulation 101.374H; and

- (b) CASA has taken into account any representations made, within the period stated in the notice, by or on behalf of the accreditation holder; and
- (c) there are reasonable grounds for believing that the accreditation holder:
  - (i) has operated an RPA in contravention of these Regulations, an instrument under these Regulations or a condition of the accreditation; or
  - (ii) has operated an RPA negligently or carelessly; or
  - (iii) in operating an RPA, has recklessly endangered human life or property; or
  - (iv) at the time the accreditation was given did not meet, or now no longer meets, the criteria for eligibility under regulation 11.055 as they applied at the time the accreditation was given.

Note: For subparagraph (iv), in determining whether the criteria for eligibility were or are met, CASA may take into account the matters mentioned in subregulation 11.055(4).

*Notice of decision*

- (2) If CASA has given a show cause notice under regulation 101.374H to an accreditation holder:
  - (a) in the event that CASA decides to suspend or cancel the accreditation—CASA must give the accreditation holder notice of the decision, including (in the case of a decision to suspend the accreditation) notice of the period of suspension; and
  - (b) in the event that CASA decides not to suspend or cancel the accreditation—CASA must, in writing:
    - (i) give the accreditation holder notice accordingly; and
    - (ii) if the accreditation was suspended under subregulation 101.374H(3)—revoke the suspension.

*Effect of suspension*

- (3) If an accreditation is suspended under this regulation:
  - (a) the accreditation holder is taken not to be the holder of an accreditation during the period of suspension; and
  - (b) the accreditation is not in force during the period of suspension stated in the notice under paragraph (2)(a); and
  - (c) the period of the accreditation under paragraph 101.374G(b) continues to run.

Note 1: CASA may also impose a condition on the accreditation, or vary a condition of the accreditation—see regulation 11.067.

Note 2: Regulation 201.004 provides for review of certain decisions by the Administrative Appeals Tribunal.

## Subpart 101.G—Model aircraft

### 101.375 Applicability of this Subpart

This Subpart applies to the operation of model aircraft weighing more than 250 g (except operation mentioned in paragraph 101.005(3)(a) or (b)).

Note 1: For *model aircraft*, see regulation 101.023.

Note 2: This Subpart does not apply to:

- (a) a control-line model aircraft (that is, a model aircraft that is constrained to fly in a circle, and is controlled in attitude and altitude, by means of inextensible wires attached to a handle held by the person operating the model); or
- (b) a model aircraft flown indoors.

See subregulation 101.005(3).

### 101.380 Definitions for Subpart

In this Subpart:

*approved area* means an area approved under regulation 101.030 as an area for the operation of model aircraft.

### 101.385 Visibility for operation of model aircraft

- (1) A person may operate a model aircraft only if the visibility at the time is good enough for the person operating the model to be able to see it continuously.

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*.

### 101.390 Operating model aircraft at night

- (1) A person may operate a model aircraft at night only in accordance with the written procedures of an approved aviation administration organisation.

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*.

### 101.395 Keeping model aircraft away from people

- (1) A person must not operate a model aircraft over a populous area at a height less than the height from which, if any of its components fails, it would be able to clear the area.

Penalty: 50 penalty units.

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Note: For *populous area*, see regulation 101.025.

- (2) Subject to subregulations (3) and (4), somebody who is operating a powered model aircraft must ensure that, while the model aircraft is in flight, or is landing or taking off, it stays at least 30 metres away from anyone not directly associated with the operation of model aircraft.

Penalty: 50 penalty units.

- (3) Subregulation (2) is not contravened if somebody stands behind the model aircraft while it is taking off.
- (4) Subregulation (2) is also not contravened if, as part of a model flying competition, a model aircraft is flown within 30 metres of somebody who is judging the competition.
- (5) 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*.

### **101.400 Operation of model aircraft outside approved areas**

- (1) A person may operate a model aircraft outside an approved area above 400 feet AGL only if he or she:
  - (a) keeps it in sight; and
  - (b) keeps it clear of populous areas.

Penalty: 10 penalty units.

Note 1: For *populous area*, see regulation 101.025.

Note 2: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

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

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

### **101.405 Giant model aircraft**

- (1) A person may operate a giant model aircraft only in accordance with:
  - (a) the rules and procedures of an approved aviation administration organisation; or
  - (b) an approval given by CASA.

Penalty: 50 penalty units.

Note: For *giant model aircraft*, see regulation 101.024.

- (2) CASA may impose a condition on the operation of a giant model aircraft if the condition is reasonably necessary in the circumstances in the interests of aviation safety.
- (3) The operator of a giant model aircraft must comply with any condition imposed under subregulation (2).

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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*.

### **101.410 Model flying displays**

- (1) A person may conduct a model aircraft flying display only in compliance with subregulation (2) or (3).

Penalty: 50 penalty units.

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

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

- (2) A person complies with this subregulation if the display is conducted:

- (a) in an approved area; and
- (b) in accordance with the rules and procedures of an approved aviation administration organisation.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

- (3) A person complies with this subregulation if the display is conducted in accordance with the following conditions and any other conditions imposed by CASA under subregulation (4):
- (a) at least 21 days before the display, somebody is nominated as the organiser of the display;
  - (b) at least 21 days before the display, he or she gives to CASA the following information:
    - (i) his or her name, address, email address and telephone number;
    - (ii) the proposed program of flying;
    - (iii) where the display will be held, and how big the intended flying field is;
    - (iv) how many spectators are expected, and where they will be;
  - (c) he or she ensures that:
    - (i) having regard to the events making up the display, proper precautions are taken for the safety of the participants and spectators; and
    - (ii) the operators participating in the display are competent to carry out each proposed manoeuvre safely.
- (4) CASA may impose a condition on the conduct of a model flying display if in the circumstances the condition is reasonably necessary in the interests of aviation safety.



## Subpart 101.H—Rockets

### 101.415 Applicability of this Subpart

This Subpart applies to the operation of rockets of all kinds, except rockets mentioned in paragraph 101.005(3)(f).

Note 1: That is, this Subpart does not apply to a firework rocket not capable of rising more than 400 feet AGL. See paragraph 101.005(3)(f).

Note 2: **Rocket** in this Subpart does not include a rocket-powered aircraft—see regulation 101.425.

### 101.420 Application of State and Territory laws about rockets

- (1) If a law of a State or Territory deals with the operation or use of rockets, and is not inconsistent with this Subpart, nothing in this Subpart affects the operation of the law.
- (2) For subregulation (1), a law of a State or Territory is not inconsistent with this Subpart if it is possible to comply with both this Subpart and the State or Territory law at once.

### 101.425 Definitions for Subpart

In this Subpart:

**approved area** means an area approved under regulation 101.030 as an area for the operation of rockets.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(7).

**model rocket** means a rocket that:

- (a) weighs no more than 1 500 grams; and
- (b) carries no more than 125 grams of propellant; and
- (c) produces no more than 320 newton-seconds of impulse; and
- (d) is made of balsa, wood, paper or plastics or a combination of those materials, but contains no metal as structural parts.

**rocket** does not include a rocket-powered or rocket-assisted aircraft.

### 101.430 Launching rocket in or over prohibited or restricted area

- (1) A person may launch a rocket (including a model rocket) in or over a prohibited area, or in or over a restricted area, only with the permission of, and in accordance with any conditions imposed by, the authority controlling the area.

Penalty: 25 penalty units.

Note: Details of prohibited and restricted areas are published in the AIP or NOTAMS.

## Regulation 101.435

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- (2) In subregulation (1):

**authority controlling the area** means:

- (a) in the case of a prohibited area—the Secretary of the Department administered by the Minister administering section 1 of the *Defence Act 1903*; and
- (b) in the case of a restricted area—the authority mentioned in AIP (as issued from time to time) as the controlling authority for the area.

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

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

### 101.435 Launching rockets into controlled airspace

- (1) A person may launch a rocket (including a model rocket) to higher than 400 feet AGL in controlled airspace only:

- (a) in an approved area; or
- (b) in accordance with an air traffic control clearance.

Penalty: 50 penalty units.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(5).

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

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

### 101.440 Launching rockets near aerodromes

- (1) A person may launch a rocket that is not a small model rocket to higher than 400 feet AGL within 3 nautical miles of an aerodrome only if:

- (a) doing so is permitted by another provision of this Part; or
- (b) permission has been given for the operation under regulation 101.445.

Penalty: 25 penalty units.

Note 1: For **model rocket**, see regulation 101.425.

Note 2: Some special provisions apply to model rockets—see regulation 101.470.

- (2) In subregulation (1):

**small model rocket** means a model rocket that weighs less than 500 grams and either:

- (a) uses no more than 25 grams of propellant; or
- (b) produces no more than 20 newton-seconds of impulse.

- (3) A person may launch a rocket (including both a small model rocket and any other model rocket) from or over an area mentioned in paragraph (4)(a) or (b) only if:

- (a) doing so is permitted by another provision of this Part; or

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(b) permission has been given for the operation under regulation 101.445.

Penalty: 25 penalty units.

- (4) The areas for subregulation (3) are:
- (a) a movement area or runway of an aerodrome; and
  - (b) the approach or departure path of a runway of an aerodrome.
- (5) An offence against subregulation (1) or (3) is an offence of strict liability.

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

**101.445 Getting permission for launch of rocket near aerodrome**

- (1) The authority that must give permission for regulation 101.440 is:
- (a) if the aerodrome concerned is a controlled aerodrome—the air traffic control service for the aerodrome; or
  - (b) in the case of any other aerodrome—CASA.
- (2) A person applies for permission under this regulation by giving to the relevant authority mentioned in subregulation (1) the information required by table 101.445, so far as relevant to the proposed launch:

**Table 101.445 Details of launching of rocket to be given to CASA**

<b>Item</b>	<b>Information to be provided</b>
1	The name, address, email address and telephone number of the person who will launch the rocket (or, if several people will be involved, the name, address, email address and telephone number of the person who will coordinate the launching)
2	The date and time the rocket is to be launched
3	Where it is to be carried out
4	The size and mass of the rocket
5	The estimated greatest altitude or flight level that the rocket will reach
6	If more than 1 rocket is to be launched at a time, how many rockets are to be launched at the time

- (3) If more than 1 rocket is to be launched at a time, such a requirement is a requirement to give the information about each such launch.
- (4) Regulation 101.035 does not authorise a person who or that applies for permission under this regulation to make the application to a body mentioned in paragraph 101.035(1)(a) or (b).
- (5) An authority mentioned in subregulation (1) may impose conditions on a permission in the interests of the safety of air navigation.
- (6) A person must not contravene a condition imposed under subregulation (5).
- Penalty: 50 penalty units.
- (7) An offence against subregulation (6) is an offence of strict liability.

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

### **101.450 Rockets other than model rockets must be launched in approved area**

- (1) A person may launch a rocket that is not a model rocket, or permit such a rocket to be launched, only in an approved area.

Penalty: 10 penalty units.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(7).

- (2) A person may launch a rocket that is not a model rocket, or permit such a rocket to be launched, only if the person gives the details listed in the table following subregulation 101.445(2) to CASA at least 1 working day before the intended time of the launch.

Penalty: 10 penalty units.

Note: A person can comply with this requirement by telling:

- (a) if the person is an approved aviation administration organisation—the Australian NOTAM Office; or
- (b) the appropriate approved aviation administration organisation.

See regulation 101.035.

- (3) If more than 1 rocket is to be launched at a time, such a requirement is a requirement to give the information about each such rocket.

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

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

### **101.455 Maximum operating height of rockets**

- (1) A person may launch a rocket that is not a model rocket to higher than 400 feet AGL only:

- (a) in an approved area; or
- (b) as permitted by another provision of this Part.

Penalty: 10 penalty units.

Note: CASA must publish details of the approval of an area (including any conditions) in NOTAM or on an aeronautical chart—see subregulation 101.030(7).

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

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

### **101.460 Dropping or discharging of things from rockets**

- (1) A person must not cause anything to be dropped or discharged from a rocket in a way that creates a hazard to an aircraft.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
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Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### **101.465 Weather and day limitations—rockets other than model rockets**

- (1) A person may launch a rocket that is not a model rocket:
- (a) in or into cloud; or
  - (b) at night; or
  - (c) in conditions other than VMC;
- only as permitted by another provision of this Part, or in accordance with an air traffic control clearance.

Penalty: 10 penalty units.

Note: For *model rocket*, see regulation 101.425.

- (2) However, subregulation (1) does not prevent rockets being operated as part of a firework display.
- (3) An offence against subregulation (1) is an offence of strict liability.

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

### **101.470 Model rockets**

- (1) A person must not launch a model rocket into cloud.

Penalty: 10 penalty units.

Note: For *model rocket*, see regulation 101.425.

- (2) A person must not launch a model rocket to higher than 400 feet AGL within 5 nautical miles of 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) Subject to subregulations (1) and (2) and Subpart 101.B, a person may launch a model rocket outside an approved area, or at night.

## Subpart 101.I—Firework displays

### 101.475 What this Subpart does

This Subpart regulates the conduct of certain firework displays, to the extent necessary to prevent them being a hazard to the safety of air navigation.

### 101.480 Application of State and Territory laws about fireworks

- (1) If a law of a State or Territory deals with the use of fireworks, and is not inconsistent with this Subpart, nothing in this Subpart affects the operation of the law.
- (2) For subregulation (1), a law of a State or Territory is not inconsistent with this Subpart if it is possible to comply with both this Subpart and the State or Territory law at once.

### 101.485 Meaning of *operate a firework display*

For this Subpart, a person *operates a firework display* if the person places the fireworks for the display, or fires them off.

### 101.490 Certain projectiles prohibited in firework displays

- (1) A person may use, in a firework display, a projectile that is capable of reaching more than 400 feet AGL only if CASA so approves.

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*.

### 101.495 Firework displays not permitted near aerodromes

- (1) A person may operate a firework display in or over an area mentioned in paragraph (2)(a) or (b) only if subregulation (3) or (4) applies to the display.

Penalty: 10 penalty units.

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

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

- (2) The areas for subregulation (1) are:
  - (a) a movement area or runway of an aerodrome; and
  - (b) the approach or departure path of a runway of an aerodrome.
- (3) This subregulation applies to a firework display if:
  - (a) permission for the display has been given by:

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- (i) if the aerodrome is a controlled aerodrome—the air traffic control service for the aerodrome; and
  - (ii) in the case of any other aerodrome—CASA; and
  - (b) the person who proposes to operate the display has, before doing so, given to CASA the details required by table 101.500.
- (4) This subregulation applies to a firework display if the fireworks are set off on or near domestic premises by or for somebody who lives there.

**101.500 Notice to CASA of certain firework displays**

- (1) A person may operate a firework display at a place within 3 nautical miles of an aerodrome only if the person has given at least 2 working days' notice to CASA.

Penalty: 10 penalty units.

- (2) However, subregulation (1) does not apply if:
- (a) the fireworks are set off on or near domestic premises by or for somebody who lives there; and
  - (b) either:
    - (i) if a law of a State or Territory allows fireworks to be set off in that place only on a particular day or days—the fireworks are set off on such a day; or
    - (ii) if there is no such law in that place—the fireworks are set off on a day on which fireworks are customarily set off on domestic premises in that place.
- (3) When the person tells CASA, the person must also give to CASA the information required by table 101.500.

**Table 101.500 Details of firework display to be given to CASA**

<b>Item</b>	<b>Information to be provided</b>
1	The name, address, email address and telephone number of the person who will operate the display (or, if several people will be involved in its operation, the name, address, email address and telephone number of the person who will coordinate it)
2	The date the display is to begin, the starting time, and how long it is to last
3	Where it is to be given
4	How many projectiles capable of reaching more than 400 feet AGL are to be used in the display
5	A general description of the pyrotechnic characteristics of each such projectile
6	The estimated highest altitude that any projectile can reach
7	The maximum burst radius of the pyrotechnics in a projectile

- (4) CASA may impose a condition on the operation of a firework display if the condition is reasonably necessary in the circumstances in the interests of the safety of air navigation.

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- (5) A person operating a display must comply with any condition imposed under subregulation (4).

Penalty: 50 penalty units.

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

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



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## **Part 103—Sport and recreation aircraft**

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## Subpart 103.A—Preliminary

### 103.005 Application of Part 103

- (1) This Part (other than Subpart 103.Z) applies to Part 103 aircraft.
- (2) Despite subregulation (1), this Part does not apply to the operation of a Part 103 aircraft if Part 132, 133, 135 or 137 applies to the operation.
- (2A) Despite subregulation (1), this Part does not apply to the operation of a touring motor glider if:
  - (a) the touring motor glider is registered; and
  - (b) the touring motor glider is being operated solely under Part 91 during a flight; and
  - (c) either:
    - (i) the pilot in command for the flight is exercising the privileges of a pilot licence with an aeroplane category rating; or
    - (ii) the pilot in command for the flight holds an approval under regulation 61.040 for paragraph 61.1515(1)(b).
- (3) Subpart 103.Z applies in relation to the towing of a Part 103 aircraft by an aircraft that is not a Part 103 aircraft.

#### *Meaning of Part 103 aircraft*

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

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

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

### **103.010 Other key definitions for Part 103**

In these Regulations:

**Part 103 activity** means any of the following:

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

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

### **103.015 Issue of Manual of Standards for Part 103**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 103 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

### **103.020 Approvals by CASA for Part 103**

- (1) If a provision of this Part, or of the Part 103 Manual of Standards, refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

## Subpart 103.B—Aircraft listing, certification and markings

### 103.025 Listing with a Part 103 ASAO

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

*Certain Part 103 aircraft must be listed*

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

*Other Part 103 aircraft may be listed*

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

*Listing with more than one ASAO prohibited*

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

*Offence*

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

Penalty: 50 penalty units.

### 103.030 Flying without a certificate of airworthiness—airworthiness standards for certain kinds of Part 103 aircraft

- (1) The Part 103 Manual of Standards may make provision in relation to one or more of the following:
  - (a) airworthiness standards for specified kinds of Part 103 aircraft;
  - (b) for Part 103 ASAOs whose approved functions include administering Part 103 aircraft:
    - (i) the kinds of aircraft for which the Part 103 ASAO may set airworthiness standards; and

- (ii) procedures for setting such standards;
  - (c) procedures for accepting a Part 103 aircraft that meets the standards referred to in paragraph (a) or (b);
  - (d) procedures for issuing a statement of acceptance to the owner of an aircraft accepted in accordance with the procedures mentioned in paragraph (c).
- (2) For the purposes of paragraph 20AA(3)(b) of the Act, a flight in a Part 103 aircraft is authorised without a certificate of airworthiness if a Part 103 ASAO has issued a statement of acceptance to the owner of the aircraft in accordance with the procedures mentioned in paragraph (1)(d) of this regulation.

### **103.035 Display of markings—aircraft other than sailplanes**

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

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

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

## Subpart 103.C—General obligations

### 103.040 Requirements for undertaking Part 103 activities

*Part 103 activity must be authorised*

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

*Part 103 activity must be undertaken in accordance with authorisation*

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

*Offence*

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

Penalty: 50 penalty units.

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

## Subpart 103.D—Operational procedures

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

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

Note: For minimum height rules if an aircraft is flown over a populous area or a public gathering, see regulation 91.265.
- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
  - (a) the aircraft is flown below 500 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the aircraft; and
  - (b) none of the circumstances mentioned in subregulation (3) applies.
- (3) The circumstances are the following:
  - (a) the aircraft is taking off, operating or landing in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
  - (b) the aircraft is engaged in a missed approach;
  - (c) the aircraft is a glider engaged in ridge or hill soaring;
  - (d) the aircraft:
    - (i) is not carrying passengers; and
    - (ii) is engaged in a practice emergency procedure at an aerodrome;
  - (e) the aircraft:
    - (i) is not carrying passengers; and
    - (ii) is engaged in a practice forced landing procedure with the consent of the person or authority having control over the land or water above which the procedure is carried out;
  - (f) the aircraft is performing training circuits at an aerodrome in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
  - (g) the pilot holds an approval for the purposes of regulation 91.180 (air displays in Australian territory);
  - (h) all of the following apply:
    - (i) the pilot in command of the aircraft holds an approval under regulation 103.020 to fly the aircraft below the height mentioned in paragraph (2)(a);
    - (ii) the pilot in command of the aircraft conducts a risk assessment of the area to be flown over;
    - (iii) the point on the ground or water vertically below the aircraft is not within 150 m of a person, vessel, vehicle or structure;

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- (i) for a rotorcraft—the rotorcraft is hovering, air transiting, air taxiing or ground taxiing at an aerodrome;
  - (j) for a rotorcraft, seaplane or amphibian—the aircraft is flying within an access lane:
    - (i) that is for use by aircraft taking off from, or landing at, a particular place; and
    - (ii) details of which are published in the authorised aeronautical information for the flight;
  - (k) the aircraft is engaged in a procedure to determine the suitability of an aerodrome for a landing.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **103.050 Safety when aircraft operating on ground**

- (1) A person contravenes this subregulation if:
- (a) the person starts the engine of a Part 103 aircraft, or causes the engine to be started, while the aircraft is on the ground; and
  - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the person who starts the engine or causes the engine to be started must be:
    - (i) authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
    - (ii) a person of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and
  - (b) if subparagraph (a)(ii) applies—the aircraft must be secured from moving; and
  - (c) if the aircraft is hand-started—the requirements relating to hand-starting prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (3) A person contravenes this subregulation if:
- (a) the person operates a Part 103 aircraft on the ground, or causes a Part 103 aircraft to be operated on the ground; and
  - (b) the person permits another person to board the aircraft or to remain on the aircraft while a pilot seat of the aircraft is not occupied by a person who is competent to apply the brakes and control the engine.
- (4) For the purposes of paragraph (3)(b), a person is competent to apply the brakes and control the engine of an aircraft if:
- (a) the person has been given instructions on how, and assessed as competent, to apply the brakes and control the engine (including how to shut the engine down) by another person who is authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
  - (b) the person is authorised by a Part 103 ASAO to maintain the aircraft.



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

Penalty: 50 penalty units.

### **103.055 Carriage of passengers**

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

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

### **103.060 Carriage and restraint of persons**

#### *Carriage of infants*

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

#### *Restraint of adults and children*

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

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

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

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Penalty: 50 penalty units.

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

### **103.065 Carriage of cargo**

- (1) This regulation does not apply in relation to an animal carried in a passenger cabin.

Note: For the carriage of animals, see regulation 91.620.

- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) cargo is carried on the flight; and
  - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The requirements are the following:
- (a) cargo must not be carried in a place where the cargo may damage, obstruct or cause the failure of any part of the aircraft, or any equipment, that is essential to the safe operation of the aircraft;
  - (b) cargo carried on the aircraft must be:
    - (i) securely stowed in accordance with the aircraft flight manual instructions; or
    - (ii) otherwise safely restrained;
  - (c) cargo must be carried in accordance with any requirements relating to the carriage of cargo:
    - (i) in the aircraft flight manual instructions for the aircraft; or
    - (ii) on a placard on the aircraft;
  - (d) if cargo is carried on an unoccupied seat in the aircraft:
    - (i) the cargo must not weigh more than the weight limitation for that seating position; and
    - (ii) the cargo, and the means of restraint of the cargo, must not interfere with the safe operation of the aircraft;
  - (e) any other requirement relating to the restraint or stowage of cargo prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **103.070 Simulating IMC flying**

- (1) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) during the flight, IMC are simulated; and
  - (b) a requirement mentioned in subregulation (2) is not met.

- (2) The requirements are the following:
- (a) the aircraft must be of a kind prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
  - (b) a pilot (the *safety pilot*) must:
    - (i) occupy a pilot seat fitted with fully functioning flight controls; and
    - (ii) have adequate vision forward and to each side of the aircraft;
  - (c) a pilot (the *second pilot*) flying the aircraft under simulated IMC must occupy a pilot seat fitted with fully functioning flight controls;
  - (d) the safety pilot must be authorised by a Part 103 ASAO to pilot the aircraft.
- (3) A person commits an offence if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

### **103.075 Training flight limitations etc.**

- (1) In this regulation:
- permitted person*, in relation to an aircraft, means a person who is carried on the aircraft for the purpose of:
- (a) giving or receiving flying training; or
  - (b) practising for the issue of an authorisation by a Part 103 ASAO; or
  - (c) being assessed for the issue of an authorisation by a Part 103 ASAO.
- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a person other than a permitted person is carried on the aircraft; and
  - (b) the pilot in command permits the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft.
- (3) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a person other than the following is carried on the aircraft:
    - (i) a permitted person;
    - (ii) a person prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and
  - (b) the pilot in command permits a test of the aircraft, or any of its instruments, indicators, items of equipment or systems (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).
- Penalty: 50 penalty units.

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### **103.080 Consumption or provision of alcohol**

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

Penalty: 50 penalty units.

### **103.085 Additional requirements in relation to Part 103 activities**

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

Penalty: 50 penalty units.

## **Subpart 103.K—Equipment**

### **103.090 Requirements relating to equipment**

- (1) The Part 103 Manual of Standards may prescribe requirements relating to:
  - (a) the fitment and non-fitment of equipment to a Part 103 aircraft; and
  - (b) the carrying of equipment on a Part 103 aircraft; and
  - (c) equipment that is fitted to, or carried on, a Part 103 aircraft.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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## Subpart 103.M—Airworthiness requirements

### 103.100 Application of CAR Parts 4 to 4D

- (1) Parts 4 and 4A of CAR do not apply to a Part 103 aircraft unless:
  - (a) the aircraft is listed with a Part 103 ASAO; and
  - (b) a standard certificate of airworthiness is in force in relation to the aircraft.
- (2) Parts 4B, 4C and 4D of CAR do not apply to a Part 103 aircraft unless:
  - (a) a standard certificate of airworthiness is in force in relation to the aircraft; and
  - (b) the aircraft is:
    - (i) a sailplane; or
    - (ii) listed with a Part 103 ASAO.

### 103.105 Requirements prescribed by the Part 103 Manual of Standards

- (1) The Part 103 Manual of Standards may prescribe requirements relating to the maintenance, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### 103.110 Permission for section 20AB of Act

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

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

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

Note: See also regulation 103.040.

### 103.115 Requirements for ASAO exposition

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

- (2) The exposition for the Part 103 ASAO must include requirements relating to undertaking the activity.

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

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

- (1) This regulation applies in relation to an aircraft data plate attached, or to be attached, to a Part 103 aircraft that is administered by a Part 103 ASAO (other than a data plate attached in accordance with Division 21.Q.2).
- (2) The exposition for the Part 103 ASAO must include requirements relating to the procedures to be used for attaching an aircraft data plate to the aircraft.

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

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

Penalty: 50 penalty units.

### **103.125 Major defects**

#### *Reporting of defects*

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

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

- (2) A Part 103 ASAO contravenes this subregulation if the Part 103 ASAO:
- (a) receives a report under subregulation (1); and

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

### *Recording of defects*

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

### *Offences*

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.



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

### **103.130 Towing of Part 103 aircraft by other aircraft**

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

Penalty: 50 penalty units.

## Part 105—Parachuting from aircraft

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## Subpart 105.A—Preliminary

### 105.005 Application of Part 105

This Part does not apply in relation to:

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

### 105.010 Key definitions for Part 105

In these Regulations:

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

**major defect** means:

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

**parachute** does not include a parasail or a powered parachute.

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

**parachuting activity** means any of the following:

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

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

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

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

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

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

### **105.015 Issue of Manual of Standards for Part 105**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 105 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

## **Subpart 105.C—General**

### **Division 105.C.1—General flight limitations**

#### **105.020 Parachutists must not create hazards**

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

Penalty: 50 penalty units.

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

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

Penalty: 50 penalty units.

## **Division 105.C.2—Operational documents**

Note: This Division is reserved for future use.

## **Division 105.C.3—Flight related documents**

Note: This Division is reserved for future use.



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

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

- (1) This regulation applies to a person if the person holds an authorisation from a Part 105 ASAO to carry out maintenance on:
  - (a) reserve parachutes; or
  - (b) emergency parachutes.
- (2) A person contravenes this subregulation if the person:
  - (a) carries out maintenance on a reserve parachute or emergency parachute; and
  - (b) knows there is a major defect in the parachute; and
  - (c) does not report the defect to the Part 105 ASAO within 3 business days after becoming aware of the defect.
- (3) The report must:
  - (a) be made in writing; and
  - (b) be made in a form approved by the Part 105 ASAO; and
  - (c) contain the following information:
    - (i) the make and type of the parachute;
    - (ii) the serial number of the parachute;
    - (iii) the name and address of the owner of the parachute;
    - (iv) a description of the defect;
    - (v) how the defect may affect the safety of the parachute or cause the parachute to become a danger to persons or property.
- (4) An ASAO contravenes this subregulation if the ASAO:
  - (a) receives a report under subregulation (2); and
  - (b) does not provide a copy of the report to the following within 3 business days of receiving the report:
    - (i) CASA;
    - (ii) the manufacturer of the parachute;
    - (iii) all other Part 105 ASAOs.
- (5) A person commits an offence if the person contravenes subregulation (2) or (4).  
Penalty: 50 penalty units.

### **105.050 Reserve parachutes—reporting of major defects by parachutists**

- (1) This regulation applies to a person if the person holds an authorisation from a Part 105 ASAO to undertake a parachute descent.
  - (2) A person contravenes this subregulation if the person:
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- (a) knows there is a major defect in the reserve parachute; and
  - (b) knows that the major defect has not been reported to the Part 105 ASAO;  
and
  - (c) does not report the defect to the Part 105 ASAO within 3 business days  
after becoming aware of the defect.
- (3) The report must:
- (a) be made in writing; and
  - (b) be made in a form approved by the Part 105 ASAO; and
  - (c) contain the following information:
    - (i) the make and type of the parachute;
    - (ii) the serial number of the parachute;
    - (iii) the name and address of the owner of the parachute;
    - (iv) a description of the defect;
    - (v) how the defect may affect the safety of the parachute or cause the  
parachute to become a danger to persons or property.
- (4) An ASAO contravenes this subregulation if the ASAO:
- (a) receives a report under subregulation (2); and
  - (b) does not provide a copy of the report to the following within 3 business  
days of receiving the report:
    - (i) CASA;
    - (ii) the manufacturer of the reserve parachute;
    - (iii) all other Part 105 ASAOs.
- (5) A person commits an offence if the person contravenes subregulation (2) or (4).
- Penalty: 50 penalty units.

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

### **105.055 Reserve parachute and emergency parachute equipment requirements**

#### *Reserve parachutes*

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

#### *Emergency parachutes*

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

#### *Offence*

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

Penalty: 50 penalty units.

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**105.060 Defective reserve parachutes and defective emergency parachutes**

*Defective reserve parachutes*

- (1) A person contravenes this subregulation if:
  - (a) the person undertakes a parachute descent; and
  - (b) the person is equipped with a defective reserve parachute.
- (2) Subregulation (1) does not apply if the person is a tandem parachutist or a trainee parachutist.

*Defective reserve parachutes and defective emergency parachutes*

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

*Offence*

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

Penalty: 50 penalty units.

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

*Defective reserve parachute*

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

*Defective emergency parachute*

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

## **Division 105.C.6—Miscellaneous requirements**

### **105.065 Requirements for undertaking parachuting activities**

*Parachuting activity must be authorised*

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

*Parachuting activity must be undertaken in accordance with authorisation*

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

*Offence*

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

Penalty: 50 penalty units.

### **105.070 Additional obligations applying to parachute operators**

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

Penalty: 50 penalty units.

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**105.075 Permission to undertake parachute descent**

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

Penalty: 50 penalty units.

**105.080 General requirements for aircraft used for parachute descents**

- (1) The pilot in command of an aircraft contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent; and
  - (b) the aircraft is not one of the following:
    - (i) a Part 103 aircraft;
    - (ii) an aeroplane;
    - (iii) a helicopter;
    - (iv) a powered-lift aircraft;
    - (v) a manned free balloon.
- (2) The pilot in command of a Part 103 aircraft contravenes this subregulation if the aircraft is being operated to facilitate a parachute descent by either or both of the following:
  - (a) a trainee parachutist;
  - (b) a tandem parachutist.
- (3) The pilot in command of an aircraft (other than a Part 103 aircraft) contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent by either or both of the following:
    - (i) a trainee parachutist;
    - (ii) a tandem parachutist; and
  - (b) the pilot does not meet the pilot training requirements prescribed by the Part 105 Manual of Standards for the purposes of this paragraph.
- (4) The pilot in command of a multi-engine aeroplane or a single-engine turbine-powered aeroplane contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent by either or both of the following:
    - (i) a trainee parachutist;
    - (ii) a tandem parachutist; and

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

Penalty: 50 penalty units.

- (8) In this regulation:

*flight time* has the same meaning as in Part 61.

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

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

- (1) This regulation applies if an aircraft is being operated to facilitate a parachute descent by either or both of the following:
  - (a) a trainee parachutist;
  - (b) a tandem parachutist.
- (2) The operator and the pilot in command of an aircraft each contravene this subregulation if the aircraft does not meet a requirement mentioned in subregulation (3).
- (3) The requirements are as follows:
  - (a) a standard certificate of airworthiness must be in force for the aircraft;

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- (b) if the certificate of airworthiness is granted subject to a condition or requirement—the condition or requirement must be complied with;
  - (c) there must be either:
    - (i) a certificate of release to service for the most recent maintenance carried out on the aircraft; or
    - (ii) a maintenance release for the aircraft;
  - (d) the aircraft and each of the aircraft's engines must have been maintained in accordance with the requirements prescribed by the Part 105 Manual of Standards.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **105.090 Dropping things over populous areas**

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

Penalty: 50 penalty units.

### **105.095 Dropping things other than over populous areas**

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



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- (b) the person causes a thing to be dropped:
    - (i) from the aircraft before the descent; or
    - (ii) during the descent; and
  - (c) the thing creates a hazard to another aircraft, a person or property.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## Subpart 105.D—Operational requirements

### 105.100 Additional requirements in relation to parachuting activities

- (1) The Part 105 Manual of Standards may prescribe additional requirements in relation to undertaking parachuting activities.
- (2) Without limiting subregulation (1), the Part 105 Manual of Standards may prescribe requirements relating to the following:
  - (a) commencing parachute descents;
  - (b) the making of broadcasts by pilots in command of aircraft being operated to facilitate parachute descents;
  - (c) entering cloud during parachute descents;
  - (d) descents through different classes of airspace or in restricted areas;
  - (e) descents that involve landings near public gatherings;
  - (f) descents that involve landings in populous areas;
  - (g) packing, inspecting, maintaining, assembling, repairing, modifying or altering reserve parachutes, reserve parachute assemblies or emergency parachutes;
  - (h) the safe management of parachuting drop zones.
- (3) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person does not comply with the requirement.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

### 105.105 Restraint of persons other than flight crew members

- (1) The pilot in command of an aircraft contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent; and
  - (b) a person is carried on the aircraft who is not a flight crew member; and
  - (c) the person is not provided with any of the following restraint devices:
    - (i) a seatbelt;
    - (ii) a shoulder harness;
    - (iii) a single-point or dual-point restraint that is an approved restraint device.
- (2) The pilot in command of an aircraft contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent; and
  - (b) a person is carried on the aircraft who is not a flight crew member; and
  - (c) the person:

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- (i) is provided with a restraint device mentioned in paragraph (1)(c); but
  - (ii) is not provided with instructions for the use of the device.
- (3) The pilot in command of an aircraft contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent; and
  - (b) a person is carried on the aircraft who is not a flight crew member; and
  - (c) the person is provided with a restraint device mentioned in paragraph (1)(c); and
  - (d) before doing any of the following, the requirement mentioned in subregulation (4) is not met:
    - (i) taxiing;
    - (ii) taking off;
    - (iii) landing.
- (4) The requirement is that the person must be directed to fasten the person's restraint device.
- (5) The pilot in command of an aircraft contravenes this subregulation if:
  - (a) the aircraft is being operated to facilitate a parachute descent; and
  - (b) a person is carried on the aircraft who is not a flight crew member; and
  - (c) the person is provided with a restraint device mentioned in paragraph (1)(c); and
  - (d) the pilot in command has reason to believe it is necessary, for the safety of the person, that the person's restraint device is fastened; and
  - (e) the pilot in command does not direct the person to fasten the person's restraint device.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), (3) or (5).  
Penalty: 50 penalty units.
- (7) For the purposes of this regulation, a restraint device is an ***approved restraint device*** if it is approved by CASA under regulation 21.305.

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

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

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Penalty: 50 penalty units.

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

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

Penalty: 50 penalty units.

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

## **Subpart 105.G—Personnel fatigue management**

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

- (1) The Part 105 Manual of Standards may prescribe requirements in relation to managing the risk of fatigue in persons who exercise a duty in relation to the operation of aircraft being operated to facilitate parachute descents.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Subpart 105.J—Weight and balance**

### **105.125 Loading of aircraft used for parachute descents**

- (1) The Part 105 Manual of Standards may prescribe requirements in relation to the loading of aircraft being operated to facilitate a parachute descent.
- (2) Without limiting subregulation (1), the Part 105 Manual of Standards may prescribe requirements relating to one or more of the following:
  - (a) aircraft loading procedures that must be followed;
  - (b) aircraft loading system requirements;
  - (c) the making and retention of aircraft loading records.
- (3) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person does not comply with the requirement.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

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

### **105.130 Requirements relating to radio equipment and oxygen equipment**

- (1) The Part 105 Manual of Standards may prescribe requirements relating to one or more of the following:
  - (a) radio equipment that must be carried on aircraft that are being operated to facilitate parachute descents;
  - (b) oxygen equipment that must be carried on aircraft that are being operated to facilitate parachute descents;
  - (c) the circumstances in which equipment mentioned in paragraph (a) or (b) must be used.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Subpart 105.N—Flight crew**

### **105.135 Pilot requirements for parachute descents—Part 103 aircraft**

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

Penalty: 50 penalty units.

### **105.140 Pilot requirements for parachute descents—aeroplanes**

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

Penalty: 50 penalty units.

### **105.145 Pilot requirements for parachute descents—helicopters**

- (1) This regulation applies if a helicopter (other than a Part 103 aircraft) is being operated to facilitate a parachute descent.
- (2) The pilot in command of the helicopter contravenes this subregulation if none of the following apply:
  - (a) the pilot holds an air transport pilot licence with a helicopter category rating;
  - (b) the pilot holds a commercial pilot licence with a helicopter category rating;



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- (c) the pilot has both:
  - (i) a private pilot licence with a helicopter category rating; and
  - (ii) the aeronautical experience mentioned in regulation 61.610 in a helicopter.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

**105.150 Pilot requirements for parachute descents—powered-lift aircraft**

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

Penalty: 50 penalty units.

**105.155 Pilot requirements for parachute descents—manned free balloons**

- (1) This regulation applies if a manned free balloon is being operated to facilitate a parachute descent.
- (2) The pilot in command of the balloon contravenes this subregulation if none of the following apply:
  - (a) the pilot holds a commercial pilot (balloon) licence;
  - (b) the pilot has both:
    - (i) an authorisation from a Part 131 ASAO that authorises the pilot to operate a manned free balloon; and
    - (ii) at least 75 hours of experience as pilot in command of a manned free balloon;
  - (c) the pilot meets the requirements prescribed by the Part 105 Manual of Standards for the purposes of this subregulation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

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Penalty: 50 penalty units.

## **Part 115—Commercial sport and recreational aviation operations**

Note: This Part heading is reserved for future use.

## Part 117—Representations and surveys

### Contents of Part 117

- 117.005 What this Part is about
- 117.010 Misrepresentations about holding certain civil aviation authorisations
- 117.015 Safety-related surveys or questionnaires—holders of certain civil aviation authorisations
- 117.020 Owner or registered operator to provide information about aircraft
- 117.025 Owner or registered operator to provide traffic reports
- 117.030 Protection of information

### 117.005 What this Part is about

This Part provides for offences for:

- (a) misrepresentations about holding certain civil aviation authorisations; and
- (b) not completing safety-related surveys or questionnaires; and
- (c) not providing statistical information about aircraft; and
- (d) not providing traffic reports.

### 117.010 Misrepresentations about holding certain civil aviation authorisations

- (1) A person commits an offence if:
  - (a) the person represents to another person, in any way, that the person is willing to conduct an activity using an aircraft; and
  - (b) the person does not hold a particular civil aviation authorisation authorising the person to conduct the activity using the aircraft; and
  - (c) under the Act or these Regulations, it is an offence for a person to conduct the activity using the aircraft if the person does not hold the civil aviation authorisation.

Penalty: 50 penalty units.

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

Note: For the definition of *civil aviation authorisation*, see section 3 of the Act.

### 117.015 Safety-related surveys or questionnaires—holders of certain civil aviation authorisations

- (1) CASA may, by written notice given to a person mentioned in subregulation (2), direct the person to:
  - (a) complete a safety-related survey or questionnaire by accurately answering all mandatory questions in the survey or questionnaire; and
  - (b) submit the completed survey or questionnaire to CASA within the time stated in the notice.
- (2) For subregulation (1), the persons are the following:

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- (a) the holder of an AOC;
  - (b) a Part 141 operator who conducts flight training in aircraft;
  - (c) a person who gave a notice to CASA under regulation 101.372 (Notice to operate very small RPA for hire or reward);
  - (d) the holder of a certificate as an RPA operator under Division 101.F.4;
  - (e) the holder of an aerial work certificate;
  - (f) the holder of an approval under regulation 131.035 to conduct a specialised balloon operation.
- (3) The person may, before the end of the time stated in the notice, apply in writing to CASA for an extension.
- (4) CASA may, by written notice given to the person (the *notice of extension*), grant the extension.
- (5) The person commits an offence if the person does not comply with the direction within:
- (a) if CASA grants an extension under subregulation (4)—the time stated in the notice of extension; or
  - (b) if paragraph (a) does not apply—the time stated in the notice under subregulation (1).

Penalty: 25 penalty units.

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

**117.020 Owner or registered operator to provide information about aircraft**

- (1) CASA may, by written notice given to the owner of an aircraft or the registered operator of the aircraft if the owner is not the registered operator of the aircraft, direct the person to:
- (a) collect specified statistical and other information relating to the aircraft, including information in relation to any of the following:
    - (i) operations of the aircraft;
    - (ii) passengers or cargo carried by the aircraft;
    - (iii) crew members of the aircraft;
    - (iv) modifications, repairs, damage or defects in the aircraft; and
  - (b) provide the information to CASA within the time stated in the notice.
- (2) The person may, before the end of the time stated in the notice, apply in writing to CASA for an extension.
- (3) CASA may, by written notice given to the person, grant the extension.
- (4) If CASA gives a person a direction under this regulation, the person must comply with the direction:
- (a) if CASA grants an extension under subregulation (3)—within the time stated in the notice of extension; or
  - (b) otherwise—within the time stated in the notice under subregulation (1).

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

Penalty: 25 penalty units.

### 117.025 Owner or registered operator to provide traffic reports

- (1) CASA may, by written notice given to the owner of an aircraft engaged in air transport operations or the registered operator of the aircraft if the owner is not the registered operator of the aircraft, direct the person to:
- (a) prepare traffic reports; and
  - (b) provide the traffic reports to CASA within the time stated in the notice.
- (2) The person may, before the end of the time stated in the notice, apply in writing to CASA for an extension.
- (3) CASA may, by written notice given to the person, grant the extension.
- (4) If CASA gives a person a direction under this regulation, the person must comply with the direction:
- (a) if CASA grants an extension under subregulation (3)—within the time stated in the notice of extension; or
  - (b) otherwise—within the time stated in the notice under subregulation (1).
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 25 penalty units.

### 117.030 Protection of information

*When this regulation applies*

- (1) This regulation does not apply in relation to personal information.

Note: For disclosure of personal information, see regulation 201.016.

*Information must not be disclosed except in certain circumstances*

- (2) A person to whom information has been disclosed under regulation 117.020 or 117.025 must not disclose the information.
- (3) Subregulation (2) does not apply if:
- (a) the disclosure is for the purposes of these Regulations or the Act; or
  - (b) the disclosure is authorised or required by a law of the Commonwealth; or
  - (c) the disclosure is in connection with compliance with a requirement of the Chicago Convention; or
  - (e) the disclosure is with the consent of the person to whom the information disclosed relates.

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

Penalty: 25 penalty units.

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

## Part 119—Australian air transport operators—certification and management

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## Subpart 119.A—General

### 119.005 What Part 119 is about

This Part makes provision for applicants for, and holders of, AOCs that authorise the operation of aeroplanes or rotorcraft for Australian air transport operations.

Note 1: See also Division 2 (Air Operators' Certificates (AOCs)) of Part III of the Act in relation to AOCs generally.

Note 2: A person must hold an AOC under this Part to conduct any of the following:

- (a) Part 121 operations;
- (b) Part 133 operations;
- (c) Part 135 operations.

### 119.010 Definition of *Australian air transport operation*

- (1) An operation is an *Australian air transport operation* if the operation is any of the following:
  - (a) an air transport operation conducted by an Australian operator using a registered aeroplane or rotorcraft;
  - (b) an air transport operation:
    - (i) that is a flight into or out of Australian territory or an operation in Australian territory; and
    - (ii) that is conducted by an Australian operator using an aeroplane or rotorcraft that is a foreign registered aircraft;
  - (c) an air transport operation:
    - (i) that is conducted by an Australian operator using an aeroplane or rotorcraft; and
    - (ii) that is provided for under the ANZA mutual recognition agreements;
  - (d) an air transport operation conducted by a foreign operator:
    - (i) using an aeroplane or rotorcraft that is a foreign registered aircraft; and
    - (ii) undertaken wholly within Australia; and
    - (iii) not undertaken as part of a flight into or out of Australian territory;
  - (e) an operation, conducted using an aeroplane or rotorcraft, of a kind prescribed by the Part 119 Manual of Standards for the purposes of this paragraph.
- (2) However, each of the following is not an *Australian air transport operation*:
  - (a) the operation of an aeroplane or rotorcraft under a permission under:
    - (i) section 25 (non-scheduled flights by foreign registered aircraft) of the Act; or
    - (ii) section 27A (permission for operation of foreign registered aircraft without AOC) of the Act;

- (b) an air transport operation authorised by a New Zealand AOC with ANZA privileges that is in force for Australia;
- (c) an operation of an aircraft to which Part 129 (foreign air transport operations) of these Regulations applies;
- (d) an operation, conducted using an aeroplane or rotorcraft, of a kind prescribed by the Part 119 Manual of Standards for the purposes of this paragraph.

Note: See Part 129 for provisions relating to foreign operators conducting flights into or out of Australian territory, or flights wholly within Australian territory that are conducted as part of flights into or out of Australian territory.

### **119.015 Definitions of *Australian air transport AOC* and *Australian air transport operator***

- (1) An *Australian air transport AOC* is an AOC that authorises the operation of an aeroplane or rotorcraft for an Australian air transport operation.
- (2) An *Australian air transport operator* is a person who holds an Australian air transport AOC.

### **119.020 Definition of *significant change***

A *significant change*, for an Australian air transport operator, means:

- (a) a change in relation to any of the following:
  - (i) the location and operation of the operator's main operating bases, including the opening or closing of main operating bases;
  - (ii) the operator's key personnel;
  - (iii) a person authorised to carry out the responsibilities of any of the key personnel if the position holder is absent from the position or cannot carry out the responsibilities of the position;
  - (iv) the formal reporting lines for a managerial or operational position with safety functions and responsibilities that reports directly to any of the key personnel;
  - (v) the operator's process for making changes that relate to the safe conduct and management of the operator's air transport operations;
  - (vi) the kinds of Australian air transport operations the operator is authorised to conduct under the operator's Australian air transport AOC;
  - (vii) the operator's areas of operation or routes, including beginning to operate in a new area or on a new route (but not including ceasing to operate in an area or on a route);
  - (viii) the types and models of aeroplanes or rotorcraft used in the operator's Australian air transport operations, including the addition of a new type or model (but not including ceasing to operate a type or model);  
or
- (b) a change in relation to any of the following that does not maintain or improve, or is not likely to maintain or improve, aviation safety:

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- (i) the plans, processes, procedures, programs and systems for the safe conduct and management of the operator's Australian air transport operations;
  - (ii) the qualifications, experience and responsibilities required by the operator for any of the operator's key personnel;
  - (iii) any other aeronautical or aviation safety related services provided to the operator by third parties;
  - (iv) any change to the registration of an aeroplane or rotorcraft used in the operator's Australian air transport operations;
  - (v) any leasing or other arrangements for the supply of an aeroplane or rotorcraft used in the operator's Australian air transport operations; or
- (c) a change required to be approved by CASA under these Regulations, other than a change that results in the reissue or replacement of an instrument previously issued by CASA in which the conditions or other substantive content of the instrument are unchanged.

### 119.025 Approvals by CASA for Part 119

- (1) If a provision of this Part, or of the Part 119 Manual of Standards, refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for either of the following provisions:
  - (a) paragraph 119.135(3)(a);
  - (b) paragraph 119.145(3)(a).

### 119.030 Prescribed purpose—Australian air transport operations

For the purposes of subsection 27(9) of the Act, the flying or operation of an aeroplane or rotorcraft for an Australian air transport operation is a prescribed purpose.

### 119.035 Prescribed position—safety manager

- (1) An Australian air transport operator must have a safety manager.
- (2) For the purposes of paragraph (e) of the definition of *key personnel* in subsection 28(3) of the Act, the position of safety manager is prescribed for Australian air transport operators.

### 119.036 Required position—head of training and checking

An Australian air transport operator must have a position (however described) that is the head of the training and checking part of the organisation.

### **119.040 Required material for reference library**

- (1) For the purposes of paragraph 28BH(2)(b) of the Act, the following material is required for an Australian air transport operator:
  - (a) the civil aviation legislation that is relevant to the operator's Australian air transport operations;
  - (b) the parts of the AIP that are relevant to the operations;
  - (c) if the operator conducts operations in one or more foreign countries—the document for each of those countries that is equivalent to the AIP;
  - (d) all information about the flight operations of each type and model of aeroplane or rotorcraft operated by the operator for the operations that is necessary to ensure the safe conduct of the operations;
  - (e) any other publications, information or data required for the reference library by the operator's exposition.
- (2) To avoid doubt, if material is required under subregulation (1), the requirement is taken to be satisfied if an electronic copy of the material is readily available.

### **119.045 Issue of Manual of Standards for Part 119**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 119 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

### **119.050 Australian air transport AOC required**

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

Penalty: 50 penalty units.

### **119.055 Compliance with Australian air transport AOCs**

- (1) A person contravenes this subregulation if:
  - (a) the person conducts an Australian air transport operation; and
  - (b) the person holds an Australian air transport AOC that authorises the person to conduct the Australian air transport operation; and
  - (c) the person conducts the operation in a way that contravenes the AOC.

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

Penalty: 50 penalty units.

**119.060 Compliance with conditions of Australian air transport AOCs**

- (1) An Australian air transport operator contravenes this subregulation if the operator contravenes a condition of the operator's Australian air transport AOC.

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

Penalty: 50 penalty units.

## **Subpart 119.B—Australian air transport AOCs**

### **119.065 Application**

- (1) A person may apply to CASA for the issue of an Australian air transport AOC.
- (2) The application must include the following:
  - (a) the applicant's name (including any operating or trading name), contact details and ABN (if any);
  - (b) if the address of the applicant's operational headquarters is different from the applicant's mailing address—the address of the applicant's operational headquarters;
  - (c) if the applicant is an individual—a statement that the individual is, or proposes to be, the applicant's chief executive officer;
  - (d) if the applicant is a corporation—the name of each of the directors of the corporation;
  - (e) if the applicant is a corporation registered in Australia that has an ACN—the applicant's ACN and the address of the applicant's registered office;
  - (f) if the applicant is a corporation not registered in Australia—the place the applicant was incorporated or formed;
  - (g) details of the Australian air transport operations covered by the application;
  - (h) a written undertaking from the person appointed, or proposed to be appointed, as the applicant's chief executive officer that, if CASA issues the AOC, the applicant will:
    - (i) be capable of operating in accordance with the applicant's exposition and the civil aviation legislation; and
    - (ii) operate in accordance with the applicant's exposition and the civil aviation legislation.
- (3) The application must be:
  - (a) accompanied by a copy of the applicant's proposed exposition; and
  - (b) signed by the person appointed, or proposed to be appointed, as the applicant's chief executive officer.

Note: See also sections 27AB (lodgment of manuals) and 27AC (CASA may require information etc. and inspections etc.) of the Act.

### **119.070 Conditions for issue**

- (1) It is a condition for the issue to the applicant of an Australian air transport AOC that CASA is satisfied of each of the following:
  - (a) the applicant's proposed exposition complies with regulation 119.205;
  - (b) the applicant can conduct Australian air transport operations safely and in accordance with the applicant's exposition and the civil aviation legislation;
  - (c) if the applicant is an individual—the applicant:

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- (i) is a fit and proper person to be issued an Australian air transport AOC; and
- (ii) is, or proposes to be, the applicant's chief executive officer;
- (d) if the applicant is a corporation—each director of the corporation is a fit and proper person to be a director of a corporation that is issued an Australian air transport AOC;
- (e) each of the applicant's proposed key personnel:
  - (i) is a fit and proper person to be appointed to the position; and
  - (ii) has the qualifications and experience required under Subpart 119.D for the position; and
  - (iii) has the additional qualifications and experience required by CASA under regulation 119.165 for the position (if any); and
  - (iv) has the qualifications and experience required by the applicant under subparagraph 119.205(1)(e)(i) for the position (if any);
- (f) the applicant's arrangements for managing the continuing airworthiness of each type and model of aeroplane or rotorcraft the applicant proposes to operate in the applicant's Australian air transport operations comply with these Regulations.

Note 1: These matters are in addition to the matters specified in section 28 (CASA must issue AOC if satisfied about certain matters) of the Act.

Note 2: For Australian air transport AOCs with ANZA privileges, these matters are also in addition to the matters specified in section 28B (Additional conditions for issue of an Australian AOC with ANZA privileges) of the Act and subregulation (4) of this regulation.

- (2) For the purposes of paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:
  - (a) the applicant's proposed exposition;
  - (b) whether the applicant can comply with the proposed exposition;
  - (c) the content of the undertaking mentioned in paragraph 119.065(2)(h);
  - (d) details of, and reasons for, any suspension or cancellation of:
    - (i) a civil aviation authorisation issued to the applicant; or
    - (ii) an equivalent authorisation issued to the applicant under the law of a foreign country or by a multinational aviation authority;
  - (e) the suitability of the applicant's corporate and organisational structures for the operations;
  - (f) any other information:
    - (i) accompanying the application; or
    - (ii) in any other document given to CASA by the applicant for the application, including any document requested by CASA in relation to the application.
- (3) For the purposes of paragraphs (1)(c) to (e), the matters CASA may consider in deciding whether a person is a fit and proper person include the following:
  - (a) the person's criminal record (if any), whether in Australia or a foreign country;



- (b) the person's bankruptcy (if any), whether in Australia or a foreign country;
- (c) the person's history (if any) of serious behavioural problems;
- (d) any information held or obtained by CASA that the person has contravened:
  - (i) the civil aviation legislation; or
  - (ii) another law, whether in Australia or a foreign country, relating to transport (including aviation) safety or safety in any other safety-critical industry;
- (e) the person's demonstrated attitude towards compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety;
- (f) the record of compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety of any corporation or other body in which the person:
  - (i) is or was a director or partner (however described); or
  - (ii) holds or held a position equivalent to any of the applicant's key personnel;
- (g) for any corporation in which the person is or was a director, or holds or held a position equivalent to any of the applicant's key personnel, in Australia or a foreign country—the following records:
  - (i) the corporation's criminal record (if any);
  - (ii) the corporation's record of insolvency, bankruptcy, receivership or winding up (if any);
  - (iii) the corporation's record (if any) as a body subject to investigation or comment by a statutory authority that regulates the share dealings by, or financial affairs of, corporations;
- (h) any other matter relating to the fitness of the person to:
  - (i) for an applicant—hold an Australian air transport AOC; or
  - (ii) for a director or proposed director—be a director of a corporation that holds an Australian air transport AOC.

*Additional conditions—Australian air transport AOC with ANZA privileges*

- (4) For the purposes of paragraph 28B(1)(e) of the Act, it is also a condition for the issue of an Australian air transport AOC with ANZA privileges that CASA must be satisfied that each aeroplane the applicant proposes to operate under the AOC for ANZA activities in New Zealand complies with the following requirements:
  - (a) the aeroplane either:
    - (i) has a maximum take-off weight of more than 15,000 kg; or
    - (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats;
  - (b) the aeroplane is registered in Australia or New Zealand.

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### 119.075 Approval of exposition

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

### 119.080 Conditions of an Australian air transport AOC

- (1) For the purposes of paragraph 28BA(1)(b) of the Act, each of the following is a condition of an Australian air transport AOC issued to an operator:
- (a) the operator must comply with each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations;
  - (b) each of the operator's key personnel must comply with:
    - (i) each provision of this Part that applies to the person; and
    - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
    - (iii) each other provision of the civil aviation legislation that applies to the operator's operations under the AOC;
  - (c) each of the positions of the operator's key personnel must be filled;
  - (d) each of the operator's personnel must comply with each provision of the civil aviation legislation that applies to the operator's operations under the AOC;
  - (e) if the operator is an individual—the individual must be the operator's chief executive officer;
  - (f) the positions of chief executive officer and safety manager may be occupied by the same person only:
    - (i) in an unforeseen circumstance; and
    - (ii) for the period mentioned in subregulation (2);
  - (g) the positions of head of flying operations and safety manager may be occupied by the same person:
    - (i) if there is an unforeseen circumstance—for the period mentioned in subregulation (2); or
    - (ii) if the operator holds an approval under regulation 119.025 for the positions to be occupied by the same person—for the period specified in the approval;
  - (h) for each registered aeroplane or rotorcraft operated by the operator under the AOC, the operator must:
    - (i) be the registered operator of the aeroplane or rotorcraft; or
    - (ii) hold an approval under regulation 119.025 for the aeroplane or rotorcraft.

Note 1: These matters are in addition to the matters specified in section 28BA (general conditions) and subsection 28BAA(1) (certain conditions for grant of AOC also have effect as ongoing conditions on the AOC) of the Act.

Note 2: For Australian air transport AOCs with ANZA privileges, these matters are also in addition to the matters specified in subsection 28BAA(2) (certain conditions for grant of AOC also have effect as ongoing conditions on the AOC) of the Act and subregulation (3) of this regulation.

- (2) For the purposes of subparagraphs (1)(f)(ii) and (g)(i), the period is:
- (a) no more than 7 consecutive days for each unforeseen circumstance; or
  - (b) if the operator holds an approval under regulation 119.025 in relation to an unforeseen circumstance—the period mentioned in the approval for the unforeseen circumstance.

*Additional conditions—Australian air transport AOC with ANZA privileges*

- (3) For the purposes of paragraph 28BA(1)(b) of the Act, it is also a condition of an Australian air transport AOC with ANZA privileges that each aeroplane operated by the AOC holder under the AOC for ANZA activities in New Zealand must comply with the following requirements:
- (a) the aeroplane either:
    - (i) has a maximum take-off weight of more than 15,000 kg; or
    - (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats;
  - (b) the aeroplane is registered in Australia or New Zealand.

## Subpart 119.C—Changes relating to Australian air transport operators

### 119.085 Changes of name etc.

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

Penalty: 50 penalty units.

### 119.090 Application for approval of significant changes

- (1) An Australian air transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change other than a significant change mentioned in subregulation (2); and
  - (b) CASA has not approved the significant change.
- (2) An Australian air transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change that is the permanent appointment, or the acting appointment (for a period of greater than 35 days), as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 119.205(1)(e)(iv); and
  - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.
- (3) An application for approval of a significant change must:
  - (a) be in writing; and
  - (b) set out the change; and
  - (c) be accompanied by a copy of the part of the operator's exposition affected by the change, clearly identifying the change.

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

Penalty: 50 penalty units.

### **119.095 Approval of significant changes**

- (1) CASA may approve a significant change for an Australian air transport operator only if satisfied that the requirements mentioned in section 28 of the Act and subregulation 119.070(1) will continue to be met.
- (2) If CASA approves the significant change, CASA is taken to have also approved the changes to the operator's exposition covered by the application for the change.

### **119.100 Changes must be made in accordance with process in exposition**

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) the operator makes a change; and
  - (b) the change is not made in accordance with the process included in the operator's exposition in accordance with paragraph 119.205(1)(m).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **119.105 CASA directions relating to exposition or key personnel**

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to an Australian air transport operator, direct the operator to change the operator's exposition:
- (a) to remove particular information, procedures or instructions from the exposition; or
  - (b) to include particular information, procedures or instructions in the exposition; or
  - (c) to revise or vary the information, procedures or instructions in the exposition.
- (2) CASA may, by written notice given to an Australian air transport operator, direct the operator to remove any of the operator's key personnel from the person's position if satisfied that the person is not:
- (a) carrying out the safety responsibilities of the position under Subpart 119.D; or
  - (b) if the person is the chief executive officer—properly managing safety matters for which the person is accountable under Subpart 119.D.
- (3) A notice under this regulation must state the time within which the direction must be complied with.

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- (4) An Australian air transport operator contravenes this subregulation if:
  - (a) CASA gives the operator a direction under this regulation; and
  - (b) the operator does not comply with the direction within the time stated in the notice.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

## **Subpart 119.D—Organisation and personnel**

### **119.110 Organisation and personnel**

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

Penalty: 50 penalty units.

### **119.115 When key personnel cannot carry out responsibilities**

- (1) An Australian air transport operator contravenes this subregulation if:
  - (a) the operator becomes aware that any of the operator's key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 35 days; and
  - (b) the operator does not tell CASA of the matter mentioned in paragraph (a) within the time mentioned in subregulation (2).
- (2) The time is:
  - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—24 hours after the operator becomes aware of the matter; or
  - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—3 days after the operator becomes aware of the matter.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **119.120 Familiarisation training for key personnel**

An Australian air transport operator must ensure that, before a person appointed as any of the operator's key personnel begins to carry out the responsibilities of the position, the person has completed any training that is necessary to familiarise the person with the responsibilities.

### **119.125 Chief executive officer—experience**

- (1) The chief executive officer of an Australian air transport operator must have the experience required under subregulation (2).

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- (2) The experience required is:
  - (a) if the operator holds an approval under regulation 119.025—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
- (3) The experience is the following:
  - (a) sufficient relevant experience in organisational, operational, financial and people management of air operations to capably lead, manage and set standards to enable the operator to conduct safe operations in accordance with the operator’s exposition and the civil aviation legislation;
  - (b) a satisfactory record in the conduct or management of air operations.

### **119.130 Chief executive officer—responsibilities and accountabilities**

- (1) The chief executive officer of an Australian air transport operator is responsible for the following:
  - (a) ensuring that, for the safe conduct of the operator’s Australian air transport operations in accordance with the operator’s Australian air transport AOC and exposition and the civil aviation legislation, the operator:
    - (i) has sufficient suitably experienced, qualified and competent personnel; and
    - (ii) has a suitable management structure; and
    - (iii) is adequately financed and resourced;
  - (b) ensuring that the operator:
    - (i) complies with the civil aviation legislation; and
    - (ii) complies with the aviation safety laws of each foreign country (if any) where the operator conducts Australian air transport operations; and
    - (iii) implements and manages the operator’s safety management system; and
    - (iv) has procedures that ensure that all of the operator’s personnel understand the operator’s safety policy; and
    - (v) has an organisational structure that ensures that the safety manager is independent and not subject to undue influence; and
    - (vi) sets and maintains standards for flight and ground operations; and
    - (vii) tells CASA if the operator becomes aware that a leasing, financing or other arrangement for the supply of an aeroplane or rotorcraft that the operator operates under the operator’s Australian air transport AOC may affect the operator’s safe conduct of the operator’s Australian air transport operations; and
    - (viii) tells CASA if the operator becomes aware that an arrangement mentioned in subparagraph (vii) may contravene a provision of the civil aviation legislation or the law of the country in which the aeroplane or rotorcraft is registered; and
    - (ix) for each foreign registered aircraft (if any) used in the operator’s Australian air transport operations—maintains the aircraft in



- accordance with the law of the country in which the aircraft is registered (subject to any applicable 83 bis agreement);
- (c) establishing and regularly reviewing the operator's safety performance indicators and targets;
  - (d) ensuring that the operator's exposition is monitored and managed for continuous improvement;
  - (e) ensuring that training and checking of the operator's operational safety-critical personnel (other than flight crew) conducted by or for the operator is conducted in accordance with the operator's exposition;
  - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with the operator's exposition and the civil aviation legislation.
- (2) The chief executive officer of an Australian air transport operator is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

### **119.135 Head of flying operations—qualifications and experience**

- (1) The head of flying operations of an Australian air transport operator must:
- (a) hold the pilot licence required under subregulation (2); and
  - (b) hold a pilot type or class rating (within the meaning of Part 61) for a type or class of aeroplane or rotorcraft that is used to conduct a significant proportion of the operator's Australian air transport operations; and
  - (c) have the experience required under subregulation (3); and
  - (d) have a satisfactory record in the conduct or management of air operations; and
  - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The licence required is:
- (a) if the operator conducts only single-pilot operations—a commercial pilot licence or an air transport pilot licence; or
  - (b) in any other case—an air transport pilot licence.
- (3) The experience required is:
- (a) if the operator holds an approval under regulation 119.025—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) The experience is the following:
- (a) at least 500 hours flight time on a type of aeroplane or rotorcraft that is the same as, or substantially similar to, a type of aeroplane or rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations;

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- (b) at least 6 months experience in the conduct or management of air operations conducted under an AOC or equivalent foreign authorisation.
- (5) CASA may, by written notice given to the head of flying operations, or proposed head of flying operations, of an Australian air transport operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) The assessment:
  - (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the head of flying operation's or proposed head of flying operation's suitability as head of flying operations for the operator; and
  - (b) may include assessment in an aeroplane, rotorcraft or flight simulation training device.

### **119.140 Head of flying operations—responsibilities**

- (1) The head of flying operations of an Australian air transport operator must safely manage the flying operations of the operator.
- (2) Without limiting subregulation (1), the responsibilities of the head of flying operations include the following:
  - (a) monitoring and maintaining, and reporting to the chief executive officer on, the operator's compliance with the provisions of the civil aviation legislation and the operator's exposition that apply to flying operations;
  - (b) ensuring that the operator's flight crew are provided with the information and documentation necessary to properly carry out their responsibilities;
  - (c) ensuring the proper allocation and deployment of the operator's aeroplanes or rotorcraft, and the operator's personnel, for use in the operator's Australian air transport operations;
  - (d) ensuring that the operator complies with section 28BH (reference library) of the Act in relation to flight crew.

### **119.145 Head of training and checking—qualifications and experience**

- (1) The head of training and checking of an Australian air transport operator must:
  - (a) hold the pilot licence required under subregulation (2); and
  - (b) hold a pilot type or class rating (within the meaning of Part 61) for a type or class of aeroplane or rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations; and
  - (c) have the experience required under subregulation (3); and
  - (d) have a satisfactory record in the conduct or management of air operations; and
  - (e) have a satisfactory record in the conduct or management of training and checking in relation to air operations; and
  - (f) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.

- (2) The licence required is:
  - (a) if the operator conducts only single-pilot operations—a commercial pilot licence or an air transport pilot licence; or
  - (b) in any other case—an air transport pilot licence.
- (3) The experience required is:
  - (a) if the operator holds an approval under regulation 119.025—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) The experience is the following:
  - (a) at least 500 hours flight time on a type of aeroplane or rotorcraft that is the same as, or substantially similar to, a type of aeroplane or rotorcraft used to conduct a significant proportion of the operator’s Australian air transport operations;
  - (b) at least 6 months experience in the conduct or management of air operations conducted under an AOC or equivalent foreign authorisation.
- (5) CASA may, by written notice given to a head of training and checking, or proposed head of training and checking, of an Australian air transport operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) The assessment:
  - (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the heading of training or checking’s or proposed heading of training or checking’s suitability as head of training and checking for the operator; and
  - (b) may include assessment in an aeroplane, rotorcraft or flight simulation training device.

### **119.150 Head of training and checking—responsibilities**

- (1) The head of training and checking of an Australian air transport operator must safely manage the training and checking activities of the operator for the operator’s flight crew.
- (2) Without limiting subregulation (1), the responsibilities of the head of training and checking include the following:
  - (a) ensuring that the operator complies with each provision of the civil aviation legislation that relates to the qualifications, training or checking of the operator’s flight crew;
  - (b) reporting to the head of flying operations on the operator’s compliance with the provisions mentioned in paragraph (a);
  - (c) ensuring that training and checking of flight crew conducted by or for the operator is conducted in accordance with the operator’s exposition;
  - (d) if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct training or checking for the operator’s flight crew:

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- (i) ensuring that each person who conducts the training or checking for the Part 142 operator is authorised under Part 61 to conduct the activities involved in the training or checking; and
- (ii) telling the Part 142 operator, in writing, of any change in the Australian air transport operator's exposition relating to the training and checking activities the Part 142 operator conducts under the contract.

### **119.155 Safety manager—experience**

A safety manager required under regulation 119.035 for an Australian air transport operator must have:

- (a) sufficient relevant safety management experience to capably lead, manage and set standards to enable the operator to safely implement the operator's safety management system in accordance with the operator's exposition; and
- (b) a satisfactory record in the conduct or management of air operations; and
- (c) sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.

### **119.160 Safety manager—responsibilities**

- (1) A safety manager required under regulation 119.035 for an Australian air transport operator must manage the operator's safety management system.
- (2) Without limiting subregulation (1), the responsibilities of the safety manager include:
  - (a) managing the operation of the safety management system including managing corrective, remedial and preventative action in relation to the system; and
  - (b) regularly reporting to the chief executive officer on the effectiveness of the safety management system; and
  - (c) managing the maintenance and continuous improvement of the following systems:
    - (i) safety management system;
    - (ii) fatigue risk management system (if any).

### **119.165 Key personnel—additional qualification and experience requirements**

- (1) This regulation applies to:
  - (a) an applicant for an Australian air transport AOC; and
  - (b) an Australian air transport operator.
- (2) CASA may, by written notice given to the applicant or operator, direct that any of the key personnel of the applicant or operator must have stated additional qualifications or experience to those otherwise required under this Subpart.

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

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## Subpart 119.E—Training and checking for operational safety-critical personnel

### 119.170 Training and checking system

- (1) An Australian air transport operator must have a training and checking system.
- (2) The training and checking system must include the following in relation to flight crew and cabin crew:
  - (a) a description of how training and checking, including recurrent training and line checking, is conducted by or for the operator;
  - (b) an auditable system for maintaining records of the results of training and checking;
  - (c) procedures that ensure that each of the operator's flight crew and cabin crew:
    - (i) completes training and checking in accordance with the training and checking system; and
    - (ii) is supervised effectively during training and checking;
  - (d) a description of how the operator assesses the competence of a flight crew member or cabin crew member to perform the duties assigned to the member for a flight;
  - (e) if the operator has a contract with a person for the person to conduct training or checking for the operator:
    - (i) details of the person; and
    - (ii) details of the training or checking covered by the contract; and
    - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system.
- (3) The training and checking system must also include the following in relation to cabin crew:
  - (a) the circumstances in which training is required to familiarise a cabin crew member with their duties;
  - (b) if any of the training or checking of cabin crew is conducted by a member of the operator's personnel—a description of the operator's system for training and assessing such personnel.
- (4) If subregulation (5) applies in relation to the operator, the training and checking system must include the following in relation to operational safety-critical personnel who are not flight crew or cabin crew:
  - (a) a description of how training and checking, including recurrent training, for the personnel is conducted by or for the operator;
  - (b) an auditable system for maintaining records of the results of the training and checking;
  - (c) the circumstances in which training is required to familiarise a member of the personnel with their duties;

- (d) if the operator has a contract with a person for the person to conduct the training or checking for the operator:
    - (i) details of the person; and
    - (ii) details of the training or checking covered by the contract; and
    - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system;
  - (e) if any of the training or checking is conducted by a member of the operator's personnel—a description of the operator's system for training and assessing such personnel.
- (5) This subregulation applies to the operator if the operator conducts one or more of the following operations:
- (a) operations in an aeroplane to which either or both of the following apply:
    - (i) the aeroplane has a maximum take-off weight of more than 8,618 kg;
    - (ii) the aeroplane has a maximum operational passenger seat configuration of more than 9 seats;
  - (b) operations in a rotorcraft to which either or both of the following apply:
    - (i) the rotorcraft has a maximum take-off weight of more than 3,175 kg;
    - (ii) the rotorcraft has a maximum operational passenger seat configuration of more than 9 seats;
  - (c) medical transport operations;
  - (d) operations of a kind prescribed by the Part 119 Manual of Standards for the purposes of this paragraph.
- (6) The operator must conduct checking for flight crew in relation to the flying of the aeroplane or rotorcraft if the operator operates:
- (a) an aeroplane or rotorcraft that is used for passenger transport operations and has a maximum operational passenger seat configuration of more than 30 seats; or
  - (b) an aeroplane or rotorcraft that is used for cargo transport operations and has a maximum payload capacity of at least 3,410 kg.
- (7) The operator must only use individuals employed by the operator to conduct the checking required by subregulation (6).
- (8) This regulation does not apply to:
- (a) training that is authorised Part 141 flight training for the operator; or
  - (b) training or checking that is an authorised Part 142 activity for the operator.

### **119.175 Program for training and assessment in human factors principles and non-technical skills**

An Australian air transport operator must have a program for training and assessing operational safety-critical personnel in human factors principles and non-technical skills.

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**119.180 Training in human factors principles and non-technical skills for flight crew etc.**

- (1) An Australian air transport operator contravenes this subregulation if a person who is a member of the operator's personnel mentioned in subregulation (2) contravenes subregulation (3).
- (2) The personnel are the following:
  - (a) a flight crew member;
  - (b) a cabin crew member;
  - (c) an air crew member;
  - (d) a medical transport specialist;
  - (e) a flight dispatcher.
- (3) The person must not carry out a duty of the person's position unless the person meets the requirements in the operator's exposition about training in human factors principles and non-technical skills.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**119.185 Training in human factors principles and non-technical skills for other operational safety-critical personnel**

- (1) An Australian air transport operator contravenes this subregulation if a person who is a member of the operator's personnel mentioned in subregulation (2) contravenes subregulation (3).
- (2) The personnel are operational safety-critical personnel other than personnel mentioned in subregulation 119.180(2).
- (3) The person must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills within 3 months after being appointed to the person's position.
- (4) An Australian air transport operator contravenes this subregulation if:
  - (a) a person who is a member of the operator's personnel mentioned in subregulation (2) performs a duty of the person's position; and
  - (b) the duty is described in the operator's exposition as a duty that may be performed only by a person who meets the requirements in the operator's exposition about training in human factors principles and non-technical skills; and
  - (c) the person does not meet the requirements in the operator's exposition about training in human factors principles and non-technical skills.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (4).



Penalty: 50 penalty units.

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## Subpart 119.F—Safety management

### 119.190 Safety management system requirements

- (1) An Australian air transport operator must have a safety management system that is appropriate for the size, nature and complexity of the operator's Australian transport operations.
- (2) The safety management system must include the following matters:
  - (a) a statement of the operator's safety policy and objectives, including details of the following:
    - (i) the management commitment to, and responsibility for, safety;
    - (ii) the safety accountabilities of managers (including key personnel);
    - (iii) the appointment of safety management personnel;
    - (iv) coordination of an emergency response plan;
    - (v) safety management system documentation;
  - (b) a safety risk management process, including:
    - (i) hazard identification processes; and
    - (ii) safety risk assessment and mitigation processes;
  - (c) a safety assurance system, including details of processes for:
    - (i) safety performance monitoring and measurement; and
    - (ii) management of change; and
    - (iii) continuous improvement of the safety management system;
  - (d) a safety training and promotion system, including details of the following:
    - (i) safety management system training and education;
    - (ii) safety management system safety communication;
  - (e) if regulation 119.195 applies in relation to the Australian air transport operator—a flight data analysis program that meets the requirements of that regulation.

### 119.195 Flight data analysis program requirements

- (1) This regulation applies in relation to an Australian air transport operator if the operator conducts Australian air transport operations in either or both of the following:
  - (a) an aeroplane with a maximum take-off weight of more than 27,000 kg;
  - (b) a rotorcraft:
    - (i) with a maximum take-off weight of more than 7,000 kg; or
    - (ii) with a maximum operational passenger seat configuration of more than 9 seats and that is required, under these Regulations, to be fitted with a flight data recorder.
- (2) The Australian air transport operator must have a flight data analysis program.

- (3) The flight data analysis program must:
- (a) regularly record and analyse the operational flight data of individual and aggregated operations for the purpose of improving the safety of flight operations; and
  - (b) be provided by:
    - (i) the operator; or
    - (ii) another appropriate person; and
  - (c) ensure that, except as mentioned in subregulation (5), the identity of a person (the **identified person**) who is the source of data is protected from disclosure to anyone other than the following:
    - (i) a person whose duties require that person to analyse operational flight data;
    - (ii) a person who has access to the identified person's identity solely for the purpose of analysing operational flight data;
    - (iii) a pilot appointed by the operator to liaise with flight crew in relation to matters arising from the flight data analysis program; and
  - (d) ensure that no punitive action in relation to the data may be taken by the operator against the identified person.
- (4) For the purposes of subparagraph (3)(b)(ii), the provision of the flight data analysis program by an appropriate person does not in any way compromise the operator's responsibility to provide, and ensure the effectiveness of, the program.
- (5) For the purposes of paragraph (3)(c), the identity of the identified person may be disclosed:
- (a) with the written consent of the person; or
  - (b) as required by CASA; or
  - (c) as otherwise required or authorised by law.

## **Subpart 119.G—Personnel fatigue management**

Note: This Subpart reserved for future use.

## **Subpart 119.H—Expositions for Australian air transport operators**

### **119.205 Content of exposition**

- (1) An exposition for an Australian air transport operator must include the following:
  - (a) the operator's name (including any operating or trading name), contact details and ABN (if any);
  - (b) the address of:
    - (i) the operator's operational headquarters; and
    - (ii) each of the operator's main operating bases; and
    - (iii) each of the operator's operational facilities;
  - (c) a description and diagram of the operator's organisational structure showing formal reporting lines, including the formal reporting lines for each of the key personnel;
  - (d) if the operator is a corporation—a description of the operator's corporate structure;
  - (e) for each of the key personnel, the following information:
    - (i) the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Subpart 119.D for the position;
    - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in Subpart 119.D for the position;
    - (iii) the name of the person appointed to the position;
    - (iv) the name of each person authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities;
    - (v) a description of how the operator will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
  - (f) each matter (if any) for which the chief executive officer is responsible and accountable in addition to the matters mentioned in regulation 119.130;
  - (g) an outline of the Australian air transport operations conducted by the operator under the operator's Australian air transport AOC, including the areas of operation and routes;
  - (h) details of each plan, process, procedure, program and system implemented by the operator to safely conduct and manage their Australian air transport operations in compliance with the civil aviation legislation;
  - (i) for each registered aeroplane or rotorcraft operated by the operator under the AOC—its type and model and registration mark;
  - (j) for each foreign registered aircraft operated by the operator under the AOC—its type and model, nationality and registration mark;

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- (k) a description of the arrangements for managing the continuing airworthiness of the operator's aeroplanes or rotorcraft;
- (l) a description of any leasing or other arrangements for the supply of the aeroplanes or rotorcraft as the arrangements relate to the operational control or continuing airworthiness of the aeroplanes or rotorcraft, or to any other safety matter;
- (m) a description of the operator's process for making changes, including:
  - (i) identifying changes that are significant changes; and
  - (ii) identifying changes that are not significant changes; and
  - (iii) telling CASA and the operator's personnel of the changes;
- (n) a description of anything else required to be approved by CASA under these Regulations in relation to the operations mentioned in paragraph (g);
- (o) any other matter required to be included in the exposition under these Regulations.

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

- (2) An Australian air transport operator contravenes this subregulation if the operator's exposition does not comply with subregulation (1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **119.210 Compliance with exposition by operator**

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

Penalty: 50 penalty units.

### **119.215 Providing personnel with exposition**

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

Penalty: 50 penalty units.

**119.220 Compliance with exposition by personnel**

- (1) A member of an Australian air transport operator’s personnel contravenes this subregulation if:
  - (a) the member is subject to a requirement under the operator’s exposition in relation to the safe conduct of the operator’s Australian air transport operations; and
  - (b) the member does not meet the requirement.
- (2) An Australian air transport operator contravenes this subregulation if:
  - (a) a member of the operator’s personnel is subject to a requirement under the operator’s exposition in relation to the safe conduct of the operator’s Australian air transport operations; and
  - (b) the member does not meet the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## Subpart 119.J—Records and documents

### 119.225 Personnel training and checking records—making records

- (1) An Australian air transport operator contravenes this subregulation if:
  - (a) a person who is a member of the operator’s personnel undertakes an activity, obtains a qualification or certificate or gains flying experience; and
  - (b) the activity, qualification, certificate or flying experience is mentioned for the person in subregulation (2); and
  - (c) the following records are not made within 21 days after the person undertakes the activity, obtains the qualification or certificate or gains the flying experience:
    - (i) when the activity was undertaken, the qualification or certificate obtained or the flying experience gained;
    - (ii) if the activity was training or a check, flight test, flight review or assessment of competency—whether the training, check, flight test, flight review or assessment was successfully completed.
- (2) The activities, qualifications, certificates and flying experience for the person are the following:
  - (a) for a flight crew member of the operator’s personnel:
    - (i) training, or a check, flight test, flight review or assessment of competency, mentioned in Subpart 121.N, 133.N or 135.N; or
    - (ii) a qualification or certificate mentioned in Subpart 121.N, 133.N or 135.N; or
    - (iii) flying experience mentioned in Subpart 121.N, 133.N or 135.N; or
    - (iv) training in human factors principles or non-technical skills; or
    - (v) training or education in the operator’s safety management system;
  - (b) for a cabin crew member of the operator’s personnel:
    - (i) training, or a check or assessment of competency, mentioned in Subpart 121.P or Division 133.P.1; or
    - (ii) training in human factors principles or non-technical skills; or
    - (iii) training or education in the operator’s safety management system;
  - (c) for an air crew member of the operator’s personnel:
    - (i) training, or a check or assessment of competency, mentioned in Division 133.P.2 or 135.P.1; or
    - (ii) training in human factors principles or non-technical skills; or
    - (iii) training or education in the operator’s safety management system;
  - (d) for a medical transport specialist of the operator’s personnel:
    - (i) training, or a check or assessment of competency, mentioned in Division 133.P.3 or 135.P.2; or
    - (ii) training in human factors principles or non-technical skills; or



- (iii) training or education in the operator’s safety management system;
  - (e) for a member of the operator’s operational safety-critical personnel (other than a flight crew or cabin crew member):
    - (i) training in human factors principles or non-technical skills; or
    - (ii) training or education in the operator’s safety management system;
  - (f) for a member of the operator’s personnel who performs ground support duties—any training;
  - (g) for a member of the operator’s personnel not mentioned in paragraph (a), (b), (c), (d), (e) or (f)—training or education in the operator’s safety management system.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **119.230 Personnel training and checking records—availability of records**

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) the operator makes a record about a person under regulation 119.225; and
  - (b) the person requests that the record be made available to the person; and
  - (c) the operator does not make the record available to the person within 7 days after receiving the request.
- (2) An Australian air transport operator contravenes this subregulation if:
- (a) a record is made under regulation 119.225; and
  - (b) the operator receives a request from another Australian air transport operator for a copy of the record; and
  - (c) the operator holds a written authority from the person to whom the record relates to provide a copy of the person’s records to another Australian air transport operator if requested; and
  - (d) the operator does not give a copy of the record to the other Australian air transport operator within 7 days after receiving the request.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **119.235 Copies of flight crew licences and medical certificates**

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

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

Penalty: 50 penalty units.

### 119.240 Retention periods for personnel records

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) the operator is required, under this Part or Part 121, 133 or 135, to make or have a record of a kind mentioned in column 1 of an item of the following table about a person who is a member of the operator's personnel; and
  - (b) the operator does not keep the record for at least the period mentioned in column 2 of the item.

<b>Retention periods—personnel records</b>		
<b>Item</b>	<b>Column 1 Kind of record</b>	<b>Column 2 Minimum period for which the record must be kept</b>
1	A record required under regulation 119.225 for a flight crew member	The period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel
2	A record required under regulation 119.225 for a cabin crew member	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
3	A record required under regulation 119.225 for an air crew member	The period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel
4	A record required under regulation 119.225 for a medical transport specialist	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
5	A record required under regulation 119.225 for a member of the operator's personnel who performs ground support duties	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
6	A copy of a flight crew member's flight crew licence and medical certificate required by regulation 119.235	The period during which the member is exercising the privileges of the licence for the operator
7	A record of a flight crew member's cosmic radiation dose required under Part 121 or 135	The period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel
8	A record of a cabin crew member's cosmic radiation dose required under Part 121	The period beginning when the record is created and ending 5 years

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**Retention periods—personnel records**

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<b>Item</b>	<b>Column 1</b> <b>Kind of record</b>	<b>Column 2</b> <b>Minimum period for which the record must be kept</b>
		after the member ceases to be a member of the operator's personnel

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

Penalty: 50 penalty units.

**119.245 Retention periods for flight-related documents**

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) under Part 91, 121, 133 or 135, a document mentioned in subregulation (2) is required for a flight of an aeroplane or rotorcraft conducted under the operator's Australian air transport AOC; and
  - (b) the operator does not keep the document for at least 3 months after the end of the flight.
- (2) The documents are the following for the flight:
- (a) an operational flight plan;
  - (b) any authorised weather forecasts;
  - (c) the authorised aeronautical information;
  - (d) a weight and balance document;
  - (e) a statement or information about cargo that may require special or unusual handling;
  - (f) a passenger list;
  - (g) a notice of action, taken in an emergency by the pilot flying the aeroplane or rotorcraft, that involves a contravention of these Regulations.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**119.250 Retention periods for other flight-related records**

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) a person is required under Part 121, 133 or 135 to make a record that is a journey log for a flight of an aeroplane or rotorcraft conducted under the operator's Australian air transport AOC; and
  - (b) the record is made other than in the flight technical log for the aeroplane or rotorcraft; and
  - (c) the operator does not keep the record for at least 6 months after the end of the flight.

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Note: See regulation 42.260 (retention of continuing airworthiness records) for the retention period for records made in the flight technical log for the aeroplane or rotorcraft.

- (2) An Australian air transport operator contravenes this subregulation if:
- (a) the operator is required under Part 121 to make a record of the results of the verification of the accuracy of the weight and balance data generated by a computerised system that is not fitted to the aeroplane; and
  - (b) the operator does not keep the record for at least 6 months after it is made.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **Subpart 119.K—Miscellaneous offences**

### **119.255 Dealings in relation to cancelled, suspended, varied, pending or refused civil aviation authorisations**

#### *Requirement for approval*

- (1) An Australian air transport operator contravenes this subregulation if:
  - (a) the operator enters into an agreement with another person; and
  - (b) the operator does an act mentioned in subregulation (2), (4), (6) or (8); and
  - (c) the operator does not hold an approval under regulation 119.025 to do the act.

#### *Acts in relation to cancelled authorisations*

- (2) The acts are the following:
  - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the operation of which was authorised by a cancelled authorisation held by the other person;
  - (b) to employ, in connection with an Australian air transport operation, a person who was, at the time of the cancellation of a cancelled authorisation held by the other person, employed in connection with an operation the conduct of which was authorised by the cancelled authorisation;
  - (c) to conduct an operation, or part of an operation, the conduct of which was authorised by a cancelled authorisation.

#### *Acts in relation to suspended or varied authorisations*

- (3) Subregulation (4) applies in relation to a suspended or varied authorisation held by the other person.
- (4) The acts are the following:
  - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the operation of which:
    - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
    - (ii) is no longer authorised by the authorisation as suspended or varied;
  - (b) to employ, in connection with an Australian air transport operation, a person who was, at the time of the suspension or variation, employed in connection with an operation the conduct of which:
    - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
    - (ii) is no longer authorised by the authorisation as suspended or varied;
  - (c) to conduct an operation, or part of an operation, the conduct of which:

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- (i) was, immediately before the suspension or variation, authorised by the authorisation; but
- (ii) is no longer authorised by the authorisation as suspended or varied.

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

### *Pending applications for authorisations*

- (5) Subregulation (6) applies in relation to an application by the other person for a civil aviation authorisation that has not been finally determined by CASA.
- (6) The acts are the following:
  - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the operation of which would be authorised by the authorisation;
  - (b) to employ, in an Australian air transport operation, a person employed, or proposed to be employed, in connection with an operation the conduct of which would be authorised by the authorisation;
  - (c) to conduct an operation, or part of an operation, the conduct of which would be authorised by the authorisation.

### *Application for authorisation refused*

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

Penalty: 50 penalty units.

- (10) In this regulation:

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

***employ*** includes engage, whether by contract or other arrangement.

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

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

**119.260 Maximum period for use of foreign registered aircraft in Australian territory**

- (1) An Australian air transport operator contravenes this subregulation if, in any 12 month period, the operator uses a foreign registered aircraft to conduct Australian air transport operations for a total of more than the number of days mentioned in subregulation (2).
- (2) The number of days is:
  - (a) 90; or
  - (b) if the operator holds an approval under regulation 119.025 in relation to the aircraft—the number mentioned in the approval for the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## Subpart 121.A—Preliminary

### 121.005 Application of Part 121

- (1) This Part (other than Subpart 121.Z) applies to the operation of a multi-engine aeroplane for an Australian air transport operation if either or both of the following apply in relation to the aeroplane:
  - (a) it has a maximum operational passenger seat configuration of more than 9;
  - (b) it has a maximum take-off weight of more than 8,618 kg.

Note: For the additional application of Subpart 121.N, see regulation 121.470.
- (2) Subpart 121.Z applies to the operation of a single-engine aeroplane for an Australian air transport operation if both of the following apply in relation to the aeroplane:
  - (a) it has a maximum operational passenger seat configuration of more than 9;
  - (b) it has a maximum take-off weight of not more than 8,618 kg.

### 121.010 Approvals by CASA for Part 121

- (1) If a provision of this Part, or of the Part 121 Manual of Standards, refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

### 121.015 Issue of Manual of Standards for Part 121

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

- (a) required or permitted by these Regulations to be prescribed by the Part 121 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

## Subpart 121.C—General

### Division 121.C.1—General flight limitations

#### 121.020 Permitted categories of aeroplanes

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane begins the flight; and
  - (b) the aeroplane is not type certificated in any of the following categories:
    - (i) transport;
    - (ii) commuter;
    - (iii) normal (within the meaning of Special Federal Aviation Regulation 41 of the United States of America, as in force on 12 September 1983).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### 121.025 Aeroplane to be flown under the IFR

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, during a stage of the flight, the aeroplane is flown under the VFR.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### 121.030 Flights further than the 60 minute distance

##### *Flying further than the 60 minute distance*

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the aeroplane is mentioned in an item in column 1 of the following table; and
  - (b) the aeroplane is flown:
    - (i) further from an adequate aerodrome for the aeroplane than the distance (the **60 minute distance**) the aeroplane can fly if flying at the speed mentioned in column 2 of that item for 60 minutes; but
    - (ii) no further than the distance (the **threshold distance**) from an adequate aerodrome for the aeroplane that the aeroplane can fly if flying at the speed mentioned in column 2 of that item for the time mentioned in column 3 of that item; and

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(c) a requirement mentioned in subregulation (2) is not met.

Note: This provision will not apply in relation to items 1, 2 and 3 of the following table as, in those cases, the 60 minute distance is equal to the threshold distance.

<b>Flight further than the 60 minute distance</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Aeroplane</b>	<b>Speed (in International Standard Atmosphere conditions and still air)</b>	<b>Time</b>
1	2-piston-engine aeroplane	the one-engine-inoperative cruising speed specified in the aeroplane operator's exposition for this regulation	60 minutes
2	2-turbine-engine propeller-driven aeroplane with a maximum certificated passenger seating capacity of 20 or more	the one-engine-inoperative cruising speed specified in the aeroplane operator's exposition for this regulation	60 minutes
3	2-turbine-engine aeroplane (other than a turbine-engine propeller-driven aeroplane) to which either or both of the following apply: (a) a maximum take-off weight of 54,500 kg or more; (b) a maximum certificated passenger seating capacity of 20 or more	the one-engine-inoperative cruising speed specified in the aeroplane operator's exposition for this regulation	60 minutes
4	2-turbine-engine propeller-driven aeroplane to which both of the following apply: (a) a maximum take-off weight of more than 5,700 kg; (b) a maximum certificated passenger seating capacity of 19 or less	the one-engine-inoperative cruising speed specified in the aeroplane operator's exposition for this regulation	120 minutes
5	2-turbine-engine aeroplane (other than a turbine-engine propeller-driven aeroplane) to which both of the following apply: (a) a maximum take-off weight of less than 54,500 kg; (b) a maximum certificated passenger seating capacity of 19 or less	the one-engine-inoperative cruising speed specified in the aeroplane operator's exposition for this regulation	180 minutes
6	3- or 4-turbine-engine aeroplane to which either or both of the following apply: (a) a maximum take-off weight of more than 8,618 kg; (b) a maximum certificated passenger seating capacity of 20 or more	the normal cruising speed specified in the aeroplane operator's exposition for this regulation	180 minutes

*Requirements to be met*

(2) The requirements are that:

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- (a) the aeroplane operator's exposition includes procedures for conducting flights further than the 60 minute distance, including procedures for:
  - (i) dispatching such flights; and
  - (ii) providing updated information relating to the adequate aerodrome to the flight crew during such flights; and
- (b) the operator estimates there will be an adequate aerodrome for the flight when the aeroplane is flown further than that distance; and
- (c) for a 2-engine aeroplane—the operator estimates that the landing minima for the adequate aerodrome at the estimated time of use of the aerodrome are not less than the landing minima required to comply with the requirements under Division 121.D.4 for the aerodrome; and
- (d) the operator has operational control for the flight in accordance with the operator's exposition procedures mentioned in regulation 121.160.

*Offence*

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

Penalty: 50 penalty units.

**121.035 Flights further than the threshold distance**

*Flying further than the threshold distance*

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the aeroplane is flown further from an adequate aerodrome for the aeroplane than the threshold distance mentioned in subparagraph 121.030(1)(b)(ii) for the aeroplane; and
  - (b) the operator does not hold an approval under regulation 121.010 to do so.

*Requirements in the Manual of Standards*

- (2) The Part 121 Manual of Standards may prescribe:
  - (a) criteria for the grant of an approval mentioned in paragraph (1)(b); and
  - (b) the form in which an application for such an approval must be made; and
  - (c) factors to be considered by CASA in deciding whether or not to grant such an approval.
- (3) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a requirement prescribed by the Part 121 Manual of Standards in relation to conducting flights further from an adequate aerodrome than the threshold distance applies to the aeroplane for the flight; and
  - (b) the requirement is not met for the flight.



*Exposition procedures*

- (4) If an aeroplane is flown further from an adequate aerodrome for the aeroplane than the threshold distance mentioned in subparagraph 121.030(1)(b)(ii) for the aeroplane, the aeroplane operator's exposition must include procedures for conducting flights further than that distance.

*Offence*

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

Penalty: 50 penalty units.

**121.040 Flight distance limitation over water**

- (1) This regulation applies in relation to an aeroplane:
- (a) that has a maximum operational passenger seat configuration of more than 30; and
  - (b) that does not comply with the ditching requirements of the relevant airworthiness standards for the aeroplane.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if, during the flight:
- (a) the aeroplane is flown over water; and
  - (b) the aeroplane is flown further than the distance mentioned in subregulation (3) from land.
- (3) The distance is the lesser of:
- (a) the distance the aeroplane can fly in 2 hours at its normal cruising speed in International Standard Atmosphere conditions and in still air; and
  - (b) 400 nautical miles.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

**121.045 Simulation of emergency or abnormal situations, or IMC**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if an emergency or abnormal situation is simulated during the flight.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if IMC are simulated during the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

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**121.050 Ferrying an aeroplane with one engine inoperative**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, during the flight, the aeroplane is ferried with one engine inoperative.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 121.C.2—Operational documents**

### **121.055 Compliance with flight manual**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, during the flight, the aeroplane is operated in a way that does not meet a requirement or limitation that:
  - (a) is set out in the aircraft flight manual instructions for the aeroplane; and
  - (b) relates to the operation of the aeroplane.

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

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

Penalty: 50 penalty units.

### **121.060 Operator to have minimum equipment list for certain flights**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, there is no minimum equipment list for the aeroplane.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.065 Duty statement to be available to crew**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a crew member is assigned to duty for the flight; and
  - (b) the operator has not made a statement of the crew member's duties for the flight available to the crew member; and
  - (c) the crew member begins to carry out the crew member's duties for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.070 Availability of checklists**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that, before a crew member for the flight begins to carry out a duty for the flight, the operator must make available to the member each

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checklist of normal, abnormal and emergency procedures for the aeroplane that is relevant to the duty.

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

Penalty: 50 penalty units.

## **Division 121.C.3—Flight related documents**

### **121.075 Electronic documents**

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

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

### **121.080 Availability of parts of exposition**

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

Penalty: 50 penalty units.

### **121.085 Carriage of documents**

#### *Documents required by Part 121 Manual of Standards*

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 121 Manual of Standards for the purposes of this paragraph is not carried on the aeroplane; and
  - (b) the aeroplane begins the flight.

#### *Flight crew medical certificates*

- (2) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a flight crew member's medical certificate is not carried on the aeroplane for the flight; and
  - (b) the flight crew member does not give CASA written notice that the certificate is not being carried on the aeroplane for the flight:
    - (i) before the flight begins; or
    - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

#### *Flight crew licences*

- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
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- (a) a flight crew member's flight crew licence is not carried on the aeroplane for the flight; and
- (b) the flight crew member does not give CASA written notice that the licence is not being carried on the aeroplane for the flight:
  - (i) before the flight begins; or
  - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

### *Offence*

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

Penalty: 50 penalty units.

## **121.090 Accessibility of documents**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) under regulation 121.085, a document is required to be carried on the aeroplane for the flight; and
  - (b) when the flight begins, the document is not readily accessible to the aeroplane's crew.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **121.095 Carriage of documents—flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of an aeroplane that begins or ends at an aerodrome outside Australian territory.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 121 Manual of Standards for the purposes of this paragraph is not carried on the aeroplane; and
  - (b) the aeroplane begins the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **121.100 Keeping and updating documents etc.**

An aeroplane operator's exposition must include the following for a flight of the aeroplane:

- (a) procedures for keeping the documents prescribed by the Part 121 Manual of Standards accessible to a person on the ground for the duration of the flight;
- (b) procedures for providing updated information to such a person during the flight if the information in the document requires updating during that time.

### **121.105 Journey logs**

*Operator—preparation of journey log*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, the operator has not prepared a journey log for the flight:
  - (a) that is capable of containing the information mentioned in subregulations (3) and (5); and
  - (b) with a place for the pilot in command to verify the entries for the flight.

*Pre-flight completion of journey log*

- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the information about the flight mentioned in subregulation (3) is not recorded in the journey log.
- (3) The information is the following:
  - (a) the aeroplane's registration mark or flight number;
  - (b) the date of the flight;
  - (c) for each crew member assigned to the flight:
    - (i) the crew member's name or another means to identify the crew member; and
    - (ii) the duties assigned to the crew member for the flight;
  - (d) for the flight:
    - (i) the place of departure; and
    - (ii) the time the flight begins;
  - (e) the amount of fuel added to the aeroplane's fuel tanks before the flight begins (if any);
  - (f) the amount of fuel in the aeroplane's fuel tanks when the flight begins.

*Post-flight completion of journey log*

- (4) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if the information about the flight mentioned in subregulation (5) is not recorded in the journey log for the flight as soon as practicable after the flight ends.
- (5) The information is the following:
  - (a) the place of arrival;
  - (b) the time the flight ends;
  - (c) the duration of the flight;
  - (d) the amount of fuel in the aeroplane's fuel tanks when the flight ends;

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- (e) incidents and observations (if any) relevant to the flight.

### *Exception to completion of journey log*

- (6) Subregulations (1), (2) and (4) do not apply to the operator or the pilot in command in relation to information mentioned in those subregulations if, by the time it is required to be recorded, the information is:
- (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.

Note: An example for paragraph (a) is an operational flight plan kept by the operator for the flight.

### *Offence*

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

Penalty: 50 penalty units.

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

## 121.110 Passenger lists

- (1) The operator of an aeroplane for a flight that is a passenger transport operation or a medical transport operation contravenes this subregulation if, when the flight begins, the operator has not prepared a passenger list for the flight that contains the information mentioned in subregulation (2).
- (2) The information is the following:
- (a) the aeroplane's registration mark or flight number;
  - (b) the name of each passenger;
  - (c) the places of departure and destination for each passenger;
  - (d) the number of infants carried;
  - (e) the date, and estimated time of departure, of the flight.
- (3) Subregulation (1) does not apply to the operator in relation to information mentioned in that subregulation if, by the time it is required to be recorded, the information is:
- (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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



**121.115 Flight preparation forms for flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of an aeroplane that begins or ends at an aerodrome outside Australian territory.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the pilot in command has not signed a flight preparation form certifying that the pilot in command is satisfied of the matters mentioned in subregulation (3).
- (3) The matters are the following:
  - (a) the aeroplane can be operated during the flight in accordance with its configuration deviation list (if any);
  - (b) the parts of the operator's exposition required to be available to the aeroplane's crew before the flight by regulation 121.080 are available;
  - (c) the requirements and limitations in the operator's exposition relating to the flight can be complied with for the flight;
  - (d) regulations 121.085 and 121.095 are being complied with for the flight;
  - (e) equipment required to be fitted to, or carried on, the aeroplane for the flight by Subpart 121.K is fitted to, or carried on, the aeroplane in accordance with that Subpart;
  - (f) equipment mentioned in paragraph (e) is:
    - (i) operative; or
    - (ii) inoperative, and permitted to be inoperative for the flight under these Regulations;
  - (g) the aeroplane's take-off, en-route and landing performance capabilities meet the performance requirements for the circumstances and conditions expected during the flight;
  - (h) the aeroplane's weight and balance will remain within the aeroplane's weight and balance limits throughout the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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**Division 121.C.4—Reporting and recording defects and incidents etc.**

**121.120 Procedures for reporting and recording defects etc.**

An aeroplane operator's exposition must include procedures for the reporting and recording by a flight crew member for a flight of the aeroplane of any of the following that occur during the flight:

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

**121.125 Procedures for reporting and recording incidents**

An aeroplane operator's exposition must include procedures for the reporting and recording by crew members of incidents relating to a flight of the aeroplane that endanger, or could endanger, the safe operation of the aeroplane.

## **Division 121.C.5—Search and rescue services and emergency and survival equipment**

### **121.130 Information about search and rescue services**

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

Penalty: 50 penalty units.

### **121.135 Information about emergency and survival equipment**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the Part 121 Manual of Standards prescribes an item of equipment for the purposes of this regulation; and
  - (b) when the flight begins, the information prescribed by the Part 121 Manual of Standards for that equipment is not available for immediate communication by the operator to a rescue coordination centre.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## **Division 121.C.6—Miscellaneous requirements**

### **121.140 Crew activities necessary for safe operation**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator requires a crew member for the flight to perform an activity during take-off, initial climb, final approach or landing of the aeroplane for the flight; and
  - (b) the activity is not necessary for the safe operation of the aeroplane.
- (2) A crew member for a flight of an aeroplane contravenes this subregulation if:
  - (a) the crew member performs an activity during take-off, initial climb, final approach or landing of the aeroplane for the flight; and
  - (b) the activity is not necessary for the safe operation of the aeroplane.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **121.145 Competence of ground support personnel**

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

Penalty: 50 penalty units.

### **121.150 Duty statement to be available to ground support personnel**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a member of the operator's personnel is assigned to carry out a ground support duty for the flight; and
  - (b) the operator has not made a statement of the member's duties for the flight available to the member; and
  - (c) the member begins to carry out the duty for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**121.155 Cockpit authorisation and briefing**

- (1) This regulation applies to an aeroplane that is required to be equipped with a cockpit door under regulation 4.68 of the *Aviation Transport Security Regulations 2005*.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) during the flight, a person enters the cockpit; and
  - (b) the person is not a person mentioned in subregulation (3).
- (3) The persons are the following:
  - (a) an authorised officer who is carrying out an audit, check, examination, inspection or test under these Regulations;
  - (b) a person who is permitted to enter the cockpit by regulation 4.67 of the *Aviation Transport Security Regulations 2005*.

Note: A person is not allowed to enter the cockpit after take-off unless the person holds appropriate identification: see paragraph 4.67(4)(b) of the *Aviation Transport Security Regulations 2005*.

- (4) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) during the flight, a person other than a crew member for the flight enters the cockpit; and
  - (b) the person is not briefed by the pilot in command or the co-pilot on the safety procedures that are relevant to the cockpit:
    - (i) before the person enters the cockpit; or
    - (ii) as soon as practicable after the person enters the cockpit.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2) or (4).

Penalty: 50 penalty units.

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**Subpart 121.D** Operational procedures

**Division 121.D.1** Operational control

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## **Subpart 121.D—Operational procedures**

### **Division 121.D.1—Operational control**

#### **121.160 Operational control**

An aeroplane operator's exposition must include procedures for determining how operational control for a flight of the aeroplane is to be exercised and by whom.

## **Division 121.D.2—Flight preparation**

### **121.165 General flight preparation requirements**

An aeroplane operator's exposition must include procedures for complying with the following for a flight of the aeroplane:

- (a) the flight preparation (weather assessments) requirements;
- (b) the flight preparation (Part 121 alternate aerodromes) requirements.

### **121.170 Flight preparation (Part 121 alternate aerodromes) requirements**

- (1) The Part 121 Manual of Standards may prescribe requirements relating to flight preparation and alternate aerodromes (the *flight preparation (Part 121 alternate aerodromes) requirements*).
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if a flight preparation (Part 121 alternate aerodromes) requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## Division 121.D.3—Flight planning

### 121.175 Operational flight plans

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, an operational flight plan that meets the requirements mentioned in subregulation (2) has not been prepared for the flight.
- (2) The requirements are the following:
  - (a) the flight plan must be prepared having regard to:
    - (i) the safety of the aeroplane, and of the people on board the aeroplane, during the flight; and
    - (ii) the aeroplane's performance; and
    - (iii) the expected aeroplane operating limitations and conditions for the flight; and
    - (iv) meteorological conditions for the flight;
  - (b) the flight plan must contain the information prescribed by the Part 121 Manual of Standards for the purposes of this paragraph.
- (3) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the Part 121 Manual of Standards prescribes information about the flight for the purposes of this subregulation; and
  - (b) that information is not recorded in the operational flight plan for the flight:
    - (i) unless subparagraph (ii) applies—before the flight ends; or
    - (ii) if it is not practicable to record the information before the flight ends—as soon as practicable after the flight ends.
- (4) Subregulation (1) or (3) does not apply to the operator or the pilot in command in relation to information required to be included in the operational flight plan under that subregulation if, by the time it is required to be recorded, the information is:
  - (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.

Note: An example for paragraph (a) is a journey log kept by the operator for the flight.

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.



**121.180 Availability of flight planning information**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are the following:
  - (a) the pilot in command of the aeroplane must have access to the information mentioned in subregulation (3) before and during the flight;
  - (b) each person in the operator's organisation who is responsible for flight planning for the flight must have access to the information mentioned in subregulation (3) before the flight;
  - (c) each person in the operator's organisation who is responsible for flight replanning for the flight must have access to the information mentioned in subregulation (3) during the flight;
  - (d) each person in the operator's organisation who exercises operational control for the flight must have access to the information mentioned in subregulation (3) before and during the flight.
- (3) The information is the following:
  - (a) authorised weather forecasts and authorised weather reports:
    - (i) in relation to the flight; and
    - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (Part 121 alternate aerodromes) requirements—in relation to the destination alternate aerodrome;
  - (b) NOTAMs for the flight;
  - (c) the suitability for a take-off or landing by the aeroplane of:
    - (i) the departure and planned destination aerodromes for the flight; and
    - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (Part 121 alternate aerodromes) requirements—the destination alternate aerodrome.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Division 121.D.4—Flight rules

### 121.185 Take-off and landing minima for aerodromes

- (1) If an aeroplane conducts an IFR flight to or from an aerodrome, the aeroplane operator's exposition must include:
  - (a) procedures for determining take-off minima that meet the requirements mentioned in subregulation (2); and
  - (b) procedures for determining landing minima that meet the requirement mentioned in subregulation (3).
- (2) The requirements are the following:
  - (a) the take-off minima must not be less than the take-off minima prescribed by the take-off minima requirements for the aerodrome;
  - (b) the take-off minima must be sufficient to enable the pilot in command to control the aeroplane if it is necessary to conduct a discontinued take-off in adverse circumstances;
  - (c) for a multi-engine aeroplane—the take-off minima must be sufficient to enable the pilot in command to control the aeroplane if it is necessary to conduct a continued take-off after:
    - (i) failure of the aeroplane's critical engine; or
    - (ii) if the aeroplane does not have a critical engine—the failure of an engine.
- (3) The requirement is that the landing minima must not be less than the landing minima prescribed by the landing minima requirements for the aerodrome, including for an approach with visual circling.

### 121.190 Establishing lowest safe altitudes etc.

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, the operator has not established:
  - (a) for each route or route segment for the flight for which there is a published lowest safe altitude—the published lowest safe altitude for the route or route segment; and
  - (b) for each route or route segment for the flight for which there is no published lowest safe altitude—the lowest safe altitude for the route or route segment.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 121.195 Exposition requirements for low-visibility operations

An aeroplane operator's exposition must include the following:

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- (a) each type of low-visibility operation conducted using the aeroplane;
- (b) the aircraft systems required to be used for each type of those operations;
- (c) the aerodrome facilities required to conduct each type of those operations;
- (d) the training and qualifications required for the aeroplane's flight crew members for each type of those operations;
- (e) the requirements to be met by the aeroplane's flight crew members during each of those operations.

**121.200 Stabilised approach requirements**

An aeroplane operator's exposition must include procedures about conducting stabilised approaches to land at an aerodrome.

## Division 121.D.5—Aerodromes

### 121.205 Aerodrome requirements

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if the aeroplane takes off from, or lands at, an aerodrome that does not meet a requirement mentioned in subregulation (2).
- (2) The requirements are the following:
  - (a) the aerodrome must be suitable for the aeroplane to take-off and land;
  - (b) the aerodrome must be:
    - (i) a certified aerodrome that complies with the standards mentioned in the Part 139 Manual of Standards; or
    - (ii) an aerodrome for which the operator's exposition includes the matters required by subregulation 121.210(1).
- (3) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the aeroplane has a maximum certificated passenger seating capacity of 20 or more; and
  - (b) the aeroplane is a turbine-engine aeroplane (other than a turbine-engine propeller-driven aeroplane); and
  - (c) the aeroplane lands on an aerodrome runway; and
  - (d) the aerodrome is the planned destination aerodrome; and
  - (e) the aerodrome runway does not meet the requirement mentioned in subregulation (4).
- (4) The requirement is that:
  - (a) the runway is equipped with an approved visual approach slope indicator system in accordance with Part 139; or
  - (b) both of the following are satisfied:
    - (i) the runway is equipped with an approved visual approach slope indicator system in accordance with Part 139 that has been inoperative for no more than 7 days before the aeroplane lands on the runway;
    - (ii) the operator's exposition includes procedures for conducting an approach and landing on a runway with such a system inoperative; or
  - (c) the aeroplane is equipped or fitted with an approach slope indicator system mentioned in the operator's exposition that is suitable for use for the runway; or
  - (d) the operator holds an approval for the aeroplane and the runway under regulation 121.010.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

### **121.210 Procedures to determine information about aerodromes**

- (1) An aeroplane operator's exposition must include the following:
  - (a) if the information mentioned in subregulation (2) for an aerodrome mentioned in subregulation (3) is not published in the AIP—procedures to determine the information for the aerodrome;
  - (b) the special procedures and restrictions (if any) that the operator requires the flight crew of the aeroplane to use at an aerodrome mentioned in subregulation (3), including:
    - (i) engine failure procedures; and
    - (ii) obstacle clearance procedures;
  - (c) procedures for the pilot in command to plan a take-off from, or a landing at, an aerodrome not mentioned in subregulation (3), including a procedure to determine the kinds of information mentioned in subregulation (2) for the aerodrome.
  
- (2) The information is the following:
  - (a) runway or strip lengths, widths, directions, slopes and surface types for the aerodrome;
  - (b) the location of taxiways and turning nodes (if any);
  - (c) the aerodrome's elevation;
  - (d) the location on the aerodrome of the aerodrome reference point (if any);
  - (e) the location of the aerodrome's windsocks;
  - (f) the aids to navigation and communication facilities available at the aerodrome (if any);
  - (g) the limitations (if any) on the use of the aerodrome;
  - (h) the special procedures (if any) in use at the aerodrome, in flight or on the ground or water;
  - (i) a contact person capable of providing information about the condition of the aerodrome.
  
- (3) The aerodromes are the following for a flight of the aeroplane:
  - (a) the departure aerodrome;
  - (b) the planned destination aerodrome;
  - (c) any alternate aerodromes required for the flight by the flight preparation (Part 121 alternate aerodromes) requirements.

### **121.215 Procedures for safety at aerodromes**

An aeroplane operator's exposition must include procedures to ensure the safety of persons in the vicinity of an aeroplane when any of the following circumstances apply:

- (a) a person is embarking or disembarking the aeroplane;
- (b) a passenger is embarking or disembarking, or on board, the aeroplane while an engine of the aeroplane is operating but the aeroplane is not being flown or fuelled;
- (c) the aeroplane is being loaded or unloaded;

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- (d) the aeroplane is being operated at an aerodrome.

**121.220 Taking off from and landing on narrow runways**

- (1) This regulation applies in relation to an aeroplane if:
- (a) the aeroplane takes off from, or lands on, a runway; and
  - (b) the width of the runway (a *narrow runway*) is less than the width for the aeroplane worked out in the manner prescribed by the Part 121 Manual of Standards for the purposes of this paragraph; and
  - (c) the aeroplane has a maximum certificated take-off weight of more than 5,700 kg; and
  - (d) the aeroplane is of a type first type certificated in its country of manufacture on or after 1 March 1978.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
- (a) the aeroplane takes off from, or lands on, a narrow runway; and
  - (b) the aircraft flight manual instructions for the aeroplane do not include requirements for the operation of the aeroplane on a narrow runway.
- (3) An aeroplane operator's exposition must include procedures for taking off from, or landing on, a narrow runway.
- (4) An aeroplane operator's exposition must include procedures relating to the training required for the aeroplane's flight crew to conduct a take-off from, or a landing on, a narrow runway.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Division 121.D.6—Fuel requirements**

### **121.225 Fuel procedures**

An aeroplane operator's exposition must include procedures to ensure that a flight of the aeroplane is conducted in accordance with the requirements mentioned in subregulation 121.235(1).

### **121.230 Oil requirements**

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

Penalty: 50 penalty units.

### **121.235 Fuel requirements**

- (1) The Part 121 Manual of Standards may prescribe requirements relating to fuel for aeroplanes, including (but not limited to) the following:
  - (a) matters that must be considered when determining whether an aeroplane has sufficient fuel to complete a flight safely;
  - (b) the amounts of fuel that must be carried on board an aeroplane for a flight;
  - (c) procedures for monitoring amounts of fuel during a flight;
  - (d) procedures to be followed if fuel reaches specified amounts during a flight.
- (2) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

### **121.240 Fuelling safety procedures**

An aeroplane operator's exposition must include the following:

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- (a) procedures to ensure the aeroplane is fuelled safely;
- (b) procedures relating to the safety of passengers for a flight of the aeroplane who are embarking or disembarking, or on board, the aeroplane during fuelling, including the normal, emergency and communication procedures to be followed by the following persons:
  - (i) any cabin crew for the flight;
  - (ii) any flight crew members for the flight who are on duty in the cockpit;
  - (iii) any of the operator's personnel who carry out a ground support duty for the flight;
- (c) if the operator permits a person to operate low-risk electronic devices inside the cabin of the aeroplane while the aeroplane is being fuelled—procedures to ensure that, before an engine of the aeroplane is started, any effects of radio frequency emissions from those devices have been corrected.



## **Division 121.D.7—Passenger transport and medical transport**

### **121.245 Application of Division 121.D.7**

This Division applies in relation to the operation of an aeroplane for a passenger transport operation or a medical transport operation.

### **121.250 Carriage of restricted persons**

An aeroplane operator's exposition must include the following:

- (a) procedures for carrying a restricted person on the aeroplane for a flight;
- (b) procedures to inform the pilot in command of the aeroplane for a flight about the carriage of a restricted person for a flight.

Note: For other requirements for the carriage of restricted persons who are deportees, removees and other persons in custody, see Division 4.5 of the *Aviation Transport Security Regulations 2005*.

### **121.255 Carry-on baggage**

An aeroplane operator's exposition must include procedures for the following:

- (a) securely stowing carry-on baggage;
- (b) determining the maximum weight and size of baggage that can be taken on the aeroplane as carry-on baggage;
- (c) determining the locations on the aeroplane where carry-on baggage can be stowed;
- (d) giving instructions to passengers about securely stowing carry-on baggage at the following times:
  - (i) before take-off;
  - (ii) before landing;
  - (iii) any other time that the pilot in command directs.

### **121.260 Aisles to remain unobstructed**

- (1) This regulation applies in relation to a flight of an aeroplane for which regulation 121.630 requires the aeroplane to carry a cabin crew member.
- (2) The operator of the aeroplane for a flight contravenes this subregulation if an aisle of the aeroplane is obstructed during the flight, other than:
  - (a) by a person; or
  - (b) by cabin service equipment while cabin service is being provided to passengers.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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**121.265 Stowage of passenger service equipment etc.**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane is:
    - (i) taxiing; or
    - (ii) taking off; or
    - (iii) landing; and
  - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that any piece of passenger service equipment that could interfere with an evacuation of the aeroplane in an emergency must be secured in its stowed position.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane is taxiing, taking off or landing; and
  - (b) an item of galley equipment or a serving cart is not secured so as to prevent it from moving in the emergency landing conditions set out in the aeroplane's type certification basis.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

**121.270 Passengers in emergency exit row seats**

- (1) This regulation applies in relation to a flight of an aeroplane if regulation 121.630 requires a cabin crew member to be carried on the aeroplane for the flight.
- (2) An aeroplane operator's exposition must include procedures for the assigning of passengers to seats in an emergency exit row for a flight of the aeroplane.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if, when the aeroplane is taxiing, taking off or landing, the requirement mentioned in subregulation (4) is not met.
- (4) The requirement is that at least one crew member for the flight must be satisfied that each person occupying an emergency exit row seat is a suitable person.
- (5) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a person occupying an emergency exit row seat has not given the person's agreement to a crew member to assist the crew members with the evacuation of the aeroplane in an emergency; and
  - (b) the aeroplane begins the flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (3) or (5).

Penalty: 50 penalty units.

### **121.275 Carriage of passengers with reduced mobility**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, during the flight, a passenger with reduced mobility occupies a seat where the passenger could:
  - (a) hinder the crew in their safety duties; or
  - (b) obstruct access to emergency equipment; or
  - (c) hinder the evacuation of the aeroplane in an emergency.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a passenger with reduced mobility is carried on the flight; and
  - (b) before the flight begins, the operator does not tell at least one of the following that the passenger is carried on the flight:
    - (i) the pilot in command of the aeroplane for the flight;
    - (ii) if one cabin crew member is carried on the flight—the cabin crew member;
    - (iii) if more than one cabin crew member is carried on the flight—the person assigned to duty as the senior cabin crew member for the flight under regulation 121.660.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **121.280 Safety briefing cards**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a safety briefing card for the aeroplane is not available to each passenger on the aeroplane.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a safety briefing card does not meet the requirements mentioned in subregulation (3).
- (3) The requirements are the following:
  - (a) the safety briefing card must include any information prescribed by the Part 121 Manual of Standards;
  - (b) the only other information that may be included in the safety briefing card is the following:
    - (i) information that is relevant to the type and model of aeroplane;
    - (ii) information that is relevant to the safety of the aeroplane and its passengers.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

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**121.285 Safety briefings, instructions and demonstrations**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if a passenger is not given a safety briefing, instructions or demonstrations in accordance with the requirements prescribed by the Part 121 Manual of Standards for the purposes of this regulation.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if a safety briefing, instruction or demonstration includes:
  - (a) information that is not relevant to the type and model of the aeroplane; or
  - (b) information that is not relevant to the safety of the aeroplane and its passengers.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a passenger with reduced mobility will be carried on the flight; and
  - (b) before the aeroplane takes off for the flight, the passenger, or a person accompanying or assisting the passenger, is not asked by a crew member for the flight about the best way of helping the passenger if an emergency evacuation of the aeroplane is necessary.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

**121.290 Additional safety briefing for passengers in emergency exit rows**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a passenger is seated in an emergency exit row for the flight; and
  - (b) the passenger will be required to operate the emergency exit if it becomes necessary to use the exit during the flight; and
  - (c) before the flight begins, the passenger is not briefed by a crew member for the flight about what to do if it becomes necessary to use the exit.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**121.295 Safety briefing in the event of an emergency**

An aeroplane operator's exposition must include procedures for briefing passengers on what to do if an emergency occurs during a flight of the aeroplane.

## **Division 121.D.8—Instruments, indicators, equipment and systems**

### **121.300 Airborne weather radar equipment**

An aeroplane operator's exposition must include the following:

- (a) procedures for using airborne weather radar equipment;
- (b) procedures for conducting a flight without airborne weather radar equipment, for use if the equipment is inoperative.

### **121.305 Head-up displays, enhanced vision systems and synthetic vision systems**

- (1) This regulation applies in relation to an aeroplane if it is fitted with any of the following systems:
  - (a) a head-up display;
  - (b) an enhanced vision system;
  - (c) a synthetic vision system.
- (2) An aeroplane operator's exposition must include the following in relation to a flight of the aeroplane:
  - (a) procedures for using each system mentioned in subregulation (1) that is fitted to the aeroplane during the flight;
  - (b) procedures for conducting the flight without an element of the system, for use if the element is inoperative.

### **121.310 Crew protective breathing equipment**

An aeroplane operator's exposition must include procedures for the use of protective breathing equipment that is required, under Subpart 121.K, to be fitted to, or carried on, the aeroplane.

### **121.315 Hand-held fire extinguishers**

An aeroplane operator's exposition must include, for each configuration of the aeroplane operated by the operator, a description of the following:

- (a) the location of each hand-held fire extinguisher that is required, under Subpart 121.K, to be fitted to, or carried on, the aeroplane;
- (b) the extinguishing agent in each of the fire extinguishers.

### **121.320 Procedures relating to first-aid kits**

- (1) This regulation applies to an aeroplane that is, or will be, used to conduct a flight for which the aeroplane is required, under Subpart 121.K, to carry one or more first-aid kits.
- (2) The aeroplane operator's exposition must include the following:
  - (a) procedures to ensure that the first-aid kits required under Subpart 121.K:

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- (i) contain sufficient supplies for the number of persons to be carried on a flight of the aeroplane; and
    - (ii) are readily recognisable as first-aid kits; and
    - (iii) are readily accessible by each crew member for a flight when the aeroplane is on the ground or water and not in operation;
  - (b) procedures for inspecting the first-aid kits;
  - (c) procedures for replacing items in the first-aid kits.
- (3) The operator's exposition must also include a list of the minimum contents of each first-aid kit for the aeroplane.

#### **121.325 Procedures relating to universal precaution kits**

- (1) This regulation applies to an aeroplane that is, or will be, used to conduct a flight for which the aeroplane is required, under Subpart 121.K, to carry one or more universal precaution kits.
- (2) The aeroplane operator's exposition must include the following:
  - (a) procedures for inspecting the universal precaution kits required under Subpart 121.K;
  - (b) procedures for replacing items in the universal precaution kits.
- (3) The operator's exposition must also include a list of the minimum contents of each universal precaution kit for the aeroplane.

#### **121.330 Procedures relating to emergency medical kits**

- (1) This regulation applies to an aeroplane that is, or will be, used to conduct a flight for which the aeroplane is required, under Subpart 121.K, to carry an emergency medical kit.
- (2) The aeroplane operator's exposition must include the following:
  - (a) procedures for inspecting the emergency medical kit;
  - (b) procedures for replacing items in the emergency medical kit;
  - (c) procedures for the administration and supply of prescription medicines in the emergency medical kit, including procedures to ensure that prescription medicines are administered only under the authority of a medical practitioner.
- (3) The operator's exposition must also include a list of the minimum contents of the emergency medical kit.

#### **121.335 Life-saving equipment for life rafts**

- (1) This regulation applies to an aeroplane that is, or will be, used to conduct a flight for which the aeroplane is required, under Subpart 121.K, to carry one or more life rafts.

- (2) The aeroplane operator's exposition must include a list of the minimum life-saving equipment carried on the aeroplane for each life raft.

**121.340 Survival equipment procedures**

- (1) This regulation applies to a flight of an aeroplane if:
- (a) the flight is in or through an area prescribed as a remote area by the Part 91 Manual of Standards; or
  - (b) the aeroplane is required, under Subpart 121.K, to carry a life raft for the flight.
- (2) If an aeroplane is, or will be, used to conduct a flight to which this regulation applies, the operator's exposition must include the following:
- (a) procedures for determining the survival equipment required for the area in or through which the flight will be conducted;
  - (b) for a flight mentioned in paragraph (1)(b)—procedures for determining the pyrotechnic signalling devices required to ensure the distress signals, set out in Appendix 1 to Annex 2, *Rules of the Air*, to the Chicago Convention, can be made.

## Division 121.D.9—Miscellaneous

### 121.345 Procedures relating to ice

An aeroplane operator's exposition must include the following in relation to a flight of the aeroplane:

- (a) procedures for the inspection of the aeroplane by the pilot in command before the flight if frost or icing conditions exist;
- (b) if ground de-icing and ground anti-icing measures are required for the flight—procedures for carrying out these measures before the flight;
- (c) procedures for using de-icing and anti-icing equipment (where fitted) during the flight.

### 121.350 Procedures relating to portable electronic devices

An aeroplane operator's exposition must include procedures for the operation of portable electronic devices for a flight of the aeroplane.

### 121.355 Procedures relating to carriage of animals

An aeroplane operator's exposition must include procedures for the carriage of animals for a flight of the aeroplane.

### 121.360 Polar operations

- (1) This regulation applies in relation to a flight of an aeroplane if, during the flight, the aeroplane enters the polar region.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane is flown in the polar region during the flight; and
  - (b) the operator does not hold an approval under regulation 121.010 to fly in the polar region.
- (3) The aeroplane operator's exposition must include procedures for the following:
  - (a) monitoring and dealing with fuel freezing;
  - (b) ensuring communication capability for the duration of an operation that includes a flight in the polar region;
  - (c) training the aeroplane's flight crew in polar operations;
  - (d) mitigating crew member and passenger exposure to cosmic radiation during solar flare activity;
  - (e) if the aeroplane conducts a flight for which an alternate aerodrome in the polar region is required at a time of year when extreme climatic conditions are expected at the aerodrome—the carrying of at least 2 serviceable, cold weather, anti-exposure suits.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).



Penalty: 50 penalty units.

### **121.365 Cosmic radiation**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator's exposition does not set a limit for the total cosmic radiation receivable inside the aeroplane's cabin during the flight; and
  - (b) the aeroplane is flown above flight level 490.
- (2) The operator of an aeroplane contravenes this subregulation if:
  - (a) a flight crew member or cabin crew member of the operator's personnel has, in the previous 12 month period, flown on a flight of an aeroplane operated by the operator during which the aeroplane was flown above flight level 490; and
  - (b) the operator does not have a record of the total cosmic radiation dose received by the member during that period on such flights.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **121.370 Exceeding cosmic radiation limits**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the aeroplane is flown above flight level 490; and
  - (b) the aeroplane operator's exposition sets a limit for the total cosmic radiation receivable inside the aeroplane's cabin during the flight; and
  - (c) the limit is exceeded during the flight; and
  - (d) the pilot in command does not, as soon as practicable after the limit is exceeded, descend to the lowest altitude at which it is practicable to complete the flight safely.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.375 Obstruction of emergency exits**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if an emergency exit is obstructed at any of the following times:
  - (a) while the aeroplane is taxiing;
  - (b) while the aeroplane is taking off;
  - (c) while the aeroplane is landing;
  - (d) at any time that the pilot in command directs that the exit not be obstructed.

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- (2) For the purposes of subregulation (1), an emergency exit is not taken to be obstructed by a passenger occupying a seat adjacent to the exit or a seat in a row of seats adjacent to the exit.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.380 Assignment of cabin crew seats**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that the assignment of cabin crew seats to crew members for the flight must be in accordance with the emergency evacuation procedures for the aeroplane required by regulation 121.755.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a person, other than a crew member, is assigned to a cabin crew seat; and
  - (b) the cabin crew seat is in a row of cabin crew seats adjacent to a floor level exit; and
  - (c) the person is not a person to whom subregulation (4), (5) or (6) applies.
- (4) This subregulation applies to a person if:
  - (a) the person is a crew member employed by the operator who has not been assigned to the flight by the operator; and
  - (b) a passenger seat is not available for the person; and
  - (c) the person is identified as an employee of the operator; and
  - (d) the person is briefed by a cabin crew member for the flight on the following before the aeroplane takes off:
    - (i) the operation and use of the seat and its restraint system;
    - (ii) the location and use of the oxygen system at the seat (if any);
    - (iii) the location and use of the life jacket for the seat;
    - (iv) the person's responsibilities during an emergency.
- (5) This subregulation applies to a person if:
  - (a) the person is an authorised officer carrying out an in-flight passenger cabin inspection; and
  - (b) a passenger seat is not available for the person; and
  - (c) the person is briefed by a cabin crew member on the following before the aeroplane takes off:
    - (i) the operation and use of the seat and its restraint system;
    - (ii) the location and use of the oxygen system at the seat (if any);
    - (iii) the location and use of the life jacket for the seat;
    - (iv) the person's responsibilities during an emergency.
- (6) This subregulation applies to a person if:

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- (a) the pilot in command:
    - (i) declares an emergency; or
    - (ii) directs the cabin crew that abnormal circumstances exist for the flight;  
and
  - (b) the person is an able-bodied person; and
  - (c) a cabin crew member assigns the person to the cabin crew seat; and
  - (d) the person is briefed by a cabin crew member on the person's responsibilities while occupying the cabin crew seat.
- (7) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

**121.385 CASA approvals relating to take-offs and landings**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane takes off or lands in circumstances mentioned in subregulation (2); and
  - (b) the requirement in subregulation (3) is not met.
- (2) The circumstances are the aeroplane conducts a 3D instrument approach operation with an approach path angle of 4.5 degrees or more.
- (3) The requirement is that the operator must hold an approval under regulation 121.010 to conduct the take-off or landing in those circumstances.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Subpart 121.F—Performance

### 121.390 Performance data

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the performance data in the aircraft flight manual instructions for the aeroplane does not comply with Annex 8 to the Chicago Convention; and
  - (b) the aeroplane begins the flight.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a calculation relating to the aeroplane's performance for the flight is made for the purposes of this Subpart; and
  - (b) data other than either of the following is used to make that calculation:
    - (i) performance data set out in the aircraft flight manual instructions for the aeroplane;
    - (ii) performance data for which the aeroplane operator holds an approval under regulation 121.010.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 121.395 Take-off performance

- (1) The Part 121 Manual of Standards may prescribe requirements relating to take-off performance for a flight of an aeroplane.
- (2) Without limiting subregulation (1), the Part 121 Manual of Standards may prescribe requirements that relate to one or more of the following:
  - (a) the kinds of operations to be carried out during the flight;
  - (b) characteristics of the aerodrome at which the aeroplane takes off;
  - (c) characteristics of the route flown by the aeroplane;
  - (d) characteristics of the aerodrome at which the aeroplane lands.
- (3) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.

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

Penalty: 50 penalty units.

### **121.420 Landing performance**

- (1) The Part 121 Manual of Standards may prescribe requirements relating to landing performance for a flight of an aeroplane.
- (2) Without limiting subregulation (1), the Part 121 Manual of Standards may prescribe requirements relating to one or more of the following:
- (a) the aeroplane's configuration;
  - (b) the operation of any equipment for the flight;
  - (c) characteristics of the aerodrome at which the aeroplane lands;
  - (d) safety factor percentages to be applied.
- (3) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
- (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

### **121.425 Computerised performance data systems not fitted to aeroplanes**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
- (a) a computerised system that is not fitted to the aeroplane is used as the primary means to make calculations relating to the aeroplane's performance for the flight for the purposes of this Subpart; and
  - (b) the system does not meet the requirements prescribed by the Part 121 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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**121.430 Procedures relating to inoperative engines**

- (1) An aeroplane operator's exposition must include procedures to allow the aeroplane's flight path to meet the requirements mentioned in subregulation (2) if one engine becomes inoperative during take-off and the take-off is continued.
- (2) The requirements are that the aeroplane's flight path must provide a safe route, clearing all obstacles along the flight path, for the aeroplane to land at either of the following aerodromes:
  - (a) the departure aerodrome for the flight;
  - (b) if the operational flight plan for the flight includes a take-off alternate aerodrome—the take-off alternate aerodrome.
- (3) The operator of a 3-engine or 4-engine aeroplane must include, in the operator's exposition, procedures to follow if 2 engines become inoperative during the flight.

## Subpart 121.J—Weight and balance

### 121.435 Loading of aeroplane

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the aeroplane is loaded in a way that contravenes the aeroplane's weight and balance limits.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, during the flight, the aeroplane ceases to be loaded in accordance with the aeroplane's weight and balance limits.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 121.440 Procedures for loading aeroplane etc.

- (1) An aeroplane operator's exposition must include the following:
  - (a) procedures for loading the aeroplane for a flight to comply with regulation 121.435;
  - (b) procedures for working out the following weights for a flight of the aeroplane:
    - (i) the total weight of the crew members and the carry-on baggage of the crew members;
    - (ii) the total weight of the passengers and the carry-on baggage of the passengers;
    - (iii) the total weight of the cargo (other than carry-on baggage);
    - (iv) the total weight of the usable fuel to be carried;
  - (c) procedures to ensure that the aeroplane is loaded:
    - (i) in accordance with the information for the loading of the aeroplane for the flight prepared by the person responsible for planning the loading of the aeroplane for the flight; and
    - (ii) by, or under the supervision of, the person responsible for supervising the loading of the aeroplane for the flight;
  - (d) procedures setting out the circumstances in which a last-minute change to a load may be made, including procedures to ensure that a last-minute change to a load does not cause the aeroplane to exceed its weight and balance limits;
  - (e) procedures for confirming the weight and balance documents;
  - (f) procedures for offloading passengers or cargo to ensure that the aeroplane does not exceed its weight and balance limits.
- (2) For the purposes of subparagraphs (1)(b)(i) and (ii), the procedures must provide that the weights mentioned in those subparagraphs must be worked out:

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- (a) by actual weighing; or
  - (b) in accordance with a method for which the operator holds an approval under regulation 121.010; or
  - (c) in accordance with the standard weights prescribed by the Part 121 Manual of Standards.
- (3) For the purposes of subparagraph (1)(b)(iv), the procedures must provide that the weight of the usable fuel must be worked out as follows:
- (a) if the density of the fuel is known—by reference to its density and in accordance with a method set out in the procedures;
  - (b) if the density of the fuel is not known—in accordance with a method set out in the procedures.

### **121.445 Pilot in command must have information about aeroplane's weight and balance**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the pilot in command does not have the information about the aeroplane's weight and balance that is prescribed by the Part 121 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.450 Computerised weight and balance systems not fitted to aeroplanes**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a computerised system that is not fitted to the aeroplane is used as the primary means to calculate the weight and balance of the aeroplane for the flight; and
  - (b) the system does not meet the requirements prescribed by the Part 121 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.455 Weight and balance documents**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the weight and balance documents for the flight do not meet the requirements prescribed by the Part 121 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).



Penalty: 50 penalty units.

## **Subpart 121.K—Equipment**

### **121.460 Requirements relating to equipment**

- (1) The Part 121 Manual of Standards may prescribe requirements relating to:
  - (a) the fitment and non-fitment of equipment to an aeroplane; and
  - (b) the carrying of equipment on an aeroplane; and
  - (c) equipment that is fitted to, or carried on, an aeroplane.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Subpart 121.N—Flight crew**

### **Division 121.N.1—General**

#### **121.470 Additional application of this Subpart**

This Subpart also applies to the operation of a multi-engine aeroplane if:

- (a) either or both of paragraphs 121.005(1)(a) and (b) apply in relation to the aeroplane; and
- (b) the operator of the aeroplane holds an Australian air transport AOC that authorises the conduct of Part 121 operations; and
- (c) the operation is of a kind specified in the operator's exposition.

#### **121.475 Composition, number, qualifications and training**

*Composition, number, qualifications and training*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
  - (a) the composition of the aeroplane's flight crew for the flight must comply with the aeroplane's flight manual;
  - (b) the flight crew must include at least 2 pilots;
  - (c) at least one pilot occupying a pilot seat must have the experience required by regulation 121.480 for a flight crew member for the operator and the aeroplane;
  - (d) if the flight is a kind of operation for which the operator's exposition requires the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
  - (e) if the flight is a kind of operation for which these Regulations require the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
  - (f) each flight crew member must be qualified under regulation 121.490, 121.495 or 121.500 to carry out the duties assigned to the flight crew member by the operator for the flight;
  - (g) if the operator's exposition includes requirements, in accordance with regulation 121.515, in relation to knowledge that the pilot in command must have of the route of, and aerodromes for, the flight—the pilot in command must meet the requirements;
  - (h) each flight crew member must have the recent experience for the flight required by Division 121.N.4;
  - (i) each flight crew member must meet the initial training requirements under regulation 121.555 for the operator;
  - (j) each flight crew member must meet the conversion training requirements under subregulation 121.560(1) for the operator and the aeroplane;

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- (k) each flight crew member assigned to duty for unsupervised line flying for the flight must meet the conversion training requirement under subregulation 121.560(2) for the operator and the aeroplane;
  - (l) each flight crew member must meet the recurrent training and checking requirements under subregulation 121.570(1) for the flight;
  - (m) each flight crew member assigned to duty for unsupervised line flying for the flight must meet the recurrent training and checking requirements under subregulation 121.570(2) for the flight;
  - (n) each flight crew member for whom, under the operator's exposition, differences training for the aeroplane is required, must have successfully completed the differences training:
    - (i) for the aeroplane; and
    - (ii) for equipment that is required under Subpart 121.K to be fitted to, or carried on, the aeroplane and may be used by the flight crew member in connection with operating the aeroplane.
- (3) For the purposes of paragraph (2)(d), the operator's exposition must include the kinds of operation (if any) for which additional flight crew members must be carried.

### *Training or checking involving safety or emergency equipment*

- (4) The operator of an aeroplane contravenes this subregulation if training or checking mentioned in subregulation (2), to the extent that it involves safety equipment or emergency equipment, is conducted other than by a person who holds an approval under regulation 121.010.

### *Offence*

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

Penalty: 50 penalty units.

## 121.480 Experience

- (1) For the purposes of paragraph 121.475(2)(c), the experience required for a flight crew member for an aeroplane operator and an aeroplane is that:
- (a) the flight crew member:
    - (i) holds a rating that covers the aeroplane; or
    - (ii) has successfully completed command training that complies with regulation 121.565 for the operator and an aeroplane; and
  - (b) the flight crew member has completed the flying experience mentioned in subregulation (2).
- (2) For the purposes of paragraph (1)(b), the flying experience:
- (a) must be the number of hours and sectors mentioned in subregulation (3) in aeroplanes of that kind; and
  - (b) must be completed as part of line operations; and

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- (c) may include experience while the flight crew member is flying under supervision.
- (3) For the purposes of paragraph (2)(a), the number of hours and sectors is:
  - (a) at least 100 hours and 10 sectors; or
  - (b) if the aeroplane operator by whom the flight crew member is employed holds an approval under regulation 121.010 for a different numbers of hours and sectors for the flight crew member—at least that number of hours and sectors.
- (4) CASA may grant the approval mentioned in paragraph (3)(b) only if satisfied that there are special circumstances in relation to the operator’s operation that justify the grant of the approval.

**121.485 Competence**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as a flight crew member for the flight; and
  - (b) the person has not been assessed by the operator, in accordance with the operator’s training and checking system, as competent to perform the duties assigned to the person for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**121.490 Assignment to duty as pilot in command**

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

Penalty: 50 penalty units.

**121.495 Pilot in command**

- (1) A pilot is qualified as pilot in command for a flight of an aeroplane if:
  - (a) the pilot meets the minimum flying experience requirements specified, in accordance with subregulation (2), in the aeroplane operator’s exposition for the aeroplane; and
  - (b) the pilot has successfully completed command training that complies with regulation 121.565 for the aeroplane operator and an aeroplane; and
  - (c) the pilot is:
    - (i) if the aeroplane is an Australian aircraft—authorised to pilot the aeroplane during the flight as pilot in command under Part 61; or

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- (ii) if the aeroplane is a foreign registered aircraft—authorised to pilot the aeroplane during the flight as pilot in command by the aeroplane’s State of registry.
- (2) For the purposes of paragraph (1)(a), the aeroplane operator’s exposition must include minimum flying experience requirements for all aeroplanes operated by the operator for Part 121 operations.

### 121.500 Co-pilots

- (1) A pilot is qualified as co-pilot for a flight of an aeroplane if:
  - (a) the pilot is:
    - (i) if the aeroplane is an Australian aircraft—authorised to pilot the aeroplane during the flight as co-pilot under Part 61; or
    - (ii) if the aeroplane is a foreign registered aircraft—authorised to pilot the aeroplane during the flight as co-pilot by the aeroplane’s State of registry; and
  - (b) the pilot has completed supervised line flying on an aeroplane of that kind as co-pilot for the number of sectors or flight hours mentioned in the aeroplane operator’s exposition.
- (2) A pilot is qualified as co-pilot for a flight of an aeroplane if the pilot is qualified under regulation 121.495 as pilot in command for the flight.

### 121.505 Cruise relief co-pilots

- (1) A pilot is qualified as cruise relief co-pilot for a flight of an aeroplane if:
  - (a) the pilot is:
    - (i) if the aeroplane is an Australian aircraft—authorised to pilot the aeroplane during the flight as cruise relief co-pilot under Part 61; or
    - (ii) if the aeroplane is a foreign registered aircraft—authorised to pilot the aeroplane during the flight as cruise relief co-pilot by the aeroplane’s State of registry; and
  - (b) the pilot has completed supervised line flying on an aeroplane of that kind as cruise relief co-pilot for the number of sectors or flight hours mentioned in the aeroplane operator’s exposition.
- (2) A pilot is qualified as cruise relief co-pilot for a flight of an aeroplane if the pilot is:
  - (a) qualified under regulation 121.495 as pilot in command for the flight; or
  - (b) qualified under regulation 121.500 as co-pilot for the flight.

### 121.510 Use of approved flight simulators for training or checking

*Seating capacity of more than 19 and certain other aeroplanes*

- (1) Subregulation (2) applies to:

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- (a) an aeroplane with a maximum certificated passenger seating capacity of more than 19; or
  - (b) an aeroplane of a kind prescribed by the Part 121 Manual of Standards.
- (2) The operator of the aeroplane contravenes this subregulation if:
- (a) a flight crew member of the operator’s personnel undertakes training or checking, in accordance with this Subpart, for the aeroplane; and
  - (aa) the training or checking involves a simulated engine or system failure that affects, or is likely to affect, the aeroplane’s performance or handling characteristics; and
  - (b) there is an approved flight simulator for the aeroplane (whether in Australia, or in a recognised foreign State within the meaning of regulation 61.010) that is available for use, within the meaning of subregulation (5), by the operator for the training or checking; and
  - (c) the training or checking is conducted other than in the flight simulator.

*Seating capacity of 19 or less*

- (3) Subregulation (4) applies to an aeroplane with a maximum certificated passenger seating capacity of 19 or less, other than an aeroplane to which subregulation (2) applies.
- (4) The operator of the aeroplane contravenes this subregulation if:
- (a) a flight crew member of the operator’s personnel undertakes training or checking, in accordance with this Subpart, for the aeroplane; and
  - (aa) the training or checking involves a simulated engine or system failure that affects, or is likely to affect, the aeroplane’s performance or handling characteristics; and
  - (b) there is an approved flight simulator for the aeroplane in Australia that is available for use, within the meaning of subregulation (5), by the operator for the training or checking; and
  - (c) the training or checking is conducted other than in the flight simulator.

*Available for use*

- (5) For the purposes of paragraphs (2)(b) and (4)(b), an approved flight simulator is available for use by an operator if the flight simulator:
- (a) is available for the operator to use, or to reserve for use; and
  - (b) is offered for use on a commercial basis; and
  - (c) is serviceable.

*Offence*

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

Penalty: 50 penalty units.

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**121.515 Knowledge of route and aerodromes**

An aeroplane operator's exposition must include requirements in relation to the knowledge that a pilot in command of the aeroplane for a flight must have of:

- (a) the route of the flight; and
- (b) the departure aerodrome and the planned destination aerodrome for the flight; and
- (c) any alternate aerodrome required for the flight by the flight preparation (Part 121 alternate aerodromes) requirements.



## **Division 121.N.2—Operation of aeroplanes of different type ratings**

### **121.520 Application of Division 121.N.2**

This Division applies in relation to the operator of an aeroplane if:

- (a) under the operator's AOC, the operator operates aeroplanes of more than one type rating for Part 121 operations; and
- (b) the operator assigns, or is likely to assign, a flight crew member employed by the operator to duty on aeroplanes of more than one type rating.

### **121.525 Assignment of flight crew to aeroplanes of different type ratings**

The operator's exposition must include the following:

- (a) a description of the circumstances in which the operator may assign a flight crew member to duty on aeroplanes of more than one type rating;
- (b) the combinations of aeroplanes with different type ratings that a single flight crew member may be assigned to duty on by the operator;
- (c) the flying experience, checks and training that a flight crew member must gain or complete, while the flight crew member is employed by the operator, before being assigned to duty on aeroplanes of more than one type rating;
- (d) procedures to ensure that, if a flight crew member is assigned to duty on aeroplanes with different type ratings within one tour of duty, the flight crew member has adequate time between flights on aeroplanes with different ratings for the flight crew member to prepare for duty.

### **121.530 Credit for checks, qualifications, training and experience**

- (1) Subregulation (2) applies if an operator holds an approval under regulation 121.010 in relation to:
  - (a) a particular check or qualification, or particular training or experience, mentioned in this Subpart; and
  - (b) aeroplanes of 2 particular type ratings (the *first type rating* and the *second type rating*).

Note: See also regulation 121.575 in relation to Part 121 proficiency checks completed for a previous operator.

- (2) For the purposes of these Regulations, the successful completion, by a flight crew member of the operator's personnel, of the check, qualification, training or experience for an aeroplane of the first type rating is taken to also be the successful completion by the flight crew member of the check, qualification, training or experience for an aeroplane of the second type rating.
- (3) CASA may grant an approval mentioned in subregulation (1) only if satisfied that:

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- (a) the check, qualification, training or experience for an aeroplane of the first type rating is sufficiently similar to the check, qualification, training or experience for an aeroplane of the second type rating; and
- (b) an aeroplane of the first type rating and second type rating are sufficiently similar in relation to:
  - (i) their level of technology; and
  - (ii) their operational procedures; and
  - (iii) their handling characteristics.

Example: For the purposes of subparagraph (b)(i), the level of technology for an aeroplane might involve the following:

- (a) the aeroplane's flight management system;
- (b) the aeroplane's auto-pilot system;
- (c) the aeroplane's flight instrumentation.

## **Division 121.N.3—Relief**

### **121.535 Relief of pilot in command**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the pilot in command delegates the conduct of the flight; and
  - (b) the delegation is not permitted by either subregulation (2) or (3).

#### *General*

- (2) The pilot in command of an aeroplane for a flight may delegate the conduct of the flight to a pilot who is qualified under regulation 121.495 as pilot in command for the flight.

#### *Flight above flight level 200*

- (3) The pilot in command of an aeroplane for a flight may delegate the conduct of the flight above flight level 200 to a pilot who meets the requirements mentioned in subregulation (4).
- (4) The requirements are as follows:
  - (a) the pilot must hold an air transport pilot licence;
  - (b) the pilot must be qualified under regulation 121.500 as co-pilot for the flight;
  - (c) the pilot must have the flying experience required by regulation 121.480 for the flight;
  - (d) the pilot must have the knowledge of the route of the flight required by the operator's exposition.
- (5) For the purposes of paragraph (4)(d), the operator's exposition must include the knowledge the pilot must have of the route of the flight.

#### *Offence*

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

Penalty: 50 penalty units.

## Division 121.N.4—Recent experience

### 121.540 Pilot in command and co-pilot—recent experience requirements

#### *Operator*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a pilot to duty as pilot in command or co-pilot of the aeroplane for the flight; and
  - (b) the pilot does not have the recent experience required for the flight by subregulation (3).

#### *Pilot*

- (2) A pilot of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot operates the aeroplane as pilot in command or co-pilot for the flight; and
  - (b) the pilot does not have the recent experience required for the flight by subregulation (3).

#### *Recent experience requirements*

- (3) The recent experience required for a flight is:
  - (a) within 90 days before the flight, the pilot must meet at least one of the requirements mentioned in subregulation (4); or
  - (b) if it is not practicable for the pilot to comply with paragraph (a)—the flight experience required under the aeroplane operator's exposition.
- (4) For the purposes of paragraph (3)(a), the requirements are as follows:
  - (a) the pilot has carried out, in an aeroplane of that kind or an approved flight simulator for the aeroplane:
    - (i) at least 3 take-offs that comply with subregulation (5) while controlling the aeroplane or simulator; and
    - (ii) at least 3 landings while controlling the aeroplane or simulator;
  - (b) the pilot has passed a flight test for the grant of a pilot licence or a rating on a pilot licence in an aeroplane of that kind or an approved flight simulator for the aeroplane;
  - (c) the pilot has successfully completed a Part 121 proficiency check for the operator and an aeroplane of that kind.
- (5) For the purposes of subparagraph (4)(a)(i), each take-off must be followed by a climb to at least 500 ft AGL.

#### *Offence*

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

Penalty: 50 penalty units.

### **121.545 Cruise relief co-pilot—recent experience requirements**

*Operator*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
- (a) the operator assigns a pilot to duty as cruise relief co-pilot for the flight; and
  - (b) the pilot has not, within 90 days before the flight, done at least one of the following:
    - (i) completed at least 2 hours of simulated flight time as co-pilot in an approved flight simulator for the aeroplane;
    - (ii) passed a flight test for the grant of a pilot licence or a rating on a pilot licence in an aeroplane of that kind or an approved flight simulator for the aeroplane;
    - (iii) exercised the privileges of a pilot licence or a rating on a pilot licence that covers the aeroplane.

*Pilot*

- (2) A pilot of an aeroplane for a flight contravenes this subregulation if:
- (a) the pilot operates the aeroplane as cruise relief co-pilot for the flight; and
  - (b) the pilot has not, within 90 days before the flight, done at least one of the following:
    - (i) completed at least 2 hours of simulated flight time as co-pilot in an approved flight simulator for the aeroplane;
    - (ii) passed a flight test for the grant of a pilot licence or a rating on a pilot licence in an aeroplane of that kind or an approved flight simulator for the aeroplane;
    - (iii) exercised the privileges of a pilot licence or a rating on a pilot licence that covers the aeroplane.

*Offence*

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

Penalty: 50 penalty units.

### **121.550 Flight engineers—recent experience requirements**

*Operator*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
- (a) the operator assigns a flight engineer to duty as flight engineer of the aeroplane for the flight; and

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- (b) the flight engineer does not have the recent experience required under regulation 61.1335 (limitations on exercise of privileges of flight engineer licences—recent experience) for the flight.

*Flight engineer*

- (2) A flight engineer of an aeroplane for a flight contravenes this subregulation if:
  - (a) the flight engineer performs a duty that is essential to the operation of the aeroplane for the flight; and
  - (b) the flight engineer does not have the recent experience required under regulation 61.1335 (limitations on exercise of privileges of flight engineer licences—recent experience) for the flight.

*Offence*

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

Penalty: 50 penalty units.

## **Division 121.N.5—Non-recurrent training and checking etc.**

### **121.555 Meeting initial training requirements**

- (1) For the purposes of paragraph 121.475(2)(i), a flight crew member meets the initial training requirements for an operator of an aeroplane if:
  - (a) the flight crew member has completed the operator's initial training for a flight crew member; and
  - (b) the initial training meets the requirements prescribed by the Part 121 Manual of Standards; and
  - (c) the flight crew member has successfully completed an initial training check in accordance with the operator's exposition.
- (2) Without limiting paragraph (1)(b), the requirements may relate to training facilities or devices.

### **121.560 Meeting conversion training requirements**

- (1) For the purposes of paragraph 121.475(2)(j), a flight crew member meets the conversion training requirements under this subregulation for an operator of an aeroplane and the aeroplane if:
  - (a) the flight crew member has completed training, for an aeroplane of that kind, that meets the requirements prescribed by the Part 121 Manual of Standards; and
  - (b) the training is conducted by:
    - (i) an individual employed by the operator to conduct the training; or
    - (ii) a Part 142 operator with which the operator has a contract for the Part 142 operator to conduct the training for the operator.
- (2) For the purposes of paragraph 121.475(2)(k), a flight crew member meets the conversion training requirement under this subregulation for an operator of an aeroplane and the aeroplane if the flight crew member has completed supervised line flying in an aeroplane of that kind.
- (3) The supervised line flying mentioned in subregulation (2) must have been completed after the flight crew member has successfully completed all of the following:
  - (a) a Part 121 proficiency check for the operator and the aeroplane;
  - (b) a valid annual emergency and safety equipment check for the operator and the aeroplane under regulation 121.605;
  - (c) a valid 3 yearly emergency and safety equipment check for the operator and the aeroplane under regulation 121.615.

### **121.565 Command training requirements**

Command training for a pilot for an aeroplane operator and an aeroplane must include the following:

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- (a) either:
  - (i) flying training conducted in an aeroplane of that kind; or
  - (ii) if there is an approved flight simulator for the aeroplane—training conducted in the approved flight simulator;
- (b) successful completion of a Part 121 proficiency check, for the operator and the aeroplane, for a pilot in command of the aeroplane;
- (c) training in the responsibilities of the pilot in command of an aeroplane of that kind;
- (d) training in relation to pilot incapacitation;
- (e) supervised line flying on an aeroplane of that kind as pilot in command under supervision for at least the number of sectors required by the operator's exposition;
- (f) successful completion of a line check that complies with regulation 121.590 for a pilot in command for an aeroplane of that kind.



## Division 121.N.6—Recurrent training and checking

### 121.570 Recurrent training and checking requirements

- (1) For the purposes of paragraph 121.475(2)(l), a flight crew member meets the recurrent training and checking requirements for a flight of an aeroplane if the flight crew member:
  - (a) holds the following for the aeroplane operator and the aeroplane:
    - (i) a valid Part 121 proficiency check under regulation 121.575;
    - (ii) a valid refresher check under regulation 121.595;
    - (iii) a valid annual emergency and safety equipment check under regulation 121.605;
    - (iv) a valid 3 yearly emergency and safety equipment check under regulation 121.615; and
  - (b) has completed, within the previous 12 months, recurrent flight training, in accordance with the requirements prescribed by the Part 121 Manual of Standards, for an aeroplane of that kind.
- (2) For the purposes of paragraph 121.475(2)(m), a flight crew member meets the recurrent training and checking requirements for a flight of an aeroplane if the flight crew member holds a valid line check under regulation 121.585 for the aeroplane operator and the aeroplane.

### 121.575 Holding valid Part 121 proficiency check

#### *Holding a valid check*

- (1) If a person successfully completes a Part 121 proficiency check for the operator of an aeroplane and an aeroplane on a day (the **completion day**), the check is valid for the period:
  - (a) beginning on the completion day; and
  - (b) ending at the earliest of the following times:
    - (i) the beginning of the day the person successfully completes another Part 121 proficiency check for the operator and the aeroplane;
    - (ii) the end of the 8 month period beginning on the completion day;
    - (iii) if the person has, within the 12 month period ending immediately before the completion day, successfully completed one or more Part 121 proficiency checks (the **previous checks**) for the operator and the aeroplane—the end of the 12 month period beginning on the day the most recent of the previous checks was successfully completed.

#### *When a check completed for a previous operator is valid*

- (2) If:
  - (a) an operator (the **current operator**) of an aeroplane of a particular kind that has a maximum certificated passenger seating capacity of 19 or less holds an approval under regulation 121.010 in relation to Part 121 proficiency

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checks completed for another particular operator (the *previous operator*) and an aeroplane of that kind; and

- (b) a person holds a valid Part 121 proficiency check for the previous operator and an aeroplane of that kind;

the person is taken, for the purposes of these Regulations, to hold a valid Part 121 proficiency check for the current operator and an aeroplane of that kind.

### 121.580 Part 121 proficiency check

#### *Pilots*

- (1) A proficiency check for a pilot for an aeroplane must, in accordance with any requirements prescribed by the Part 121 Manual of Standards, check the competence of the pilot in carrying out normal, abnormal and emergency procedures in relation to the flying of an aeroplane of that kind while performing duties at their normal pilot seat.
- (2) The check for the pilot must be conducted by an individual:
- (a) who is either:
- (i) employed by the operator to conduct the check; or
- (ii) employed by a Part 142 operator with which the operator has a contract for the Part 142 operator to conduct the check for the operator; and
- (b) who meets the requirements mentioned in subregulation (3).
- (3) For the purposes of paragraph (2)(b), the individual must:
- (a) hold:
- (i) a flight examiner rating for an aeroplane of that kind; or
- (ii) an approval under regulation 121.010 to conduct a Part 121 proficiency check for an aeroplane of that kind; and
- (b) have successfully completed training in human factors principles and non-technical skills.

#### *Flight engineers*

- (4) A proficiency check for a flight engineer for an aeroplane must, in accordance with any requirements prescribed by the Part 121 Manual of Standards, check the competence of the flight engineer in carrying out the duties of a flight engineer in relation to the operation of an aeroplane of that kind while acting as part of a normal flight crew for the aeroplane.
- (5) The check for the flight engineer must be conducted by an individual:
- (a) who is either:
- (i) employed by the operator to conduct the check; or
- (ii) employed by a Part 142 operator with which the operator has a contract for the Part 142 operator to conduct the check for the operator; and
- (b) who meets the requirements mentioned in subregulation (6).

- (6) For the purposes of paragraph (5)(b), the individual must:
- (a) hold:
    - (i) a flight engineer examiner rating for an aeroplane of that kind; or
    - (ii) an approval under regulation 121.010 to conduct a Part 121 proficiency check for an aeroplane of that kind; and
  - (b) have successfully completed training in human factors principles and non-technical skills.

### **121.585 Holding valid line check**

- (1) A flight crew member holds a valid line check for the operator of an aeroplane and the aeroplane if:
- (a) the flight crew member has successfully completed the operator's line check for an aeroplane of that kind; and
  - (b) the check complies with:
    - (i) for a pilot—subregulation 121.590(1); and
    - (ii) for a flight engineer—subregulation 121.590(2); and
  - (c) the check is valid in accordance with subregulations (2) and (3) of this regulation.
- (2) Subject to subregulation (3), a line check is valid for the period:
- (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (3) If:
- (a) a person's line check (the **existing check**) for the operator of an aeroplane and an aeroplane is valid in accordance with subregulation (2); and
  - (b) the person successfully completes another line check (the **new check**) for that operator and aeroplane in accordance with paragraphs (1)(a) and (b) less than 3 months before the day the existing check is due to expire;
- the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.

### **121.590 Line check requirements**

#### *Pilots*

- (1) A line check for a pilot for an aeroplane must meet the following requirements:
- (a) the check must check the pilot's competence in carrying out a normal line operation for the aeroplane;
  - (b) if the pilot is assigned duties as both the pilot flying and the pilot monitoring, the check must check the pilot in both functions;
  - (c) the person conducting the check must hold an appointment by the operator of the aeroplane to conduct a line check for an aeroplane of that kind.

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### *Flight engineers*

- (2) A line check for a flight engineer for an aeroplane must meet the following requirements:
  - (a) the check must check the flight engineer's competence in carrying out a normal line operation for the aeroplane;
  - (b) the person conducting the check (the **check flight engineer**) must not occupy a flight engineer panel seat during take-off, departure, initial cruise, descent, approach or landing;
  - (c) the check flight engineer must hold an appointment by the operator of the aeroplane to conduct a line check for an aeroplane of that kind.

### **121.595 Holding valid refresher check**

- (1) A flight crew member holds a valid refresher check for the operator of an aeroplane and the aeroplane if:
  - (a) the flight crew member has undertaken the operator's refresher training for an aeroplane of that kind; and
  - (b) the training complies with subregulation 121.600(1); and
  - (c) the flight crew member has successfully completed the operator's refresher check for an aeroplane of that kind; and
  - (d) the check complies with subregulation 121.600(2); and
  - (e) the check is valid in accordance with subregulations (2) and (3) of this regulation.
- (2) Subject to subregulation (3), a refresher check is valid for the period:
  - (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (3) If:
  - (a) a person's refresher check (the **existing check**) for the operator of an aeroplane and an aeroplane is valid in accordance with subregulation (2); and
  - (b) the person successfully completes another refresher check (the **new check**) for that operator and aeroplane in accordance with paragraph (1)(d) less than 3 months before the day the existing check is due to expire;the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.

### **121.600 Refresher training and checking requirements**

#### *Training requirements*

- (1) Refresher training for a flight crew member for an aeroplane must meet the following requirements:
    - (a) for a pilot—the training must relate to the duties of a pilot for the aeroplane;
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- (b) for a flight engineer—the training must relate to the duties of a flight engineer for the aeroplane;
- (c) the training must include training on aeroplane systems;
- (d) the training must include training on operational procedures and requirements in relation to the Part 121 operations conducted by the operator using the aeroplane;
- (e) the training must include accident, incident and occurrence reviews.

*Checking requirements*

- (2) A refresher check for a flight crew member for an aeroplane must include an assessment of the flight crew member’s knowledge of the training mentioned in paragraphs (1)(a) to (d).

**121.605 Holding valid annual emergency and safety equipment check**

- (1) A flight crew member holds a valid annual emergency and safety equipment check for the operator of an aeroplane and the aeroplane if:
  - (a) the flight crew member has undertaken the operator’s annual emergency and safety equipment training for an aeroplane of that kind; and
  - (b) the training complies with subregulation 121.610(1); and
  - (c) the flight crew member has successfully completed the operator’s annual emergency and safety equipment check for an aeroplane of that kind; and
  - (d) the check complies with subregulation 121.610(2); and
  - (e) the check is valid in accordance with subregulations (2) and (3) of this regulation.
- (2) Subject to subregulation (3), an annual emergency and safety equipment check is valid for the period:
  - (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (3) If:
  - (a) a person’s annual emergency and safety equipment check (the *existing check*) for the operator of an aeroplane and an aeroplane is valid in accordance with subregulation (2); and
  - (b) the person successfully completes another annual emergency and safety equipment check (the *new check*) for that operator and aeroplane in accordance with paragraph (1)(d) less than 3 months before the day the existing check is due to expire;

the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.

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**121.610 Annual emergency and safety equipment training and checking requirements**

*Training requirements*

- (1) Annual emergency and safety equipment training for a flight crew member for an aeroplane must meet the following requirements:
  - (a) for a pilot—the training must relate to the duties of a pilot for the aeroplane in relation to emergency and safety equipment carried on the aeroplane;
  - (b) for a flight engineer—the training must relate to the duties of a flight engineer for the aeroplane in relation to emergency and safety equipment carried on the aeroplane;
  - (c) the training must meet the requirements prescribed by the Part 121 Manual of Standards.
- (1A) Without limiting paragraph (1)(c), the requirements may relate to training facilities or devices.

*Checking requirements*

- (2) An annual emergency and safety equipment check for a flight crew member for an aeroplane must:
  - (a) cover the location and use of all emergency and safety equipment carried on the aeroplane; and
  - (b) cover the equipment for which the flight crew member has undertaken training mentioned in subregulation (1); and
  - (c) be carried out using:
    - (i) the aeroplane; or
    - (ii) a training facility or device which meets the requirements prescribed by the Part 121 Manual of Standards for the purposes of regulation 121.680.

**121.615 Holding valid 3 yearly emergency and safety equipment check**

- (1) A flight crew member holds a valid 3 yearly emergency and safety equipment check for the operator of an aeroplane and the aeroplane if:
  - (a) the flight crew member has undertaken the operator's 3 yearly emergency and safety equipment training for an aeroplane of that kind; and
  - (b) the training complies with subregulation 121.620(1); and
  - (c) the flight crew member has successfully completed the operator's 3 yearly emergency and safety equipment check for an aeroplane of that kind; and
  - (d) the check complies with subregulation 121.620(2); and
  - (e) the check is valid in accordance with subregulations (2) and (3) of this regulation.
- (2) Subject to subregulation (3), a 3 yearly emergency and safety equipment check is valid for the period:
  - (a) beginning on the day the check is completed; and

(b) ending at the end of the 3-year period beginning at the end of the month in which the check is completed.

(3) If:

- (a) a person's 3 yearly emergency and safety equipment check (the *existing check*) for the operator of an aeroplane and an aeroplane is valid in accordance with subregulation (2); and
- (b) the person successfully completes another 3 yearly emergency and safety equipment check (the *new check*) for that operator and aeroplane in accordance with paragraph (1)(d) less than 3 months before the day the existing check is due to expire;

the new check is valid for the 3-year period beginning at the end of the day the existing check expires.

### **121.620 The 3 yearly emergency and safety equipment training and checking requirements**

#### *Training requirements*

- (1) The 3 yearly emergency and safety equipment training for a flight crew member for an aeroplane must meet the following requirements:
  - (a) for a pilot—the training must relate to the duties of a pilot of the aeroplane in relation to emergency and safety equipment carried on the aeroplane;
  - (b) for a flight engineer—the training must relate to the duties of a flight engineer for the aeroplane in relation to emergency and safety equipment carried on the aeroplane;
  - (c) the training must meet the requirements prescribed by the Part 121 Manual of Standards.

(1A) Without limiting paragraph (1)(c), the requirements may relate to training facilities or devices.

#### *Checking requirements*

- (2) A 3 yearly emergency and safety equipment check for a flight crew member for an aeroplane must:
  - (a) check the competence of the flight crew member in relation to the requirements prescribed for the purposes of paragraph (1)(c); and
  - (b) be carried out using:
    - (i) the aeroplane; or
    - (ii) a training facility or device which meets the requirements prescribed by the Part 121 Manual of Standards for the purposes of regulation 121.680.

## Subpart 121.P—Cabin crew

### Division 121.P.1—Preliminary

#### 121.625 Application of Subpart 121.P

- (1) This Subpart (other than Division 121.P.7) applies in relation to a flight of an aeroplane if regulation 121.630 requires a cabin crew member to be carried on the aeroplane for the flight.
- (2) Division 121.P.7 applies in relation to a flight of an aeroplane if regulation 121.630 does not require a cabin crew member to be carried on the aeroplane for the flight.

#### 121.630 When cabin crew are required

A cabin crew member must be carried on a flight of an aeroplane if:

- (a) the flight is a passenger transport operation; and
- (b) either:
  - (i) the aeroplane has a maximum operational passenger seat configuration of more than 19; or
  - (ii) the aeroplane has a maximum operational passenger seat configuration of more than 9 and a maximum certificated passenger seating capacity of more than 19.



## **Division 121.P.2—General**

### **121.635 Number of cabin crew**

#### *Number of cabin crew*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins:
  - (a) if the aeroplane does not have twin aisles—a requirement mentioned in subregulation (2) is not met for the flight; or
  - (b) if the aeroplane does have twin aisles—a requirement mentioned in subregulation (3) is not met for the flight.

#### *Aeroplanes without twin aisles*

- (2) If the aeroplane does not have twin aisles, the number of cabin crew members for the flight must be at least:
  - (a) the flight base number of cabin crew members for the flight; or
  - (b) if there is a demonstration additional number of cabin crew members for the aeroplane and paragraph (c) does not apply to the aeroplane—the sum of:
    - (i) the flight base number of cabin crew members for the flight; and
    - (ii) the demonstration additional number of cabin crew members for the aeroplane; or
  - (c) if the operator holds an approval under regulation 121.010 for a number (the **reduced demonstration additional number**) in relation to the aeroplane that is less than the demonstration additional number of cabin crew members for the aeroplane—the sum of:
    - (i) the flight base number of cabin crew members for the flight; and
    - (ii) the reduced demonstration additional number.

#### *Aeroplanes with twin aisles*

- (3) If the aeroplane has twin aisles, the number of cabin crew members for the flight must be at least the greater of:
  - (a) the number of cabin crew members that would be required under subregulation (2) for the flight if the aeroplane did not have twin aisles; and
  - (b) the number equal to the sum of one cabin crew member for each floor level exit for the aeroplane.

#### *Approvals by CASA*

- (4) A number approved by CASA under regulation 121.010, as referred to in paragraph (2)(c) of this regulation, may be zero.

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### *Exception*

- (5) Subregulation (1) does not apply if:
- (a) a requirement mentioned in subregulation (2) or (3) (as the case requires) is not met for the flight; but
  - (b) the flight is operated with a reduced number of cabin crew members in accordance with regulation 121.670.

### *Offence*

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

Penalty: 50 penalty units.

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

## 121.640 Qualifications, experience and training

### *Qualifications, experience and training*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are that each cabin crew member for the flight must:
- (a) have the recent experience required for the flight by regulation 121.705; and
  - (b) meet the initial training requirements under regulation 121.710 for the operator; and
  - (c) meet the conversion training requirements under subregulation 121.715(1) for the operator and the aeroplane type; and
  - (d) for unsupervised line flying for the flight—meet the conversion training requirements under subregulation 121.715(3) for the operator and the aeroplane; and
  - (e) meet the differences training requirements (if any) under regulation 121.720 for the operator and the aeroplane; and
  - (f) hold a valid annual training check under regulation 121.725 for the operator and the aeroplane type; and
  - (g) for unsupervised line flying for the flight—hold a valid line check under regulation 121.730 for the operator and an aeroplane operated by the operator; and
  - (h) hold a valid 3 yearly training check under regulation 121.735 for the operator and the aeroplane type; and
  - (i) have the qualifications and experience required by the operator's exposition for the duties assigned to the cabin crew member for the flight.

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*Training or checking involving safety or emergency equipment*

- (3) The operator of an aeroplane for a flight contravenes this subregulation if training or checking mentioned in subregulation (2), to the extent that it involves safety equipment or emergency equipment, is conducted other than by a person who holds an approval under regulation 121.010.

*Exception*

- (4) Subregulation (1) does not apply in relation to a requirement mentioned in subregulation (2) for a cabin crew member if:
- (a) the cabin crew member is successfully participating in the operator's training and checking system; and
  - (b) the operator holds an approval under regulation 121.010 that the system adequately covers the matters to which the requirement relates.

*Offence*

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

**121.645 Competence**

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

Penalty: 50 penalty units.

**121.650 Minimum age**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a cabin crew member for the flight has not turned 18.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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### 121.655 English proficiency

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as a cabin crew member for the flight; and
  - (b) the person does not meet a requirement relating to general English Language proficiency for cabin crew members prescribed by the Part 121 Manual of Standards.

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

Penalty: 50 penalty units.

### 121.660 Assignment to duty as senior cabin crew member

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins:
  - (a) there is more than one cabin crew member for the flight; and
  - (b) none of the cabin crew members is assigned to duty as the senior cabin crew member for the flight.

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

Penalty: 50 penalty units.

### 121.665 Training and checking for senior cabin crew member

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a cabin crew member (the ***original senior cabin crew member***) to duty as the senior cabin crew member for the flight; and
  - (b) the cabin crew member has not successfully completed the training and checking for a senior cabin crew member prescribed by the Part 121 Manual of Standards.

- (2) Subregulation (1) does not apply if, before the flight begins:

- (a) another cabin crew member is assigned to duty as the senior cabin crew member for the flight; and
- (b) the original senior cabin crew member becomes unable to report for duty due to unforeseen circumstances that are beyond the operator's control.

Example: A senior cabin crew member becomes unfit for duty shortly before a flight at a place where a replacement senior cabin crew member is not available.

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

Penalty: 50 penalty units.

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

### 121.670 Operating with a reduced number of cabin crew

- (1) An aeroplane operator's exposition must include:
  - (a) the circumstances in which the aeroplane may be operated for a flight with a number (a **reduced number**) of cabin crew members that is fewer than the number of cabin crew members required for the flight by subregulation 121.635(2) or (3) (as the case requires); and
  - (b) procedures for operating the aeroplane for the flight with a reduced number of cabin crew members; and
  - (c) procedures for notifying CASA of the reduced number of cabin crew members carried on the flight.

- (2) Circumstances may only be included in the operator's exposition in accordance with paragraph (1)(a) if the circumstances are unforeseen and beyond the operator's control.

Example: A cabin crew member becomes unfit for duty shortly before a flight at a place where a replacement cabin crew member is not available.

- (3) A reduced number of cabin crew members permitted by paragraph (1)(a) for a flight must not be less than the number equal to the sum of one cabin crew member for each 50, or part of 50, passengers carried on each deck of the aeroplane for the flight.

### 121.675 Second senior cabin crew member

- (1) This regulation applies in relation to an aeroplane if the aeroplane is used to conduct a flight for which regulation 121.635 requires the aeroplane to carry more than 4 cabin crew members.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if a cabin crew member is not assigned to duty as the second senior cabin crew member for the flight.
- (3) The aeroplane operator's exposition must include:
  - (a) procedures to assign a cabin crew member to duty as the second senior cabin crew member for a flight; and
  - (b) the duties to be carried out by a second senior cabin crew member for a flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### 121.680 Training facilities and devices

- (1) An aeroplane operator's exposition must require any training and checking, under this Subpart (other than Division 121.P.7), of a cabin crew member of the operator's personnel that is carried out using a training facility or device to be carried out using a training facility or device specified in the exposition.

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- (2) A training facility or device specified in an exposition in accordance with subregulation (1) must meet the requirements prescribed by the Part 121 Manual of Standards for the purposes of this regulation.

## **Division 121.P.3—Operation of aeroplanes of different aeroplane types**

### **121.685 Application of Division 121.P.3**

This Division applies in relation to the operator of an aeroplane if, under the operator's AOC, the operator operates more than one aeroplane type.

### **121.690 Content of exposition in relation to aeroplane types**

For each aeroplane operated under an AOC, the operator's exposition must include the aeroplane's type for the purposes of this Subpart.

### **121.695 Maximum number of aeroplane types**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a cabin crew member to duty on the aeroplane for the flight; and
  - (b) the requirement in subregulation (2) is not met.
- (2) The requirement is that:
  - (a) the cabin crew member holds no more than 3 valid annual training checks under regulation 121.725 for the operator and aeroplane types operated by the operator; or
  - (b) the cabin crew member holds an approval under regulation 121.010 to be assigned to duty on 4 aeroplane types operated by the operator.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.700 Assignment to different aeroplane types**

An aeroplane operator's exposition must include:

- (a) a description of the circumstances in which the operator may assign a cabin crew member who holds more than one valid annual training check under regulation 121.725 for the operator and aeroplane types operated by the operator to duty for a flight of that aeroplane type; and
- (b) procedures to ensure that such cabin crew members are assigned to duty for a flight of that aeroplane type only in those circumstances.

## **Division 121.P.4—Recent experience**

### **121.705 Recent experience requirements—6 months before flight**

For the purposes of paragraph 121.640(2)(a), the recent experience required for a cabin crew member for a flight of an aeroplane is that, within 6 months before the flight, the cabin crew member must have:

- (a) flown as a cabin crew member on an aeroplane of that aeroplane type; or
- (b) successfully completed the operator's refresher training for an aeroplane of that aeroplane type.



## **Division 121.P.5—Non-recurrent training and checking**

### **121.710 Meeting initial training requirements**

For the purposes of paragraph 121.640(2)(b), a cabin crew member meets the initial training requirements for an operator of an aeroplane if:

- (a) the cabin crew member has completed the operator’s initial training for a cabin crew member; and
- (b) the initial training meets the requirements prescribed by the Part 121 Manual of Standards; and
- (c) the cabin crew member has successfully completed an initial training check in accordance with the operator’s exposition.

### **121.715 Meeting conversion training requirements**

- (1) For the purposes of paragraph 121.640(2)(c), a cabin crew member meets the conversion training requirements under this subregulation for an operator of an aeroplane and the aeroplane if:
  - (a) the cabin crew member has completed the operator’s conversion training for the aeroplane type; and
  - (b) the training meets the requirements mentioned in subregulation (2).
- (2) The requirements are as follows:
  - (a) the training must meet the requirements prescribed by the Part 121 Manual of Standards;
  - (b) the training must include any additional training required to familiarise a cabin crew member with their duties.
- (3) For the purposes of paragraph 121.640(2)(d), a cabin crew member meets the conversion training requirements under this subregulation for an operator of an aeroplane and the aeroplane if:
  - (a) the member has completed supervised line flying on that aeroplane type; and
  - (b) the cabin crew member successfully completes a valid line check, under regulation 121.730, for the operator and an aeroplane operated by the operator.
- (4) The supervised line flying mentioned in subregulation (3) must have been completed after the cabin crew member has successfully completed both of the following:
  - (a) a valid annual training check for the operator and the aeroplane type under regulation 121.725;
  - (b) a valid 3 yearly training check for the operator and the aeroplane type under regulation 121.735.

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**121.720 Meeting differences training requirements**

- (1) For the purposes of paragraph 121.640(2)(e), a cabin crew member meets the differences training requirements for the operator of an aeroplane and the aeroplane if:
  - (a) the cabin crew member has completed the operator's differences training for the aeroplane; and
  - (b) the differences training includes the training mentioned in subregulation (2); and
  - (c) the cabin crew member has successfully completed the operator's differences training check in accordance with the operator's exposition.
- (2) The training is the following:
  - (a) if the safety equipment on that aeroplane is of a kind that the cabin crew member has not previously received training for—training in the location and use of the safety equipment;
  - (b) if the normal and emergency procedures for that aeroplane are of a kind that the cabin crew member has not previously received training for—training in the normal and emergency procedures.

## Division 121.P.6—Recurrent training and checking

### 121.725 Annual training and holding valid annual training check

- (1) An aeroplane operator's annual training for a cabin crew member for that aeroplane type must meet the requirements prescribed by the Part 121 Manual of Standards.
- (2) An operator's annual training check for a cabin crew member for an aeroplane type must check the competence of the cabin crew member in relation to the requirements mentioned in subregulation (1) for the aeroplane type.
- (3) A cabin crew member holds a valid annual training check for the operator of an aeroplane and the aeroplane type at a particular time if:
  - (a) the member successfully completes the check mentioned in subregulation (2) in relation to the operator and the aeroplane type; and
  - (b) the time is within the period for which the check is valid in accordance with subregulations (4) and (5).
- (4) Subject to subregulation (5), an annual training check is valid for the period:
  - (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (5) If:
  - (a) a person's annual training check (the **existing check**) for the operator of an aeroplane and an aeroplane type is valid in accordance with subregulation (4); and
  - (b) the person successfully completes another annual training check (the **new check**) for that operator and aeroplane type in accordance with paragraph (3)(a) less than 3 months before the day the existing check is due to expire;
 

the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.

### 121.730 Holding valid line check

- (1) A line check for a cabin crew member for an operator of an aeroplane must check the competence of the cabin crew member in the following for a normal line flight operation of an aeroplane operated by the operator:
  - (a) complying with the operator's standard operating procedures during all phases of flight;
  - (b) knowledge of how to manage the following:
    - (i) passengers with reduced mobility;
    - (ii) restricted persons;
    - (iii) unruly passengers;

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- (c) any other procedures in the operator's exposition that are relevant to the flight.
- (2) A cabin crew member holds a valid line check for the operator of an aeroplane at a particular time if:
  - (a) the member has successfully completed the check mentioned in subregulation (1) for the operator and an aeroplane operated by the operator; and
  - (b) the time is within the period for which the check is valid in accordance with subregulations (3) and (4).
- (3) Subject to subregulation (4), a line check is valid for the period:
  - (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (4) If:
  - (a) a person's line check (the *existing check*) for the operator of an aeroplane is valid in accordance with subregulation (3); and
  - (b) the person successfully completes another line check (the *new check*) for that operator and an aeroplane operated by the operator in accordance with paragraph (2)(a) less than 3 months before the day the existing check is due to expire;the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.

### 121.735 Three yearly training and holding valid 3 yearly training check

- (1) Three yearly training for a cabin crew member for the operator of an aeroplane and the aeroplane type must meet the requirements prescribed by the Part 121 Manual of Standards.
- (2) A 3 yearly training check for a cabin crew member for an operator of an aeroplane and the aeroplane type must check the competence of the crew member in relation to the requirements mentioned in subregulation (1) in relation to the aeroplane type.
- (3) A cabin crew member holds a valid 3 yearly training check for the operator of an aeroplane and the aeroplane type at a particular time if:
  - (a) the member has successfully completed a check mentioned in subregulation (2) for the operator and the aeroplane type; and
  - (b) the time is within the period for which the check is valid in accordance with subregulations (4) and (5).
- (4) Subject to subregulation (5), a 3 yearly training check is valid for the period:
  - (a) beginning on the day the check is completed; and
  - (b) ending at the end of the 3 year period beginning at the end of the month in which the check is completed.

(5) If:

- (a) a person's 3 yearly training check (the ***existing check***) for the operator of an aeroplane and an aeroplane type is valid in accordance with subregulation (4); and
- (b) the person successfully completes another 3 yearly training check (the ***new check***) for that operator and aeroplane type in accordance with paragraph (3)(a) less than 3 months before the day the existing check is due to expire;

the new check is valid for the period of 3 years beginning at the end of the day the existing check expires.

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## Division 121.P.7—When cabin crew are carried but not required

### 121.740 Competence

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

Penalty: 50 penalty units.

### 121.745 Minimum age

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a cabin crew member for the flight has not turned 18.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 121.750 Annual emergency and safety equipment check

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a cabin crew member for the flight does not hold a valid annual emergency and safety equipment check under subregulation (2) for the operator and the aeroplane.
- (2) A cabin crew member holds a valid annual emergency and safety equipment check for the operator of an aeroplane and the aeroplane if:
  - (a) the flight crew member has successfully completed training and assessment in:
    - (i) the operation and use of emergency and safety equipment on an aeroplane of that aeroplane type that is relevant to the cabin crew member's duties; and
    - (ii) emergency evacuation procedures for an aeroplane of that aeroplane type; and
  - (b) the check is valid in accordance with subregulations (3) and (4).
- (3) Subject to subregulation (4), an annual emergency and safety equipment check is valid for the period:
  - (a) beginning on the day the check is completed; and

- (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (4) If:
- (a) a person's annual emergency and safety equipment check (the *existing check*) for the operator of an aeroplane and the aeroplane is valid in accordance with subregulation (3); and
  - (b) the person successfully completes another annual emergency and safety equipment check (the *new check*) for that operator and aeroplane in accordance with paragraph (2)(a) less than 3 months before the day the existing check is due to expire;
- the new check is valid for the period of 12 months beginning at the end of the day the existing check expires.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 121.V—Emergency evacuation procedures**

### **121.755 Emergency evacuation procedures**

- (1) The Part 121 Manual of Standards may prescribe requirements relating to emergency evacuation procedures, including the demonstration of such procedures.
- (2) The operator of an aeroplane contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) Subregulation (2) does not apply to an operator and a requirement if the operator holds an approval under regulation 121.010 in relation to the requirement.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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



## **Subpart 121.Z—Certain single-engine aeroplanes**

### **121.760 Application of Part 135 to certain operations**

*Application of this regulation*

- (1) This regulation applies in relation to the operation of an aeroplane for:
  - (a) an IFR flight; and
  - (b) a VFR flight by day.

*Part 135*

- (2) Part 135, other than paragraph 135.380(2)(a) (which requires the composition of the flight crew to comply with the aeroplane's flight manual), applies to the operation of an aeroplane as if the operation were an operation to which Part 135 applies.
- (3) However, a provision of Part 135 does not apply to the operation of an aeroplane to the extent that the provision is inconsistent with another provision of this Subpart.

### **121.765 At least 2 pilots required for certain IFR flights**

- (1) The operator of an aeroplane for an IFR flight contravenes this subregulation if, when the flight begins:
  - (a) the aeroplane is carrying more than 9 passengers; and
  - (b) the aeroplane's flight crew does not include at least 2 pilots.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **121.770 Trend monitoring systems required for certain VFR flights by day**

*Engine automatic electronic condition trend monitoring system*

- (1) The operator of an aeroplane for a VFR flight by day contravenes this subregulation if, when the flight begins:
  - (a) the aeroplane is carrying more than 9 passengers; and
  - (b) the aeroplane is not fitted with an automatic electronic condition trend monitoring system for the engine.

*Offence*

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

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Penalty: 50 penalty units.

**121.775 Terrain awareness and warning system**

*Turbine-engine aeroplanes*

- (1) The operator of a turbine-engine aeroplane for a flight contravenes this subregulation if, when the flight begins, the aeroplane is not fitted with a TAWS-Class A.

*Piston-engine aeroplanes*

- (2) The operator of a piston-engine aeroplane for a flight contravenes this subregulation if, when the flight begins, the aeroplane is not fitted with either a TAWS-Class A or a TAWS-Class B.

*Offence*

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

Penalty: 50 penalty units.

**121.780 Aircraft not to be flown under the VFR at night**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if the flight is a VFR flight at night.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

# **Part 129—Foreign air transport operators—certification and operating requirements**

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## **Subpart 129.A—Foreign air transport operations—general**

### **129.005 What Part 129 is about**

This Part makes provision for:

- (a) applicants for, and holders of, AOCs that authorise the operation of aircraft for foreign air transport operations; and
- (b) operating requirements for aircraft engaged in foreign air transport operations.

Note 1: Part 92 (Consignment and carriage of dangerous goods by air) applies to all foreign aircraft (other than state aircraft) operating in Australian territory: see paragraph 92.005(1)(b).

Note 2: See also Division 2 of Part III of the Act in relation to AOCs generally.

### **129.020 Approvals by CASA for Part 129**

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

### **129.025 Prescribed purpose—foreign air transport operations**

For subsection 27(9) of the Act, the flying or operation of any aircraft for a foreign air transport operation is a prescribed purpose.

### **129.030 Foreign air transport operations—foreign air transport AOC required**

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

Penalty: 50 penalty units.

### **129.035 Foreign air transport operations—compliance with foreign air transport AOCs**

- (1) A person contravenes this subregulation if:
  - (a) the person conducts a foreign air transport operation; and
  - (b) the person:

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

Penalty: 50 penalty units.

**129.040 Foreign air transport operations—compliance with conditions of foreign air transport AOCs**

- (1) A foreign air transport operator contravenes this subregulation if the operator does not comply with a condition of its foreign air transport AOC.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Subpart 129.B—Foreign air transport AOCs

### 129.045 Foreign air transport AOC—information and documents that may be required

For subparagraph 27AC(1)(c)(iii) of the Act, the information and documents that CASA may require from a foreign operator who is an applicant for a foreign air transport AOC are the following:

- (a) any business name, other than the name stated in the operator's foreign certificate, under which the operator may operate;
- (b) the operator's contact details in the country that issued the foreign certificate, including its mailing address;
- (c) the operator's contact details in Australia, including its mailing address;
- (d) the aircraft types that the operator proposes to use;
- (e) the registration and serial numbers of each aircraft that the operator proposes to use;
- (f) a minimum equipment list, or equivalent document, for each aircraft that the operator proposes to use;
- (g) the aerodromes, areas of operation and routes that the operator proposes to use;
- (h) if the operator is not an individual—the operator's certificate of incorporation or registration as a body corporate, or equivalent document;
- (i) any of the following manuals or equivalent documents:
  - (i) the operator's continuing airworthiness management manual;
  - (ii) the operator's operations manual;
  - (iii) the operator's training and checking manual;
  - (iv) the operator's dangerous goods manual.

Note: Under other provisions of section 27AC, and also section 27AE, of the Act, CASA may request other information and documents from an applicant for a foreign air transport AOC.

### 129.050 Foreign air transport AOC—manner of giving CASA information etc.

If, under section 27AB, 27AC or 27AE of the Act, an applicant for a foreign air transport AOC is required to lodge, or give CASA, a manual, information or a document, the operator must lodge, or give CASA, the manual, information or document in English.

### 129.055 Foreign air transport AOC—conditions for issue

- (1) It is a condition for the issue of a foreign air transport AOC to a foreign operator that CASA is satisfied of the following:
  - (a) the operator holds a foreign certificate that authorises the operator to conduct each operation covered by the application;

- (b) the national aviation authority that issued the foreign certificate meets the requirement mentioned in subregulation (2);
- (c) for each aircraft to be operated under the AOC, the operator holds a certificate of airworthiness issued in accordance with Annex 8, *Airworthiness of Aircraft*, to the Chicago Convention;
- (d) for each foreign registered aircraft to be operated under the AOC, the operator will ensure the continuing airworthiness of the aircraft in accordance with the standards set out in the relevant Part of Annex 6, *Operation of Aircraft*, to the Chicago Convention;
- (e) for each registered aircraft to be operated under the AOC, the operator will ensure the continuing airworthiness of the aircraft in accordance with the requirements of these Regulations that apply to the aircraft;
- (f) the operator has a safety management system that meets the standards set out in Annex 19, *Safety Management*, to the Chicago Convention.

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

- (2) For paragraph (1)(b), the requirement is that:
  - (a) the authority is the national aviation authority of a Contracting State and carries out its functions in respect of foreign air transport operations in accordance with the Chicago Convention; or
  - (b) the authority is not the national aviation authority of a Contracting State but carries out functions that are at least equivalent to the functions mentioned in paragraph (a).

### **129.060 Foreign air transport AOC—conditions**

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

- (a) the operator must conduct the operations authorised by the AOC:
  - (i) using only the aircraft types that are authorised for use by the AOC; and
  - (ii) if the AOC limits the operations to particular aircraft—using only those aircraft; and
  - (iii) using only the aerodromes, areas of operation and routes authorised by the AOC;
- (b) the operator must not use an aircraft to conduct a low-visibility operation or a land and hold short operation in Australian territory unless the AOC authorises the use of the aircraft for the operation;
- (c) the operator must not conduct an operation authorised by the AOC unless the operation is also authorised by:
  - (i) the operator's foreign certificate and the operations specifications issued in relation to the foreign certificate; or
  - (ii) an operational authorisation mentioned in paragraph 27AE(1)(c) of the Act that applies to the operation;
- (d) the operator must not conduct an operation authorised by the AOC in contravention of any of the following that applies to the operation:

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- (i) a limitation or condition mentioned in paragraph 27AE(1)(b) of the Act;
- (ii) a requirement mentioned in paragraph 27AE(1)(c) of the Act;
- (e) for each foreign registered aircraft to be operated under the AOC, the operator must ensure the continuing airworthiness of the aircraft in accordance with the standards set out in the relevant Part of Annex 6, *Operation of Aircraft*, to the Chicago Convention;
- (f) for each registered aircraft to be operated under the AOC, the operator must ensure the continuing airworthiness of the aircraft in accordance with the requirements of these Regulations that apply to the aircraft;
- (g) the operator must have a safety management system that meets the standards set out in Annex 19, *Safety Management*, to the Chicago Convention.

### **129.065 Foreign air transport AOC—requirement to give notice of certain events**

- (1) This regulation applies to a foreign air transport operator if an event mentioned in subregulation (2) happens in relation to:
  - (a) the operator's foreign certificate; or
  - (b) an operations specification issued in relation to the certificate; or
  - (c) an operational authorisation mentioned in paragraph 27AE(1)(c) of the Act that applies to an operation conducted under the operator's foreign certificate.
- (2) For subregulation (1), the events are the following:
  - (a) the foreign certificate, operations specification or operational authorisation expires and is not renewed;
  - (b) the operator is notified by the national aviation authority that issued the certificate, specification or authorisation that action may be taken to vary, suspend or cancel the certificate, specification or authorisation;
  - (c) the certificate, specification or authorisation is varied, suspended or cancelled;
  - (d) a new operations specification or operational authorisation that applies to an operation conducted under the operator's foreign certificate is issued to the operator.
- (3) The foreign air transport operator contravenes this subregulation if the operator does not tell CASA, in writing, that the event has happened within 7 days after the day the event happens.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.



## **Subpart 129.C—Foreign air transport operations— operating requirements**

### **129.070 Foreign air transport operations—compliance with certain Part 91 provisions**

Note: This regulation is reserved for future use.

### **129.075 Foreign air transport operations—compliance with Annex 6**

#### *Aeroplanes*

- (1) The operator of an aeroplane contravenes this subregulation if:
  - (a) the operator operates the aeroplane for a foreign air transport operation;  
and
  - (b) the operation is conducted in a way that contravenes a standard set out in Part I of Annex 6, *Operation of Aircraft*, to the Chicago Convention.

#### *Helicopters*

- (2) The operator of a helicopter contravenes this subregulation if:
  - (a) the operator operates the helicopter for a foreign air transport operation;  
and
  - (b) the operation is conducted in a way that contravenes a standard set out in Part III of Annex 6, *Operation of Aircraft*, to the Chicago Convention.

#### *Compliance with more stringent requirements under this Part*

- (3) To avoid doubt, if a provision of this Part imposes a more stringent requirement than the comparable requirement of a standard mentioned in paragraph (1)(b) or (2)(b), the operator must comply with the more stringent requirement.

#### *Offence*

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

Penalty: 50 penalty units.

### **129.080 Foreign air transport operations—common language for crew**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if all crew members for the flight are not able to communicate orally with each other in a common language.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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**129.085 Foreign air transport operations—flights to be in accordance with IFR or approval**

- (1) The operator and the pilot in command of an aircraft engaged in a flight that is a foreign air transport operation each contravene this subregulation if the operation of the aircraft does not meet the requirement mentioned in subregulation (2).
- (2) For subregulation (1), the requirement is that the aircraft must be operated in accordance with:
  - (a) the IFR; or
  - (b) an approval under regulation 129.020 held by the operator for the aircraft to be operated otherwise than in accordance with the IFR.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**129.090 Foreign air transport operations—flight crew licences**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if a flight crew member for the flight does not hold a licence (however described) that:
  - (a) authorises the flight crew member to carry out the duties assigned to the member for the flight by the operator; and
  - (b) is issued or authorised by the national aviation authority of the aircraft's State of registry.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**129.095 Foreign air transport operations—air displays**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if the aircraft is flown in an air display.
- (2) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if:
  - (a) the aircraft is flown below 1 000 ft AGL at an aerodrome at which an air display is being conducted; and
  - (b) the requirement mentioned in subregulation (3) is not met.
- (3) For paragraph (2)(b), the requirement is that:
  - (a) the operator must hold an approval under regulation 129.020 for the aircraft to be flown below 1 000 ft AGL while the air display is being conducted; or
  - (b) the aircraft must be taking off or landing for a flight that is not part of the air display.

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

Penalty: 50 penalty units.

### **129.100 Foreign air transport operations—low-visibility operations**

Note: This regulation is reserved for future use.

### **129.105 Foreign air transport operations—flying in formation**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if, during the flight:
- (a) the aircraft is flown in formation; and
  - (b) the operator does not hold an approval under regulation 129.020 for the aircraft to be flown in formation during the flight.

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

Penalty: 50 penalty units.

### **129.110 Foreign air transport operations—simulated IMC prohibited**

- (1) The pilot in command of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if IMC are simulated during the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **129.115 Foreign air transport operations—simulated emergency and abnormal procedures prohibited**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if an emergency procedure is simulated during the flight.
- (2) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if an abnormal procedure is simulated during the flight.
- (3) Subregulations (1) and (2) do not apply to a procedure that is simulated only orally.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

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

### **129.120 Foreign air transport operations—aerobatic manoeuvres prohibited**

- (1) The operator of an aircraft engaged in a flight that is a foreign air transport operation contravenes this subregulation if, during the flight, the aircraft is used to conduct an aerobatic manoeuvre.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **129.125 Foreign air transport operations—maximum period for use of Australian aircraft in Australian territory**

- (1) A foreign air transport operator contravenes this subregulation if, within any 12 month period, the operator uses a particular Australian aircraft to conduct foreign air transport operations on a total number of days that is more than:
  - (a) 90; or
  - (b) if the operator holds an approval under regulation 129.020 for this regulation in relation to the aircraft—the number mentioned in the approval for the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 129.M—Foreign air transport operations— airworthiness**

### **129.200 Foreign air transport operations—certificates of airworthiness**

*Aircraft must have certificate of airworthiness*

- (1) The operator of an aircraft contravenes this subregulation if:
  - (a) the aircraft begins a flight that is a foreign air transport operation; and
  - (b) the aircraft does not have a certificate of airworthiness (however described) that has been issued in accordance with Annex 8, *Airworthiness of Aircraft*, to the Chicago Convention.

*Certificate of airworthiness must remain in force during flight*

- (2) The operator of an aircraft contravenes this subregulation if:
  - (a) the aircraft is engaged in a flight that is a foreign air transport operation; and
  - (b) the certificate of airworthiness (however described) for the aircraft ceases to be in force before the end of the flight.

*Offence*

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

Penalty: 50 penalty units.

### **129.205 Foreign air transport operations—continuing airworthiness**

- (1) The operator of an aircraft contravenes this subregulation if:
  - (a) the aircraft begins a flight that is a foreign air transport operation; and
  - (b) if the aircraft is a foreign registered aircraft—the operator has not ensured the continuing airworthiness of the aircraft in accordance with the standards set out in the relevant Part of Annex 6, *Operation of Aircraft*, to the Chicago Convention; and
  - (c) if the aircraft is a registered aircraft—the operator has not ensured the continuing airworthiness of the aircraft in accordance with the requirements of these Regulations that apply to the aircraft.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## **Subpart 129.N—Foreign air transport operations—flight crew**

### **129.250 Foreign air transport operations—flight crew experience for aircraft covered by overseas rating**

- (1) The operator of an aircraft contravenes this subregulation if:
  - (a) the aircraft begins a flight that is a foreign air transport operation; and
  - (b) the aircraft is covered by a type rating under the law of the foreign country the national aviation authority of which issued the operator's foreign certificate; and
  - (c) none of the pilots occupying a pilot seat for the flight has the experience required by subregulation (2) in relation to aircraft covered by the type rating.
- (2) For paragraph (1)(c), a pilot has the experience required in relation to aircraft covered by a type rating if:
  - (a) the pilot:
    - (i) holds an overseas rating issued under the law of the foreign country that covers the aircraft; or
    - (ii) has successfully completed a command course for an aircraft covered by the type rating; and
  - (b) the pilot has successfully completed, after the grant of the rating or completion of the course, the flying experience mentioned in subregulation (3).
- (3) For paragraph (2)(b), the flying experience must be the more stringent of the following:
  - (a) the flying experience mentioned in subregulation (4);
  - (b) the flying experience (if any) required under the law of the foreign country.
- (4) For paragraph (3)(a), the flying experience:
  - (a) must be the number of hours and sectors mentioned in subregulation (5) in that type of aircraft; and
  - (b) must be completed as part of line operations; and
  - (c) may include experience while the pilot is flying under supervision.
- (5) For paragraph (4)(a), the number of hours and sectors is:
  - (a) either of the following:
    - (i) at least 100 hours and 10 sectors in a 120-day period;
    - (ii) at least 150 hours and 20 sectors; or
  - (b) if the aircraft operator by whom the pilot is employed holds an approval under regulation 129.020 for this paragraph that applies to the pilot—at least the applicable number of hours and sectors for the pilot stated in the approval.

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- (6) CASA may grant the approval mentioned in paragraph (5)(b) only if satisfied that there are special circumstances in relation to the operator's operation that justify the grant of the approval.
- (7) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**129.255 Foreign air transport operations—co-pilot**

- (1) The operator of an aircraft contravenes this subregulation if:
  - (a) the aircraft begins a flight that is a foreign air transport operation; and
  - (b) the operator is not satisfied that the co-pilot could land the aircraft safely if the pilot in command is incapacitated.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Part 131—Balloons and hot air airships

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## Subpart 131.A—Preliminary

### 131.005 Application of Part 131

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

### 131.010 Definition of *balloon transport operation*

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

- (a) a passenger transport operation conducted using a Part 131 aircraft that is a registered aircraft or a foreign registered aircraft; and
- (b) conducted for hire or reward; and
- (c) undertaken wholly within Australia; and
- (d) not undertaken as part of a flight into or out of Australian territory.

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

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

### 131.020 Definition of *specialised balloon operation*

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

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

- (v) an activity prescribed by the Part 131 Manual of Standards for the purposes of this subparagraph.

### **131.025 Definition of *Part 131 recreational activity***

- (1) A ***Part 131 recreational activity*** means operating a Part 131 aircraft other than for one of the following:
    - (a) a balloon transport operation;
    - (b) a specialised balloon operation;
    - (c) balloon flying training (within the meaning of subregulation 5.01(1) of CAR) for the grant of a balloon flight crew licence (within the meaning of that subregulation) or a balloon flight crew rating (within the meaning of that subregulation).
- Note: Balloon flying training for any of these purposes is a prescribed purpose under paragraph 206(a) of CAR which means an AOC is required to conduct this training. Balloon flying training conducted for other purposes is a Part 131 recreational activity.
- (2) Despite subsection (1), a ***Part 131 recreational activity*** does not include operating a Part 131 aircraft in any circumstances prescribed by the Part 131 Manual of Standards for the purposes of this subregulation.

### **131.030 Definition of *significant change***

A ***significant change***, for a balloon transport operator, means:

- (a) a change in relation to any of the following:
  - (i) the location and operation of the operator's main operating bases, including the opening or closing of main operating bases;
  - (ii) the operator's key personnel;
  - (iii) a person authorised to carry out the responsibilities of any of the key personnel if the position holder is absent from the position or cannot carry out the responsibilities of the position;
  - (iv) the formal reporting lines for a managerial or operational position with safety functions and responsibilities that reports directly to any of the key personnel;
  - (v) the operator's process for making changes that relate to the safe conduct and management of the operator's balloon transport operations;
  - (vi) the kinds of balloon transport operations the operator is authorised to conduct under the operator's balloon transport AOC;
  - (vii) the operator's areas of operation, including beginning to operate in a new area;
  - (viii) the classes of Part 131 aircraft used in the operator's balloon transport operations, including the addition of a new class; or
- (b) a change in relation to any of the following that does not maintain or improve, or is not likely to maintain or improve, aviation safety:

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- (i) the plans, processes, procedures, programs and systems for the safe conduct and management of the operator's balloon transport operations;
  - (ii) the qualifications, experience and responsibilities required by the operator for any of the operator's key personnel;
  - (iii) any other aeronautical or aviation safety related services provided to the operator by third parties;
  - (iv) any change to the registration of a Part 131 aircraft used in the operator's balloon transport operations;
  - (v) any leasing or other arrangements for the supply of a Part 131 aircraft used in the operator's balloon transport operations; or
- (c) a change required to be approved by CASA under these Regulations, other than a change that results in the reissue or replacement of an instrument previously issued by CASA in which the conditions or other substantive content of the instrument are unchanged.

### **131.035 Approvals by CASA for Part 131**

- (1) If a provision of this Part, or of the Part 131 Manual of Standards, refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for paragraph 131.145(2)(a).

### **131.040 Prescribed purpose—balloon transport operations**

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

### **131.045 Prescribed position—safety manager**

Note: This regulation heading is reserved for future use.

### **131.050 Required material—reference library**

- (1) For the purposes of paragraph 28BH(2)(b) of the Act, the following material is required for a balloon transport operator:
  - (a) the civil aviation legislation that is relevant to the operator's balloon transport operations;
  - (b) the parts of the AIP that are relevant to the operations;
  - (c) all information about the flight operations of each class of Part 131 aircraft operated by the operator for the operations that is necessary to ensure the safe conduct of the operations;
  - (d) any other publications, information or data required for the reference library by the operator's exposition.

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- (2) To avoid doubt, if material is required under subregulation (1), the requirement is taken to be satisfied if an electronic copy of the material is readily available.

**131.055 Issue of Manual of Standards for Part 131**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 131 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

## **Subpart 131.B—Operator certification and management**

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

#### **131.060 Balloon transport AOC required to conduct balloon transport operations**

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

Penalty: 50 penalty units.

#### **131.065 Compliance with balloon transport AOC**

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

Penalty: 50 penalty units.

#### **131.070 Compliance with conditions of balloon transport AOC**

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

Penalty: 50 penalty units.



## **Division 131.B.2—Balloon transport AOCs**

### **131.075 Application for balloon transport AOC**

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

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

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

### **131.080 Conditions for issue of balloon transport AOC**

- (1) It is a condition for the issue to the applicant of a balloon transport AOC that CASA is satisfied of each of the following:
  - (a) the applicant's proposed exposition complies with regulation 131.195;
  - (b) the applicant can conduct balloon transport operations safely and in accordance with its exposition and the civil aviation legislation;
  - (c) if the applicant is an individual—the applicant:
    - (i) is a fit and proper person to be issued a balloon transport AOC; and

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- (ii) is, or proposes to be, the chief executive officer of the organisation established, or proposed to be established, by the applicant to conduct the applicant's proposed balloon transport operations;
- (d) if the applicant is a corporation—each director of the corporation is a fit and proper person to be a director of a corporation that is issued a balloon transport AOC;
- (e) each of the applicant's proposed key personnel:
  - (i) is a fit and proper person to be appointed to the position; and
  - (ii) has the qualifications and experience required under Division 131.B.4 for the position; and
  - (iii) has the additional qualifications and experience required by CASA under regulation 131.175 for the position (if any); and
  - (iv) has the qualifications and experience required by the applicant under subparagraph 131.195(1)(e)(i) for the position (if any);
- (f) the applicant's arrangements for managing the continuing airworthiness of each class of Part 131 aircraft the applicant proposes to operate in its balloon transport operations comply with Part 4 of CAR.

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

- (2) For the purposes of paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:
  - (a) the applicant's proposed exposition;
  - (b) whether the applicant can comply with the proposed exposition;
  - (c) the content of the undertaking mentioned in paragraph 131.075(2)(h);
  - (d) details of, and reasons for, any suspension or cancellation of:
    - (i) a civil aviation authorisation issued to the applicant; or
    - (ii) an equivalent authorisation issued to the applicant under the law of a foreign country or by a multinational aviation authority;
  - (e) the suitability of the applicant's corporate and organisational structures for the operations;
  - (f) any other information:
    - (i) accompanying the application; or
    - (ii) in any other document given to CASA by the applicant for the application, including any document requested by CASA in relation to the application.
- (3) For the purposes of paragraphs (1)(c) to (e), the matters CASA may consider in deciding whether a person is a fit and proper person include the following:
  - (a) the person's criminal record (if any), whether in Australia or a foreign country;
  - (b) the person's bankruptcy (if any), whether in Australia or a foreign country;
  - (c) the person's history (if any) of serious behavioural problems;
  - (d) any information held or obtained by CASA that the person has contravened:
    - (i) the civil aviation legislation; or

- (ii) another law, whether in Australia or a foreign country, relating to transport (including aviation) safety or safety in any other safety-critical industry;
- (e) the person's demonstrated attitude towards compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety;
- (f) the record of compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety of any corporation or other body in which the person:
  - (i) is or was a director or partner (however described); or
  - (ii) holds or held a position equivalent to any of the applicant's key personnel;
- (g) for any corporation in which the person is or was a director, or holds or held a position equivalent to any of the applicant's key personnel, in Australia or a foreign country—the following records:
  - (i) the corporation's criminal record (if any);
  - (ii) the corporation's record of insolvency, receivership or winding up (if any);
  - (iii) the corporation's record (if any) as a body subject to investigation or comment by a statutory authority that regulates the share dealings by, or financial affairs of, corporations;
- (h) any other matter relating to the fitness of the person to:
  - (i) for an applicant—hold a balloon transport AOC; or
  - (ii) for a director or proposed director—be a director of a corporation that holds a balloon transport AOC.

### **131.085 Approval of exposition**

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

### **131.090 Conditions of balloon transport AOCs**

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

- (a) the operator must comply with each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations;
- (b) each of the operator's key personnel must comply with:
  - (i) each provision of this Part that applies to the person; and
  - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
  - (iii) each other provision of the civil aviation legislation that applies to the operator's operations under the AOC;
- (c) each of the positions of the operator's key personnel must be filled;

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

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

### **131.095 Changes of name etc.**

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

Penalty: 50 penalty units.

### **131.100 Application for approval of significant changes**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change other than a significant change mentioned in subregulation (2); and
  - (b) CASA has not approved the significant change.
- (2) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change that is the permanent appointment, or the acting appointment (for a period of greater than 35 days), as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 131.195(1)(e)(iv); and
  - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (3), within 7 days after the change is made.
- (3) An application for approval of a significant change must:
  - (a) be in writing; and
  - (b) set out the change; and
  - (c) be accompanied by a copy of the part of the operator's exposition affected by the change, clearly identifying the change.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

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Penalty: 50 penalty units.

### **131.105 Approval of significant changes**

- (1) CASA may approve a significant change for a balloon transport operator only if satisfied that the requirements mentioned in section 28 of the Act and subregulation 131.080(1) will continue to be met.
- (2) If CASA approves the significant change, CASA is taken to have also approved the changes to the operator's exposition covered by the application for the change.

### **131.110 Changes must be made in accordance with process in exposition**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a change; and
  - (b) the change is not made in accordance with the process included in the operator's exposition in accordance with paragraph 131.195(1)(m).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.115 CASA directions relating to exposition or key personnel**

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

- (b) the operator does not comply with the direction within the period stated in the notice.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

## **Division 131.B.4—Organisation and personnel**

### **131.120 Organisation and personnel**

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

Penalty: 50 penalty units.

### **131.125 Key personnel cannot carry out responsibilities**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator becomes aware that any of its key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 35 days; and
  - (b) the operator does not tell CASA of that fact within the time mentioned in subregulation (2).
- (2) For the purposes of paragraph (1)(b), the time is:
  - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—24 hours after the operator becomes aware of the matter; and
  - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—3 days after the operator becomes aware of the matter.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.130 Familiarisation training for key personnel**

A balloon transport operator must ensure that, before a person appointed as any of the operator's key personnel begins to carry out the responsibilities of the position, the person has completed any training that is necessary to familiarise the person with the responsibilities.

### **131.135 Chief executive officer—experience**

- (1) The chief executive officer of a balloon transport operator must have the experience required under subregulation (2).



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

### **131.140 Chief executive officer—responsibilities and accountabilities**

- (1) The chief executive officer of a balloon transport operator's organisation is responsible for the following:
  - (a) ensuring that, for the safe conduct of the operator's balloon transport operations in accordance with the operator's balloon transport AOC and exposition and the civil aviation legislation, the operator:
    - (i) has sufficient suitably experienced, qualified and competent personnel; and
    - (ii) has a suitable management structure; and
    - (iii) is adequately financed and resourced;
  - (b) ensuring that the operator:
    - (i) complies with the civil aviation legislation; and
    - (ii) implements and manages the operator's safety management system (if any); and
    - (iii) has procedures that ensure that all of the operator's personnel understand the operator's safety policy; and
    - (iv) sets and maintains standards for flight and ground operations; and
    - (v) tells CASA if the operator becomes aware that a leasing, financing or other arrangement for the supply of a Part 131 aircraft that the operator operates under the operator's balloon transport AOC may affect the operator's safe conduct of the operator's balloon transport operations; and
    - (vi) for each Part 131 aircraft that is a registered foreign aircraft (if any) used in the operator's balloon transport operations—maintains the aircraft in accordance with the law of the country in which the aircraft is registered;
  - (c) establishing and regularly reviewing the operator's safety performance indicators and targets (if any);
  - (d) ensuring that the operator's exposition is monitored and managed for continuous improvement;

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- (e) ensuring that training and checking of the operator's operational safety-critical personnel (other than flight crew) conducted by or for the operator are conducted in accordance with the operator's exposition;
  - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with the operator's exposition and the civil aviation legislation.
- (2) The chief executive officer of a balloon transport operator's organisation is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

### **131.145 Head of flying operations—qualifications and experience**

- (1) The head of flying operations of a balloon transport operator must:
- (a) hold a commercial pilot (balloon) licence endorsed for the classes of Part 131 aircraft to be used in the operator's balloon transport operations; and
  - (b) have the experience required under subregulation (2); and
  - (c) have a satisfactory record in the conduct or management of balloon transport operations; and
  - (d) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's balloon transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The experience required is:
- (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—both of the following:
    - (i) at least 250 hours flight time as the pilot in command of a Part 131 aircraft;
    - (ii) at least 2 years' experience in the conduct of Part 131 aircraft operations.
- (3) CASA may, by written notice given to the head of flying operations, or proposed head of flying operations, of a balloon transport operator, direct the person to undertake an assessment mentioned in subregulation (4).
- (4) The assessment:
- (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the head of flying operation's or proposed head of flying operation's suitability as head of flying operations for the operator; and
  - (b) may include a free flight assessment in a Part 131 aircraft.

### **131.150 Head of flying operations—responsibilities**

- (1) The head of flying operations of a balloon transport operator must safely manage the flying operations of the operator.

- (2) Without limiting subregulation (1), the responsibilities of the head of flying operations include the following:
- (a) monitoring and maintaining, and reporting to the chief executive officer on, the operator's compliance with the provisions of the civil aviation legislation and the operator's exposition that apply to flying operations;
  - (b) ensuring that the operator's flight crew members are provided with the information and documentation necessary to properly carry out their responsibilities;
  - (c) ensuring the proper allocation and deployment of the operator's Part 131 aircraft, and the operator's personnel, for use in the operator's balloon transport operations;
  - (d) ensuring that the operator complies with section 28BH (Reference library) of the Act in relation to flight crew members;
  - (e) ensuring that training and checking of flight crew conducted by or for the operator is conducted in accordance with the operator's exposition;
  - (f) if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct training or checking for the operator's flight crew:
    - (i) ensuring that each person who conducts the training or checking for the Part 142 operator is authorised under these Regulations to conduct the activities involved in the training or checking; and
    - (ii) telling the Part 142 operator, in writing, of any change in the balloon transport operator's exposition relating to the training and checking activities the Part 142 operator conducts under the contract.

### **131.155 Head of training and checking—qualifications and experience**

Note: This regulation heading is reserved for future use.

### **131.160 Head of training and checking—responsibilities**

Note: This regulation heading is reserved for future use.

### **131.165 Safety manager—experience**

Note: This regulation heading is reserved for future use.

### **131.170 Safety manager—responsibilities**

Note: This regulation heading is reserved for future use.

### **131.175 Key personnel—additional qualification and experience requirements**

- (1) This regulation applies to:
- (a) an applicant for a balloon transport AOC; and
  - (b) a balloon transport operator.
- (2) CASA may, by written notice given to the applicant or operator, direct that any of the key personnel of the applicant or operator must have stated additional qualifications or experience to those otherwise required under this Part.

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

## **Division 131.B.5—Systems**

### **131.180 Safety management system requirements**

Note: This regulation heading is reserved for future use.

### **131.185 Training and checking system**

Note: This regulation heading is reserved for future use.

### **131.190 Fatigue management system**

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

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

### **131.195 Content of exposition**

- (1) An exposition for a balloon transport operator must include the following:
  - (a) the operator's name (including any operating or trading name), contact details and ABN (if any);
  - (b) the address of:
    - (i) the operator's operational headquarters; and
    - (ii) each of the operator's main operating bases; and
    - (iii) each of the operator's operational facilities;
  - (c) a description and diagram of the operator's organisational structure showing formal reporting lines, including the formal reporting lines for each of the key personnel;
  - (d) if the operator is a corporation—a description of the operator's corporate structure;
  - (e) for each of the key personnel, the following information:
    - (i) the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Division 131.B.4 for the position;
    - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in Division 131.B.4 for the position;
    - (iii) the name of the person appointed to the position;
    - (iv) the name of each person authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities;
    - (v) a description of how the operator will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
  - (f) each matter (if any) for which the chief executive officer is responsible and accountable in addition to the matters mentioned in regulation 131.140;
  - (g) an outline of the balloon transport operations conducted by the operator under the operator's balloon transport AOC including the areas of operation;
  - (h) details of each plan, process, procedure, program and system implemented by the operator to safely conduct and manage the operator's balloon transport operations in compliance with the civil aviation legislation;
  - (i) for each Part 131 aircraft registered in Australia—its class and model and registration mark;
  - (j) for each Part 131 aircraft that is a foreign registered aircraft—its class and model, nationality and registration mark;
  - (k) a description of the arrangements for managing the continuing airworthiness of the operator's Part 131 aircraft;

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- (l) a description of any leasing or other arrangements for the supply of Part 131 aircraft as the arrangements relate to the operational control or continuing airworthiness of the aircraft, or to any other safety matter;
- (m) a description of the operator's process for making changes, including:
  - (i) identifying changes that are significant changes; and
  - (ii) identifying changes that are not significant changes; and
  - (iii) telling CASA and the operator's personnel of the changes;
- (n) a description of anything else required to be approved by CASA under these Regulations in relation to the operations mentioned in paragraph (g);
- (o) any other matter required to be included in the exposition under these Regulations.

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

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

Penalty: 50 penalty units.

### **131.200 Compliance with exposition by operator**

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

Penalty: 50 penalty units.

### **131.205 Providing personnel with exposition**

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

Penalty: 50 penalty units.

### **131.210 Compliance with exposition by personnel**

- (1) A member of a balloon transport operator's personnel contravenes this subregulation if:

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

Penalty: 50 penalty units.



## **Division 131.B.7—Records and documents**

### **131.215 Personnel training and checking records—making records**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) a person who is a member of the operator’s personnel undertakes an activity, obtains a qualification or certificate or gains flying experience; and
  - (b) the activity, qualification, certificate or flying experience is mentioned for the person in subregulation (2); and
  - (c) the following records are not made within 21 days after the person undertakes the activity, obtains the qualification or certificate or gains the flying experience:
    - (i) when the activity was undertaken, the qualification or certificate obtained or the flying experience gained;
    - (ii) if the activity was training or a check, flight test, flight review or assessment of competency—whether the training, check, flight test, flight review or assessment was successfully completed.
- (2) The activities, qualifications, certificates and flying experience for the person are the following:
  - (a) for a flight crew member of the operator’s personnel:
    - (i) training, or a check, flight test, flight review or assessment of competency under Subpart 131.N; or
    - (ii) a qualification or certificate under Subpart 131.N; or
    - (iii) flying experience under Subpart 131.N; or
    - (iv) training or education in the operator’s safety management system (if any);
  - (b) for a member of the operator’s operational safety-critical personnel (other than a flight crew member)—training or education in the operator’s safety management system (if any);
  - (c) for a member of the operator’s personnel who performs ground support duties—any training;
  - (d) for a member of the operator’s personnel not mentioned in paragraph (a), (b) or (c)—training or education in the operator’s safety management system (if any).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.220 Personnel training and checking records—availability of records**

- (1) A balloon transport operator contravenes this subregulation if:
    - (a) the operator makes a record about a person under regulation 131.215; and
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- (b) the person requests that the record be made available to the person; and
  - (c) the operator does not make the record available to the person within 7 days after receiving the request.
- (2) A balloon transport operator contravenes this subregulation if:
- (a) a record is made under regulation 131.215; and
  - (b) the operator receives a request from another balloon transport operator for a copy of the record; and
  - (c) the operator holds a written authority from the person to whom the record relates to provide a copy of the person's records to another balloon transport operator if requested; and
  - (d) the operator does not give a copy of the record to the other balloon transport operator within 7 days after receiving the request.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 131.225 Copies of balloon flight crew licences and medical certificates

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

Penalty: 50 penalty units.

### 131.230 Retention periods for personnel records

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

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#### Retention periods—personnel records

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Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
1	A record required under regulation 131.215 for a flight crew	The period beginning when the record is created and ending 5 years after the member

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**Retention periods—personnel records**

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<b>Item</b>	<b>Column 1 Kind of record</b>	<b>Column 2 Minimum period for which the record must be kept</b>
	member	ceases to be a member of the operator's personnel
2	A record required under regulation 131.215 for a member of the operator's personnel who performs ground support duties	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
3	A copy of a flight crew member's balloon flight crew licence and medical certificate required by regulation 131.225	The period during which the member is exercising the privileges of the licence for the operator

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

Penalty: 50 penalty units.

## Division 131.B.8—Miscellaneous offences

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

#### *Requirement for approval*

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

#### *Acts in relation to cancelled authorisations*

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

#### *Acts in relation to suspended or varied authorisations*

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

(ii) is no longer authorised by the authorisation as suspended or varied.

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

*Pending applications for authorisations*

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

*Application for authorisation refused*

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

Penalty: 50 penalty units.

- (10) In this regulation:

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

***employ*** includes engage, whether by contract or other arrangement.

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

- (1) A balloon transport operator contravenes this subregulation if, in any 12 month period, the operator uses a Part 131 aircraft that is a foreign registered aircraft to

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conduct balloon transport operations for a total of more than the number of days mentioned in subregulation (2).

- (2) The number of days is:
- (a) 90; or
  - (b) if the operator holds an approval under regulation 131.035 in relation to the Part 131 aircraft—the number mentioned in the approval for the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 131.C—General**

### **Division 131.C.1—General flight limitations**

#### **131.245 Pilots must be authorised**

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

Penalty: 50 penalty units.

#### **131.250 Simulation of emergency or abnormal situations**

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

Penalty: 50 penalty units.

## **Division 131.C.2—Operational documents**

### **131.255 Compliance with flight manual**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight, the aircraft is operated in a way that does not meet a requirement or limitation that:
  - (a) is set out in the aircraft flight manual instructions for the aircraft; and
  - (b) relates to the operation of the aircraft.

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

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

Penalty: 50 penalty units.

### **131.260 Availability of checklists**

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

Penalty: 50 penalty units.



## **Division 131.C.3—Flight related documents**

### **131.265 Electronic documents**

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

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

### **131.270 Availability of parts of exposition**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if the following parts of the operator's exposition are not available to a crew member for the flight before the flight begins:
  - (a) a part that is relevant to the duties of the crew member for the flight;
  - (b) a part that is required for the conduct of the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.275 Carriage of documents**

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

Penalty: 50 penalty units.

### **131.280 Keeping documents with a person on the ground during flight**

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

## **Division 131.C.4—Reporting and recording information**

### **131.285 Reporting and recording information**

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the recording, retaining and reporting of information for a flight of a Part 131 aircraft, including (but not limited to) the following information:
  - (a) flight time;
  - (b) fuel usage;
  - (c) passenger lists;
  - (d) aircraft defects;
  - (e) flight incidents;
  - (f) weight documents.
- (2) Without limiting subregulation (1), the Part 131 Manual of Standards may prescribe different requirements:
  - (a) for Part 131 aircraft that are operated under a balloon transport AOC; and
  - (b) for Part 131 aircraft that are not operated under a balloon transport AOC.
- (3) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
  - (a) a requirement mentioned in subregulation (1) applies for the flight; and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence if the person contravenes subregulation (3).  
Penalty: 50 penalty units.

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

### **131.290 Information about search and rescue services**

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

Penalty: 50 penalty units.

### **131.295 Information about emergency and survival equipment**

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

Penalty: 50 penalty units.

## Division 131.C.6—Miscellaneous requirements

### 131.300 Competence of ground support personnel

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

Penalty: 50 penalty units.

### 131.305 Flights over populous areas, public gatherings and other areas

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

Penalty: 50 penalty units.

### 131.310 Dropping things from aircraft

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

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

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

Penalty: 50 penalty units.

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

### **131.315 Flights at night**

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

Penalty: 50 penalty units.

### **131.320 Use of supplemental oxygen equipment etc.**

- (1) The operator and pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
  - (a) during the flight, the aircraft is flown above 10,000 ft above mean sea level; and
  - (b) the operator does not hold an approval under regulation 131.035 to fly the aircraft above that height.
- (2) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The Part 131 Manual of Standards may prescribe requirements about the use, by persons on board a Part 131 aircraft for a flight, of equipment to supply supplemental oxygen during the flight.

## Regulation 131.325

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

Penalty: 50 penalty units.

### **131.325 Specialised balloon operations**

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

Penalty: 50 penalty units.

### **131.330 Additional requirements for specialised balloon operations**

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

Penalty: 50 penalty units.

## **Subpart 131.D—Operational procedures**

### **Division 131.D.1—Operational control**

Note: This Division is reserved for future use.

## **Division 131.D.2—Flight preparation**

### **131.340 Flight preparation requirements**

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

Penalty: 50 penalty units.



## **Division 131.D.3—Flight notifications and pre-flight checks**

### **131.345 Balloon flight notification requirements**

- (1) The Part 131 Manual of Standards may prescribe requirements (the *balloon flight notification requirements*) relating to flight notifications for flights of Part 131 aircraft.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if a balloon flight notification requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **131.350 Matters to be checked before take-off**

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

Penalty: 50 penalty units.

## **Division 131.D.4—Flight rules**

### **Subdivision 131.D.4.1—General**

#### **131.353 Air traffic services—prescribed requirements**

- (1) The Part 131 Manual of Standards may prescribe requirements in relation to the use by a Part 131 aircraft of:
  - (a) a class of airspace or a portion of a class of airspace; or
  - (b) a controlled aerodrome; or
  - (c) a control area; or
  - (d) a control zone; or
  - (e) a prohibited area; or
  - (f) a restricted area; or
  - (g) a danger area.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

#### **131.354 Use of radio—broadcasts and reports**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if:
  - (a) the aircraft is fitted with, or carries, a radio; and
  - (b) during the flight, the pilot in command does not make a broadcast or a report relating to the flight that is prescribed by the Part 131 Manual of Standards for this paragraph.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.355 Additional right of way rules**

- (1) The pilot in command of a Part 131 aircraft contravenes this subregulation if:
  - (a) the aircraft is in the vicinity of another Part 131 aircraft; and
  - (b) the aircraft is higher than the other aircraft; and
  - (c) the pilot in command contravenes the right of way rule mentioned in subregulation (2).
- (2) The right of way rule is that a higher aircraft must give way to a lower aircraft.

- (3) Subregulation (2) does not apply if the other aircraft is a hot air airship.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

### **131.360 Operations at non-controlled aerodromes**

- (1) The Part 131 Manual of Standards may prescribe requirements in relation to the operation of Part 131 aircraft at, or within the vicinity of, non-controlled aerodromes.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person contravenes the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **131.365 Flights over water**

- (1) The Part 131 Manual of Standards may prescribe requirements in relation to the operation of Part 131 aircraft over water.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the person contravenes the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **Subdivision 131.D.4.2—Visual flight rules**

#### **131.367 VFR flights**

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the operation of a Part 131 aircraft for a VFR flight.
- (2) The pilot in command of a Part 131 aircraft for a VFR flight contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

**Part 131** Balloons and hot air airships  
**Subpart 131.D** Operational procedures  
**Division 131.D.4** Flight rules

Regulation 131.367

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Penalty: 50 penalty units.

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

### **131.370 Procedures for safety during ground operations**

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

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

### **131.375 Operation of Part 131 aircraft while tethered**

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

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

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

Penalty: 50 penalty units.

## **Division 131.D.6—Fuel requirements**

### **131.380 Fuel and ballast procedures**

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

### **131.385 Fuel and ballast requirements**

- (1) The Part 131 Manual of Standards may prescribe requirements relating to fuel and ballast for Part 131 aircraft, including (but not limited to) the following:
  - (a) matters that must be considered when determining whether a Part 131 aircraft has sufficient fuel or ballast to complete a flight safely;
  - (b) the amounts of fuel or ballast that must be carried on board a Part 131 aircraft for a flight;
  - (c) procedures for monitoring amounts of fuel or ballast during a flight of a Part 131 aircraft;
  - (d) procedures to be followed if fuel or ballast reaches specified amounts during a flight of a Part 131 aircraft.
- (2) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

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

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

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

Penalty: 50 penalty units.

### **131.395 Certain Part 131 aircraft to have signage about smoking**

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

Penalty: 50 penalty units.

### **131.400 Carriage of infants**

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

Penalty: 50 penalty units.

## Regulation 131.405

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### **131.405 Carriage of persons requiring assistance**

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

Penalty: 50 penalty units.

### **131.410 Passengers—safety briefings and instructions**

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

Penalty: 50 penalty units.

### **131.415 Safety briefing in the event of an emergency**

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

### **131.420 Passengers—compliance with safety directions**

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

Penalty: 50 penalty units.



### **131.425 Restraint of cargo**

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

Penalty: 50 penalty units.

### **131.430 Procedures relating to carriage of animals**

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

## **Division 131.D.8—Miscellaneous**

### **131.435 Training flight limitations**

- (1) The operator and pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if, during the flight, the pilot in command permits balloon flying training (within the meaning of subregulation 5.01(1) of CAR) for any purpose.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.440 Test flights**

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

Penalty: 50 penalty units.

## Subpart 131.F—Performance

### 131.445 Loading weights

#### *Maximum loading weights*

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the aircraft's weight is greater than:
  - (a) the maximum loading weight (however described) permitted by the flight manual for the aircraft; or
  - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 131 Manual of Standards may prescribe:
  - (a) the circumstances in which a weight for a Part 131 aircraft for a flight must be calculated under this subregulation; and
  - (b) methods for calculating that weight.

#### *Minimum loading weights*

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

Penalty: 50 penalty units.

### 131.450 Loading procedures

A balloon transport operator's exposition must include the following in relation to a flight of a Part 131 aircraft:

- (a) procedures for loading the aircraft for a flight to comply with regulation 131.445;

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- (b) procedures for working out the following weights for a flight of the aircraft:
  - (i) the total weight of the crew members and any carry-on baggage of the crew members;
  - (ii) the total weight of any passengers and any carry-on baggage of the passengers;
  - (iii) the total weight of any cargo (other than carry-on baggage);
  - (iv) the total weight of any usable fuel and fuel containers to be carried;
  - (v) the total weight of any assembled balloon components;
- (c) procedures to ensure that a last-minute change to a load does not cause the aircraft to exceed its weight limits;
- (d) procedures for offloading passengers or cargo to ensure that the aircraft does not exceed its weight limits;
- (e) procedures to ensure the aircraft's minimum weight can be maintained throughout the flight;
- (f) procedures for ensuring that ambient temperature increases before the aircraft takes off for the flight do not cause the aircraft to exceed its weight limits.

### **131.455 Carriage of passengers**

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

Penalty: 50 penalty units.

## **Subpart 131.K—Equipment**

### **131.460 Requirements relating to equipment**

- (1) The Part 131 Manual of Standards may prescribe requirements relating to:
  - (a) the fitment and non-fitment of equipment to a Part 131 aircraft; and
  - (b) the carrying of equipment on a Part 131 aircraft; and
  - (c) equipment that is fitted to, or carried on, a Part 131 aircraft.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Subpart 131.M—Continuing airworthiness**

Note: This Subpart heading is reserved for future use.

## Subpart 131.N—Flight crew

### 131.565 Qualifications and training for pilots

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) or (2A) is not met.
- (2) The requirements are as follows:
  - (a) the pilot in command of the Part 131 aircraft for the flight must hold one or more of the following that authorises the pilot to operate the Part 131 aircraft:
    - (i) a commercial pilot (balloon) licence;
    - (ii) a CAR certificate of validation;
    - (iii) an authorisation from a Part 131 ASAO;
  - (b) the pilot must meet any training and checking requirements for the flight prescribed by the Part 131 Manual of Standards;
  - (c) the pilot must have any other qualification or experience prescribed by the Part 131 Manual of Standards for the purposes of this paragraph;
  - (d) if the flight is a balloon transport operation—the pilot must have any other qualification or experience required by the operator’s exposition;
  - (e) if the flight is a specialised balloon operation—the pilot must have any other qualification or experience set out in the approval under regulation 131.035 that authorises the operation.
- (2A) The requirement is that any other person who is to perform an activity essential to the operation of the Part 131 aircraft for the flight is authorised to perform that activity under regulation 5.03 of CAR.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 131.P—Other operational safety-critical personnel**

### **Division 131.P.1—Ground support personnel**

#### **131.570 Qualifications and training for ground support personnel**

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

Penalty: 50 penalty units.



## **Division 131.P.2—Other operational support personnel**

Note: This Division is reserved for future use.

## Subpart 131.R—Part 131 recreational activities

### 131.580 Part 131 recreational activities must be authorised

*Part 131 recreational activity must be authorised*

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

*Part 131 recreational activity must be undertaken in accordance with authorisation*

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

Penalty: 50 penalty units.

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

### 131.585 Procedures for carrying hang gliders

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

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

## **Subpart 131.S—Balloon flight crew licensing**

Note: This Subpart heading is reserved for future use.

## **Subpart 131.Z—Tethered gas balloons**

### **131.685 Approval required to operate**

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

Penalty: 50 penalty units.

### **131.690 Compliance with Part 131 Manual of Standards**

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

Penalty: 50 penalty units.

### **131.695 Operation under cloud**

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

Penalty: 50 penalty units.

### **131.700 Operation at night**

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

Penalty: 50 penalty units.

### **131.705 Rapid deflation device required**

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

Penalty: 50 penalty units.

### **131.710 What to do if balloon escapes**

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

Penalty: 50 penalty units.

## Part 132—Limited category aircraft

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## Subpart 132.A—Preliminary

### 132.005 What Part 132 is about

- (2) Subpart 132.A sets out preliminary matters, including the relationship of Part 132 to other requirements for operating limited category aircraft.
- (3) Subpart 132.B sets out the general requirements for flying limited category aircraft.
- (4) Subpart 132.C sets out the requirements for conducting adventure flights.
- (5) Subpart 132.D sets out the certification and airworthiness requirements for limited category aircraft.

### 132.010 Key definitions for Part 132

In these Regulations:

***administering authority***, for a limited category aircraft, means:

- (a) a limited category organisation in relation to the aircraft; or
- (b) if there is no limited category organisation in relation to the aircraft—CASA.

***adventure flight procedures***, for a limited category aircraft, means procedures for conducting an adventure flight using the aircraft for which the operator of the aircraft holds an approval granted by the administering authority for the aircraft under regulation 132.035.

***approved airframe life***, for a limited category aircraft, means the airframe life stated in the most recent of the following:

- (a) the aircraft's approved design;
- (b) a variation (if any) of the airframe life by the national aviation authority of the country of the aircraft's manufacture;
- (c) if the aircraft is an ex-armed forces aircraft—a variation (if any) of the airframe life by the armed force that operated the aircraft or for which the aircraft was manufactured;
- (d) a certificate (if any) stating an airframe life for the aircraft's airframe given by the administering authority for the aircraft.

Note: Airframe life may be expressed in a number of ways, including the amount of operating time, the number of operating cycles or a calendar period.

***ex-armed forces aircraft*** means:

- (a) a version of an aircraft that has been manufactured in accordance with the requirements of, and accepted for use by, an armed force of any country (whether or not it has been used by such a force); or
- (b) a particular aircraft:



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- (i) to which paragraph (a) does not apply; and
- (ii) that has been operated by an armed force of any country.

**historic aircraft** means:

- (a) an aircraft that was manufactured before 1 January 1960; or
- (b) an Australian-manufactured aircraft of a type that is no longer being manufactured; or
- (c) a replica of an aircraft mentioned in paragraph (a) or (b); or
- (d) an aircraft prescribed by the Part 132 Manual of Standards for this paragraph.

**limited category aircraft** means an aircraft for which a special certificate of airworthiness mentioned in regulation 21.189 is in force.

**limited category certificate** means a special certificate of airworthiness to which an applicant is entitled under regulation 21.189.

**limited category organisation** means an organisation that is approved under regulation 262AN of CAR to perform functions in relation to limited category aircraft.

**permit index number**, for an aircraft for which a limited category certificate has been issued, means the permit index number most recently assigned to the aircraft under subregulation 21.176(5) or Division 132.D.2.

### 132.015 Definition of *adventure flight* for limited category aircraft

A flight of a limited category aircraft is an **adventure flight** if it is a flight:

- (a) on which a passenger is carried; and
- (b) that is:
  - (i) conducted for hire or reward; or
  - (ii) publicly available.

### 132.020 Definition of *major* for modifications and repairs for limited category aircraft

- (1) A modification or repair to a limited category aircraft is a **major** modification or repair if the modification or repair has a significant effect on a characteristic affecting the aircraft's airworthiness, including any of the following:
  - (a) its weight or balance;
  - (b) its structural strength;
  - (c) its reliability;
  - (d) its performance;
  - (e) its operational characteristics.
- (2) However, a modification or repair to a limited category aircraft is taken not to be a **major** modification or repair if advice has been given under regulation 132.175 that the modification or repair is not a major modification or repair.

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(3) In this regulation:

*modification* includes a combination of modifications.

*repair* includes a combination of repairs.

### **132.025 Definition of *safety-critical aeronautical product* for limited category aircraft**

- (1) An aeronautical product for a limited category aircraft is a *safety-critical aeronautical product* for the aircraft if the aircraft cannot be operated safely if the product is inoperative or missing.
- (2) However, an aeronautical product for a limited category aircraft is taken not to be a *safety-critical aeronautical product* for the aircraft if advice has been given under regulation 132.175 that the aeronautical product is not a safety-critical aeronautical product for the aircraft.

### **132.030 Approval of modifications and repairs for limited category aircraft**

- (1) A modification or repair to a limited category aircraft is approved for the purposes of this regulation if the modification or repair has been approved (however described, and whether before, on or after the commencement of this regulation) by any of the following:
  - (a) the aircraft's manufacturer;
  - (b) CASA;
  - (c) the national aviation authority of a foreign country under a law of the foreign country;
  - (d) if the aircraft is an ex-armed forces aircraft—an armed force that operated the aircraft or for which the aircraft was manufactured;
  - (e) the administering authority for the aircraft.
- (2) A modification or repair to a limited category aircraft is approved for the purposes of this regulation if the modification or repair, or the design for the modification or repair, has been approved (however described, and whether before, on or after the commencement of this regulation) under Part 21 by:
  - (a) an authorised person; or
  - (b) an approved design organisation.
- (3) A modification or repair to a limited category aircraft is approved for the purposes of this regulation if an approval (however described) for the modification or repair, or the design for the modification or repair, is in force in accordance with regulation 202.054 or 202.055.

### **132.035 Approvals by CASA or administering authority for Part 132**

- (1) If a provision of this Part refers to a person holding an approval granted by CASA under this regulation, a person may apply to CASA, in writing, for the approval.

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- (2) If a provision of this Part refers to a person holding an approval granted by the administering authority for a limited category aircraft under this regulation, a person may apply to the administering authority, in writing, for the approval.
- (3) Subject to regulation 11.055, CASA or the administering authority must grant the approval.
- (4) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for any of the following provisions:
  - (a) paragraph 132.055(1)(i) (authorised operations for limited category aircraft);
  - (b) subregulation 132.060(1) (maximum number of persons to be carried);
  - (c) paragraph 132.075(4)(a) or subregulation 132.075(6) (flights over populous areas).

### **132.040 Issue of Manual of Standards for Part 132**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 132 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

### **132.045 Relationship of Part 132 to other requirements for operating limited category aircraft**

- (1) To avoid doubt:
  - (b) a provision of CAR or of Part 91 that applies to the operation of a limited category aircraft and is inconsistent with this Part has no effect, in relation to the operation of the limited category aircraft, to the extent of the inconsistency, but the provision is taken to be consistent with this Part to the extent that it is capable of operating concurrently with this Part; and
  - (c) if this Part, or a provision of a document mentioned in subregulation (2), imposes a more stringent requirement (however described) on the operation of a limited category aircraft than the comparable requirement mentioned in paragraph (a), the more stringent requirement prevails.

Example: For paragraph (c), more stringent requirements might include the following:

- (a) the aircraft must be operated only under the VFR by day;
  - (b) the aircraft must be flown only by a named pilot;
  - (c) the aircraft must not be flown faster than a stated speed, higher than a stated height or have a take-off weight of more than a stated weight.
- (2) For paragraph (1)(c), the documents are the following, as in force from time to time:
    - (a) the aircraft's limited category certificate;
    - (b) a document that states the aircraft's approved airframe life;

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- (c) a document that states the life limit of a safety-critical aeronautical product fitted to the limited category aircraft;
- (d) the approval of a modification or repair to the aircraft;
- (e) an approval under regulation 132.035 in relation to the aircraft;
- (f) the aircraft's flight manual;
- (g) for an adventure flight of the aircraft—the adventure flight procedures for the aircraft;
- (h) an instrument issued under regulation 11.068 (conditions imposed on class of authorisations) that applies to the aircraft;
- (i) a direction under Subpart 11.G that applies to the aircraft;
- (j) if the administering authority for the aircraft is a limited category organisation—the organisation's operations manual.

Note: The aircraft must be operated in accordance with the requirements in a document mentioned in subregulation (2): see regulation 132.050.

## **Subpart 132.B—Flying limited category aircraft—general requirements**

### **132.050 General operational requirements**

*Aircraft without a special flight permit*

- (1) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if:
    - (a) a special flight permit is not in force for the aircraft; and
    - (b) the aircraft is operated for a flight; and
    - (c) a requirement mentioned in subregulation (2) is not met for the flight.
  - (2) The requirements are the following:
    - (a) the flight must be an authorised operation for the aircraft under regulation 132.055;
    - (b) a maintenance release must be in force for the aircraft;
    - (c) the flight must be conducted in accordance with each requirement (however described) in a document mentioned in subregulation 132.045(2);
    - (d) the total number of persons on board the aircraft for the flight must be not more than the number of persons allowed under regulation 132.060;
    - (e) if the aircraft is capable of carrying a passenger—a placard that complies with the requirements prescribed by the Part 132 Manual of Standards must be displayed inside the aircraft so that it is conspicuous to, and can be easily read by, each passenger on board the aircraft, including a passenger sitting in a flight control seat;
    - (f) before beginning the flight, the pilot in command must make himself or herself aware of all relevant information about the aircraft, including the following:
      - (i) each requirement (however described) in a document mentioned in subregulation 132.045(2);
      - (ii) the matters mentioned in subregulation (3);
    - (g) the pilot in command must be authorised under Part 61 (flight crew licensing) to conduct the flight.
- Note: For example, for paragraph (e): an aircraft with dual controls that may be flown by a single pilot is capable of carrying a passenger.
- (3) For subparagraph (2)(f)(ii), the matters are the following:
    - (a) each authorisation (within the meaning of Part 11) that relates to the operation of the aircraft and is in force;
    - (b) each condition imposed under Subpart 11.BA on an authorisation mentioned in paragraph (a) that is in force;
    - (c) each exemption granted by CASA under Subpart 11.F that relates to the operation of the aircraft and is in force;

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- (d) each direction issued by CASA under these Regulations that relates to the operation of the aircraft and is in force.

### *Aircraft with a special flight permit*

- (4) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if:
- (a) a special flight permit is in force for the aircraft; and
  - (b) the aircraft is operated for a flight; and
  - (c) either:
    - (i) the operation of the aircraft for the flight is not in accordance with the special flight permit; or
    - (ii) a requirement mentioned in paragraph (2)(d) or (e), subparagraph (2)(f)(ii) or paragraph (2)(g) is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (4).

Penalty: 50 penalty units.

## 132.055 Authorised operations for limited category aircraft

- (1) For paragraph 132.050(2)(a), each of the following is an authorised operation for a limited category aircraft:
- (a) a personal use of the aircraft;
  - (b) a cost-sharing flight;
  - (c) flight training for:
    - (i) a flight crew endorsement for a type or class rating for the aircraft; or
    - (ii) the competency standards mentioned in regulation 61.385 (limitations on exercise of privileges of pilot licences—general competency requirement);
  - (d) a flight review or test for a flight crew licence, rating or endorsement that authorises the person to pilot, or act as the flight engineer for, the aircraft;
  - (e) a special purpose operation for which the aircraft's limited category certificate was issued;
  - (f) an activity necessary to conduct the special purpose operation, including training for the operation;
  - (g) if the administering authority for the aircraft is a limited category organisation—an activity that is stated, in the organisation's operations manual, to be an activity in support of the special purpose operation for the aircraft;
  - (h) an operation prescribed as an authorised operation by the Part 132 Manual of Standards;
  - (i) a flight conducted in accordance with an approval, held by the operator, granted by CASA under regulation 132.035 for this paragraph.
- (2) For paragraph (1)(a), a flight of an aircraft is a ***personal use*** of the aircraft if the flight:

- (a) is not publicly available; and
- (b) is a flight for which no payment or reward is made or given to the aircraft's registered operator, operator or flight crew.

### **132.060 Maximum number of persons to be carried**

#### *Approval from administering authority*

- (1) For paragraph 132.050(2)(d), if the operator holds an approval granted by the administering authority for the aircraft under regulation 132.035 for the aircraft to be flown with a stated number of persons (that is greater than 6) on board, the number of persons allowed is the number stated in the approval.
- (2) However, for subregulation (1), the number of persons stated in the approval must not be more than the number of persons the aircraft was designed to carry.

#### *Approval of modification*

- (3) For paragraph 132.050(2)(d), if:
  - (a) the aircraft has been modified for it to be flown with a number of persons (that is greater than the number of persons the aircraft was designed to carry) on board; and
  - (b) the modification to the aircraft is approved for the purposes of regulation 132.030; and
  - (c) the approval states the number of persons that the aircraft may carry; the number of persons allowed is the number stated in the approval.

#### *Other cases*

- (4) For paragraph 132.050(2)(d), in any other case the number of persons allowed is the lower of the following numbers:
  - (a) the number of persons the aircraft was designed to carry;
  - (b) 6.

### **132.065 Passenger briefing for flights other than adventure flights**

- (1) This regulation applies to a flight of a limited category aircraft if:
  - (a) a passenger is to be carried on the flight; and
  - (b) the flight is not an adventure flight.

Note: For the passenger briefing requirement for adventure flights, see regulation 132.155.

- (2) The operator of the aircraft contravenes this subregulation if the requirement mentioned in subregulation (3) is not met for the passenger for the flight.
- (3) For subregulation (2), the requirement is that, on the day of the flight, before the passenger is taken to the aircraft, a briefing that complies with subregulation (4) must be given to:
  - (a) the passenger; and
  - (b) if the passenger is under 18—the passenger's parent or guardian; and

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- (c) if the person giving the briefing reasonably believes that the passenger will not be able to understand the briefing—a person who has care of the passenger.
- (4) For subregulation (3), the briefing must:
  - (a) include the content mentioned in subregulation 132.070(1); and
  - (b) be in a language that the passenger (and, if applicable, the passenger’s parent, guardian or carer) understands.
- (5) Subregulation (2) does not apply to the operator if:
  - (a) the passenger was carried on an earlier flight of the aircraft on the same day; and
  - (b) the requirement mentioned in subregulation (3) was met for the passenger for the earlier flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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

### **132.070 Content of safety briefing for flights other than adventure flights**

- (1) For paragraph 132.065(4)(a), the briefing must include the following:
  - (a) statements to the effect that:
    - (i) the design, manufacture and airworthiness of the aircraft are not required to meet any standard recognised by CASA; and
    - (ii) the aircraft is not required by CASA to be operated to the same safety standards as an aircraft used for air transport operations; and
    - (iii) travel in the aircraft is done at the passenger’s own risk;
  - (b) if subregulation (2) applies to the aircraft—a statement of how the subregulation applies to the aircraft.
- (2) For paragraph (1)(b), this subregulation applies to the aircraft if:
  - (a) the aircraft has reached its approved airframe life; or
  - (b) a safety-critical aeronautical product fitted to the aircraft has reached its life limit; or
  - (c) the aircraft has a major modification or repair that is not approved for the purposes of regulation 132.030.

### **132.075 Flights over populous areas**

- (1) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if:
  - (a) the aircraft is flown over a populous area; and
  - (b) the flight is not permitted by this regulation.



- (2) A limited category aircraft for which there is no permit index number is not permitted to be flown over a populous area.
- (3) A limited category aircraft with a permit index number of 0 may be flown over a populous area.
- (4) A limited category aircraft with a permit index number of 1 may be flown over a populous area only:
  - (a) in accordance with an approval, held by the operator of the aircraft, granted by the administering authority for the aircraft under regulation 132.035 for this paragraph; or
  - (b) for the purpose of taking off from, or landing at, a landing area other than a landing area prescribed as an unsuitable landing area for this paragraph by the Part 132 Manual of Standards.
- (5) In deciding whether to grant an approval mentioned in paragraph (4)(a), the administering authority must take into account:
  - (a) the aircraft's permit index number; and
  - (b) anything else relevant to the safety of other airspace users or persons on the ground or water.
- (6) A limited category aircraft with a permit index number of 2 may be flown over a populous area only in accordance with an approval, held by the operator of the aircraft, granted by CASA under regulation 132.035 for this subregulation.
- (7) In deciding whether to grant an approval mentioned in subregulation (6), CASA must take into account:
  - (a) the aircraft's permit index number; and
  - (b) anything else relevant to the safety of other airspace users or persons on the ground or water.
- (8) Despite subregulations (3), (4) and (6), an aircraft is not permitted to be flown over a populous area if:
  - (a) the aircraft:
    - (i) has reached its approved airframe life; or
    - (ii) would reach its approved airframe life during the flight; or
  - (b) an aeronautical product fitted to the aircraft that is a safety-critical aeronautical product:
    - (i) has reached its life limit; or
    - (ii) would reach its life limit during the flight; or
  - (c) a modification or repair to the aircraft:
    - (i) is a major modification or repair; and
    - (ii) is not approved for the purposes of regulation 132.030.
- (9) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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**132.085 Flights in foreign country's airspace**

- (1) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if:
  - (a) the aircraft is flown in a foreign country's airspace; and
  - (b) either:
    - (i) the country's national aviation authority has not granted an approval to the operator for the flight; or
    - (ii) the country's national aviation authority has granted an approval to the operator for the flight subject to a condition and the condition is contravened for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 10 penalty units.

## **Subpart 132.C—Flying limited category aircraft—adventure flights**

### **Division 132.C.1—Adventure flights—general requirements**

#### **132.090 Adventure flight procedures required**

- (1) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if, when the aircraft begins an adventure flight, there are no adventure flight procedures for the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **132.095 Limited category certificate must include adventure flights as special purpose operation**

- (1) The operator of a limited category aircraft contravenes this subregulation if, when the aircraft begins an adventure flight, a limited category certificate that includes conducting adventure flights in historic or ex-military aircraft as a special purpose operation for the aircraft is not in force for the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **132.100 When adventure flights prohibited—aircraft airframe life and life-limited safety-critical aeronautical products**

- (1) The operator of a limited category aircraft contravenes this subregulation if, when the aircraft begins an adventure flight:
  - (a) the aircraft has reached its approved airframe life; or
  - (b) an aeronautical product fitted to the aircraft:
    - (i) is a safety-critical aeronautical product; and
    - (ii) has reached its life limit.

Note: An aeronautical product is not a safety-critical aeronautical product if advice has been given under regulation 132.175 that the aeronautical product is not a safety-critical aeronautical product: see subregulation 132.025(2).

- (2) The operator of a limited category aircraft contravenes this subregulation if, during an adventure flight of the aircraft:
  - (a) the aircraft reaches its approved airframe life; or
  - (b) an aeronautical product fitted to the aircraft:
    - (i) is a safety-critical aeronautical product; and

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(ii) reaches its life limit.

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

Penalty: 50 penalty units.

**132.105 When adventure flights prohibited—major modifications or repairs**

- (1) This regulation applies to the operator of a limited category aircraft if:
- (a) the aircraft has a modification or repair; and
  - (b) the modification is a major modification or repair.

*Approval of modifications and repairs*

- (2) The operator contravenes this subregulation if, when the aircraft begins an adventure flight, the modification or repair is not approved for the purposes of regulation 132.030.

*Certificate from administering authority*

- (3) The operator contravenes this subregulation if, when the aircraft begins an adventure flight, the operator does not hold a certificate, given by the administering authority for the aircraft, to the effect that the modified or repaired aircraft may be operated for an adventure flight subject to the limitations (however described) stated in the certificate.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

**132.110 When adventure flights prohibited—certain aircraft that are not ex-armed forces or historic aircraft**

- (1) This regulation applies to a limited category aircraft that is not an ex-armed forces aircraft or historic aircraft.
- (2) The operator of the aircraft contravenes this subregulation if:
- (a) the aircraft is used to conduct an adventure flight; and
  - (b) the aircraft meets the airworthiness requirements for the issue of a standard certificate of airworthiness.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **132.115 When adventure flights prohibited—aircraft with special flight permit**

- (1) The operator of a limited category aircraft contravenes this subregulation if, when the aircraft begins an adventure flight, a special flight permit is in force for the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **132.120 Requirements for pilot in command of adventure flights**

- (1) The operator and the pilot in command of a limited category aircraft each contravene this subregulation if, when an adventure flight of the aircraft begins, the pilot in command does not meet a requirement (if any) mentioned in the adventure flight procedures for the aircraft for the pilot in command for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Note: The pilot in command must also be otherwise authorised under Part 61 to conduct the flight: see paragraph 132.050(2)(g).

### **132.125 Unbroken round trips only**

- (1) The operator of a limited category aircraft contravenes this subregulation if an adventure flight of the aircraft contravenes subregulation (2).
- (2) For subregulation (1), the flight must begin and end at the same landing area and must not involve a landing anywhere else.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **132.130 Sightseeing flights prohibited**

- (1) The operator of a limited category aircraft contravenes this subregulation if an adventure flight of the aircraft is marketed or represented as a sightseeing flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **132.135 Clothes and equipment supplied by operator**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
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- (a) the operator supplies clothing or equipment to a passenger for an adventure flight of the aircraft; and
  - (b) the clothing or equipment is supplied to the passenger before the briefing mentioned in subregulation 132.155(2) is given to the passenger.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**132.140 Passengers who cannot understand safety briefing to be accompanied on adventure flights**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
- (a) the aircraft is used to conduct an adventure flight; and
  - (b) the person giving a passenger on the flight the briefing mentioned in subregulation 132.155(2) reasonably believes that the passenger is not able to understand the briefing; and
  - (c) the passenger is not accompanied on the flight by a parent, guardian or carer.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 132.C.2—Adventure flights—passenger safety briefings**

### **132.145 Requirement for passenger safety briefing when booking**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
  - (a) a booking for the carriage of a passenger for an adventure flight of the aircraft is taken by:
    - (i) the operator or an employee or agent of the operator; or
    - (ii) a booking vendor for the aircraft; and
  - (b) before the booking is finalised, the person making the booking is not given a briefing that:
    - (i) complies with regulation 132.150; and
    - (ii) is in a language the person understands.
- (2) Subregulation (1) does not apply to the operator in relation to a booking taken by an agent of the operator or a booking vendor for the aircraft if, before the agent or vendor took the booking:
  - (a) the operator, or the administering authority for the aircraft, had instructed the agent or vendor that the agent or vendor must ensure that a briefing that complies with paragraph (1)(b) is given to a person making a booking for the carriage of a passenger on an adventure flight of the aircraft before finalising the booking; and
  - (b) the operator or the administering authority (as applicable) had given the agent or vendor the information that is necessary for the agent or vendor to give a briefing that complies with regulation 132.150.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

- (4) For the purposes of this regulation, a person is a **booking vendor** for a limited category aircraft if the person takes bookings for the carriage of passengers on adventure flights for the aircraft, but is not the operator of the aircraft or an employee or agent of the operator.

### **132.150 Content of passenger safety briefing when booking**

For subparagraph 132.145(1)(b)(i), the briefing must include the following:

- (a) statements to the effect that:
  - (i) the design, manufacture and airworthiness of the aircraft are not required to meet any standard recognised by CASA; and
  - (ii) the aircraft is not required by CASA to be operated to the same safety standards as an aircraft used for air transport operations; and
  - (iii) travel in the aircraft is done at the passenger's own risk; and

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- (iv) a more detailed briefing about the safety of the aircraft will be given to the passenger before the passenger boards the aircraft;
- (b) if the person making the booking is not the passenger—information on the effect of regulation 132.155 (requirement for passenger safety briefing before boarding aircraft);
- (c) information on the effect of regulation 132.140 (passengers who cannot understand safety briefing to be accompanied on adventure flights).

**132.155 Requirement for passenger safety briefing before boarding aircraft**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
  - (a) the aircraft is used to conduct an adventure flight; and
  - (b) the requirement mentioned in subregulation (2) is not met for a passenger for the flight.
- (2) For paragraph (1)(b), the requirement is that, on the day of the flight, before the passenger is taken to the aircraft, the passenger must be given a briefing that:
  - (a) complies with subregulation (4); and
  - (b) is in a language the passenger understands.
- (3) Subregulation (1) does not apply to the operator if:
  - (a) the passenger was carried on an earlier flight of the aircraft on the same day; and
  - (b) the requirement mentioned in subregulation (2) was met for the passenger for the earlier flight.
- (4) For paragraph (2)(a), the briefing must include the following:
  - (a) information comparing the safety of the aircraft with aircraft used for air transport operations, including that CASA does not require the aircraft to be operated to the same degree of safety as an aircraft used for air transport operations;
  - (b) information about the design, airworthiness and type certification of the aircraft, including that the design, manufacture and airworthiness of the aircraft are not required to meet any standard recognised by CASA;
  - (c) a statement of the risks associated with undertaking the flight;
  - (d) a statement to the effect that travel in the aircraft is done at the passenger's own risk;
  - (e) if the operator requires the passenger to wear safety equipment (other than a seat belt) during the flight—a statement that the safety equipment must be worn and information about its purpose.

Note: For other provisions about the safety of aircraft occupants, see Division 91.D.7.

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

Penalty: 50 penalty units.

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



**132.160 Acknowledgement by passengers who are at least 18 and who can understand passenger safety briefing**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
  - (a) the aircraft is used to conduct an adventure flight; and
  - (b) a passenger for the flight is at least 18; and
  - (c) the person giving the passenger the briefing mentioned in subregulation 132.155(2) reasonably believes that the passenger is able to understand the briefing; and
  - (d) the requirement mentioned in subregulation (2) is not met for the passenger for the flight.
- (2) For paragraph (1)(d), the requirement is that, on the day of the flight, before the passenger is taken to the aircraft:
  - (a) the passenger must be given a written copy of the briefing mentioned in subregulation 132.155(2) in a language the passenger understands; and
  - (b) the passenger must sign an acknowledgement, in a language that the passenger understands, that the passenger has received and understood:
    - (i) the briefing mentioned in subregulation 132.155(2); and
    - (ii) the written copy of the briefing.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**132.165 Acknowledgement for passengers under 18 or who cannot understand passenger safety briefing**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
  - (a) the aircraft is used to conduct an adventure flight; and
  - (b) either or both of the following apply to a passenger for the flight:
    - (i) the passenger is under 18;
    - (ii) the person giving the passenger for the flight the briefing mentioned in subregulation 132.155(2) reasonably believes that the passenger will not be able to understand the briefing; and
  - (c) the requirement mentioned in subregulation (2) is not met for the passenger for the flight.
- (2) For paragraph (1)(c), the requirement is that, before the passenger is taken to the aircraft:
  - (a) a parent, guardian or carer of the passenger must have been given a written copy of the briefing mentioned in subregulation 132.155(2) in a language the parent, guardian or carer understands; and
  - (b) the parent, guardian or carer of the passenger must have signed an acknowledgement, in a language that the parent, guardian or carer understands, that he or she has received and understood the written copy of the briefing.

**Part 132** Limited category aircraft

**Subpart 132.C** Flying limited category aircraft—adventure flights

**Division 132.C.2** Adventure flights—passenger safety briefings

**Regulation 132.170**

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

Penalty: 50 penalty units.

**132.170 Retention of acknowledgements**

- (1) The operator of a limited category aircraft contravenes this subregulation if:
- (a) the aircraft is used to conduct an adventure flight; and
  - (b) a signed acknowledgement mentioned in paragraph 132.160(2)(b) or 132.165(2)(b) for a passenger for the flight is not retained by the operator for at least 3 months after the day the flight ends.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 132.D—Limited category aircraft—certification and airworthiness requirements**

### **Division 132.D.1—Certification and airworthiness—general**

#### **132.175 Advice about modifications, repairs, damage, defects and life-limited aeronautical products**

*Giving advice on request from aircraft operator*

- (1) The operator of a limited category aircraft may, in writing, ask the administering authority for the aircraft for its advice about any of the following matters in relation to the aircraft:
  - (a) whether a modification or repair is a major modification or repair;
  - (b) whether damage is major damage;
  - (c) whether a defect is a major defect;
  - (d) whether a life-limited aeronautical product for the aircraft is a safety-critical aeronautical product for the aircraft.
- (2) If the administering authority for a limited category aircraft receives a request from the operator of the aircraft under subregulation (1) about a matter in relation to the aircraft, the authority must give the operator of the aircraft, in writing, its advice about the matter.

*Giving advice on administering authority's initiative*

- (3) The administering authority for a limited category aircraft may, on its own initiative, give the operator of the aircraft, in writing, the authority's advice about a matter mentioned in subregulation (1) in relation to the aircraft.

Note: Under regulation 47 of CAR:

- (a) damage to a limited category aircraft is taken not to be major damage if, under this regulation, advice has been given that the damage is not major damage; and
- (b) a defect in a limited category aircraft is taken not to be a major defect if, under this regulation, advice has been given that the defect is not a major defect.

#### **132.180 Requirements for giving approvals, certificates and advice—individuals**

*Individuals must be authorised to give approvals, certificates and advice*

- (1) An individual contravenes this subregulation if:
  - (a) the individual gives, on behalf of a limited category organisation, an approval, certificate or advice covered by subregulation (4) for a limited category aircraft; and
  - (b) the individual is not authorised under subregulation 132.185(1) by the organisation to give the advice, approval or certificate for the aircraft.

**Part 132** Limited category aircraft

**Subpart 132.D** Limited category aircraft—certification and airworthiness requirements

**Division 132.D.1** Certification and airworthiness—general

**Regulation 132.185**

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*Individuals must comply with relevant requirements when giving approvals, certificates and advice*

- (2) An individual contravenes this subregulation if:
- (a) the individual gives, on behalf of a limited category organisation, an approval, certificate or advice covered by subregulation (4); and
  - (b) a procedure included in the organisation's manual for the purposes of paragraph 262AN(3)(d) of CAR applies to the individual and the approval, certificate or advice; and
  - (c) the individual does not comply with the procedure in relation to the giving of the approval, certificate or advice.
- (3) An individual contravenes this subregulation if:
- (a) the individual gives, on behalf of a limited category organisation, an approval, certificate or advice covered by subregulation (4); and
  - (b) the approval, certificate or advice is covered by a requirement prescribed by the Part 132 Manual of Standards; and
  - (c) the individual does not comply with the requirement.

*Kinds of approvals, certificates and advice*

- (4) The approvals, certificates and advice covered by this subregulation are:
- (a) certificates of airworthiness;
  - (b) an approval mentioned in regulation 132.030 (approval of modifications and repairs);
  - (c) 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);
  - (d) a certificate stating an airframe life for the aircraft's airframe given by the administering authority for the aircraft;
  - (e) advice under regulation 132.175 (advice about modifications, repairs, damage etc.);
  - (f) an approval or certificate prescribed by the Part 132 Manual of Standards under subparagraph 262AN(3)(d)(vi) of CAR.

*Offence*

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

Penalty: 50 penalty units.

**132.185 Authorisations to give approvals, certificates and advice for limited category aircraft**

*How individuals become authorised to give approvals, certificates and advice*

- (1) An individual is authorised under this subregulation to give, on behalf of a limited category organisation, an approval, a certificate or advice of a kind
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covered by subregulation 132.180(4) for a limited category aircraft if the individual holds a written authorisation, issued by the limited category organisation, to give the approval, certificate or advice for the aircraft.

*Individuals must have relevant qualifications and experience*

- (2) A limited category organisation must not issue an authorisation to an individual for the purposes of subregulation (1) unless the organisation is satisfied that the individual has the qualifications and experience prescribed by the Part 132 Manual of Standards.

*Approvals, certificates and advice given on behalf of limited category organisations*

- (3) If an individual is authorised under subregulation (1) by a limited category organisation, approvals, certificates and advice given by the individual in accordance with the approval are taken, for the purposes of these Regulations (other than regulation 132.180), to have been given by the limited category organisation.

### **132.190 Requirements for giving approvals, certificates and advice—limited category organisations**

- (1) A limited category organisation contravenes this subregulation if:
- (a) the organisation gives an approval, certificate or advice covered by subregulation 132.180(4); and
  - (b) a procedure included in the organisation's manual for the purposes of paragraph 262AN(3)(d) of CAR is not complied with in relation to the giving of the approval, certificate or advice.
- (2) A limited category organisation contravenes this subregulation if:
- (a) the organisation gives an approval, certificate or advice covered by subregulation 132.180(4); and
  - (b) the approval or certificate is covered by a requirement prescribed by the Part 132 Manual of Standards; and
  - (c) the organisation does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Regulation 132.195

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## **Division 132.D.2—Certification and airworthiness—permit index numbers**

### **132.195 Assignment of permit index numbers—general**

- (1) A permit index number assigned to a limited category aircraft must:
  - (a) meet the requirements prescribed by the Part 132 Manual of Standards for the assignment of the number; and
  - (b) not be likely to have an adverse effect on the safety of other airspace users or persons on the ground or water.
- (2) A permit index number must be a whole number from 0 to 3.

Note: For the assignment of a permit index number with the issue of a limited category certificate, see subregulation 21.176(5).

### **132.200 Assignment of new permit index numbers on initiative of administering authority**

The administering authority for a limited category aircraft must assign a new permit index number to the aircraft if satisfied that the aircraft's existing permit index number does not comply with regulation 132.195.

Note: See also regulation 132.230 (Notice to CASA—certain proposed actions by limited category organisation).

### **132.205 Assignment of new permit index numbers at CASA direction**

- (1) This regulation applies if:
  - (a) there is a limited category organisation in relation to a limited category aircraft; and
  - (b) CASA is satisfied that the aircraft's existing permit index number does not comply with regulation 132.195.
- (2) CASA must direct the organisation to assign a new permit index number to the aircraft.
- (3) The organisation contravenes this subregulation if it does not comply with the direction.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

### **132.210 Assignment of new permit index numbers on application by registered operator**

- (1) The registered operator of a limited category aircraft may apply, in writing, to the administering authority for the aircraft for the assignment of a new permit index number for the aircraft.
- (2) Part 11 applies to an application mentioned in subregulation (1) as if a permit index number were an authorisation (within the meaning of Part 11).
- (3) Subject to regulation 11.055, the administering authority must assign a new permit index number to the aircraft.

Note: See also regulation 132.230 (notice to CASA—certain proposed actions by limited category organisation).

### **132.215 When assignment of new permit index number takes effect**

An assignment of a new permit index number for a limited category aircraft takes effect when the aircraft's registered operator is given, under regulation 132.200, 132.205 or 132.210, a reissued limited category certificate for the aircraft, or a reissued attachment to the certificate, that includes the new number.

Note: The permit index number initially assigned to the aircraft must be included in the limited category certificate or an attachment to the certificate: see paragraph 21.176(5A)(b).

### **132.220 Notice to operator if new permit index number assigned**

If a new permit index number is assigned to a limited category aircraft, and the registered operator is not the aircraft's operator, the administering authority for the aircraft must give written notice of the assignment of the new permit index number to the aircraft's operator.

## **Division 132.D.3—Certification and airworthiness—notice to CASA of certain matters**

### **132.225 Notice to CASA—permit index numbers assigned by limited category organisation for aircraft**

- (1) This regulation applies if a permit index number is assigned to a limited category aircraft under subregulation 21.176(5) or Division 132.D.2 by a limited category organisation.
- (2) The limited category organisation contravenes this subregulation if the organisation does not give CASA written notice of the assignment of the number in accordance with subregulation (3).
- (3) The notice must:
  - (a) include the aircraft's registration mark and the permit index number assigned to the aircraft; and
  - (b) be given not later than 14 days after the day the number is assigned.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 10 penalty units.

### **132.230 Notice to CASA—certain proposed actions by limited category organisation**

- (1) This regulation applies if a limited category organisation proposes to:
  - (a) refuse to issue a limited category certificate;
  - (b) refuse to vary a limited category certificate.
- (2) This regulation also applies if:
  - (a) a limited category organisation proposes to assign a new permit index number to a limited category aircraft under Division 132.D.2; and
  - (b) the aircraft's existing permit index number was assigned by CASA.
- (3) The limited category organisation contravenes this subregulation if it does not give CASA notice of the proposed action in accordance with the organisation's operations manual.
- (4) CASA may give the limited category organisation any advice or comments it considers appropriate in relation to the proposed action within the period mentioned in the manual.
- (5) The limited category organisation contravenes this subregulation if it does not have regard to any advice or comments given to it by CASA under subregulation (4) when deciding whether to take the action.



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

Penalty: 10 penalty units.

### **132.235 Notice to CASA—safety of aircraft**

- (1) This regulation applies if a limited category organisation reasonably believes that:
- (a) a matter exists in relation to a limited category aircraft; and
  - (b) CASA might want to exercise its powers under subregulation 21.181(6) to suspend or cancel the aircraft's limited category certificate because of the matter.
- (2) The organisation must give CASA notice of the matter in accordance with the organisation's operations manual.

**Part 132** Limited category aircraft

**Subpart 132.M** Limited category aircraft—airworthiness and maintenance

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## **Subpart 132.M—Limited category aircraft—airworthiness and maintenance**

Note: This Subpart is reserved for future use.

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# Part 133—Australian air transport operations—rotorcraft

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## Subpart 133.A—Preliminary

### 133.005 Application of Part 133

This Part applies in relation to the operation of a rotorcraft for an Australian air transport operation.

### 133.010 Definition of *suitable forced landing area* for rotorcraft flights

#### *Areas of ground*

- (1) An area of ground is a ***suitable forced landing area*** for a flight of a rotorcraft if the rotorcraft could make a forced landing in the area with a reasonable expectation that there would be no injuries to persons in the rotorcraft or on the ground.

#### *Areas of water*

- (2) An area of water that meets the requirements mentioned in subregulation (3) is a ***suitable forced landing area*** for a flight of a rotorcraft if the rotorcraft:
  - (a) is equipped with emergency flotation equipment; or
  - (b) has a type certificate or supplemental type certificate for landing on water.
- (3) For the purposes of subregulation (2), the requirements are the following:
  - (a) the rotorcraft must be able to ditch in the area of water with a reasonable expectation that there would be no injuries to persons in the rotorcraft or on the water;
  - (b) there must be a reasonable expectation that persons in the rotorcraft would survive in the area of water for the time that it would take to rescue the persons;
  - (c) if the flight is a passenger transport operation or a medical transport operation—the area of water must be:
    - (i) adjacent to land; or
    - (ii) adjacent to an offshore installation with search and rescue capabilities; or
    - (iii) in a location, set out in the rotorcraft operator’s exposition, that has search and rescue capabilities.
- (4) Factors that affect whether there is a reasonable expectation about the matters mentioned in paragraphs (3)(a) and (b) include the following:
  - (a) the surface condition of the area of water, including the wave height, wind conditions and swell;
  - (b) the limits of the capability of the rotorcraft’s emergency flotation system to stay upright and floating in certain sea states.

## Regulation 133.015

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### **133.015 Approvals by CASA for Part 133**

- (1) If a provision of this Part, or of the Part 133 Manual of Standards, refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

### **133.020 Issue of Manual of Standards for Part 133**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 133 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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



## **Subpart 133.C—General**

### **Division 133.C.1—General flight limitations**

#### **133.025 Permitted categories of rotorcraft**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the rotorcraft begins the flight; and
  - (b) the rotorcraft is not type certificated in any of the following categories:
    - (i) transport;
    - (ii) normal;
    - (iii) a category prescribed by the Part 133 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Division 133.C.2—Operational documents

### 133.030 Compliance with flight manual

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during the flight, the rotorcraft is operated in a way that does not meet a requirement or limitation that:
  - (a) is set out in the aircraft flight manual instructions for the rotorcraft; and
  - (b) relates to the operation of the rotorcraft.

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

- (2) Subregulation (1) does not apply to a requirement or limitation if:
  - (a) circumstances prescribed by the Part 133 Manual of Standards exist for the flight; and
  - (b) the requirement or limitation is of a kind prescribed by the Part 133 Manual of Standards for those circumstances.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

### 133.035 Operator to have minimum equipment list for certain flights

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the flight is either or both of the following:
    - (i) an IFR flight;
    - (ii) a flight that begins or ends at an aerodrome outside Australian territory; and
  - (b) there is a master minimum equipment list for the rotorcraft; and
  - (c) when the flight begins, there is no minimum equipment list for the rotorcraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 133.040 Availability of checklists

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that, before a crew member for the flight begins to carry out a duty for the flight, the operator must make available to the member each

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checklist of normal, abnormal and emergency procedures for the rotorcraft that is relevant to the duty.

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

Penalty: 50 penalty units.

## Division 133.C.3—Flight related documents

### 133.045 Electronic documents

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

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

### 133.050 Availability of parts of exposition

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

Penalty: 50 penalty units.

### 133.055 Carriage of documents

*Documents required by the Part 133 Manual of Standards*

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 133 Manual of Standards for the purposes of this paragraph is not carried on the rotorcraft; and
  - (b) the rotorcraft begins the flight.

*Flight crew medical certificates*

- (2) The operator and a flight crew member for a flight of a rotorcraft each contravene this subregulation if:
  - (a) the flight crew member's medical certificate is not carried on the rotorcraft for the flight; and
  - (b) the flight crew member does not give CASA written notice that the certificate is not being carried on the rotorcraft for the flight:
    - (i) before the flight begins; or
    - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

*Flight crew licences*

- (3) The operator and a flight crew member for a flight of a rotorcraft each contravene this subregulation if:
- (a) the flight crew member's flight crew licence is not carried on the rotorcraft for the flight; and
  - (b) the flight crew member does not give CASA written notice that the licence is not being carried on the rotorcraft for the flight:
    - (i) before the flight begins; or
    - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

*Offence*

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

Penalty: 50 penalty units.

**133.060 Availability or carriage of documents for certain flights**

*Flights for which documents must be carried*

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
- (a) the flight is:
    - (i) an IFR flight; or
    - (ii) a VFR flight at night; or
    - (iii) a flight during which the rotorcraft will not remain within 50 nautical miles of the departure aerodrome; and
  - (b) when the flight begins, a document mentioned in subregulation (4) is not carried on the rotorcraft.

*Flights for which documents must be available or carried*

- (2) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
- (a) the rotorcraft begins a VFR flight by day during which the rotorcraft will remain within 50 nautical miles of the departure aerodrome; and
  - (b) the requirement mentioned in subregulation (3) is not met.
- (3) The requirement is that each document mentioned in subregulation (4) must be:
- (a) available to the pilot in command immediately before the flight; or
  - (b) carried on the rotorcraft.

*Required documents*

- (4) The documents are the following:

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- (a) if a flight notification is required for the flight under Part 91—the flight notification;
- (b) weight and balance documents for the flight;
- (c) NOTAMs and AIS briefing documents for the flight;
- (d) authorised weather forecasts for:
  - (i) the planned route of the flight; and
  - (ii) the planned area of operation for the flight; and
  - (iii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—the destination alternate aerodrome;
- (e) if there is a person on board who may require special consideration during the flight or during an evacuation of the rotorcraft—a statement identifying the person and the special consideration;
- (f) forms to comply with the reporting requirements under the operator's safety management system;
- (g) if the rotorcraft is fitted with computerised navigation equipment—the operating instructions for the equipment;
- (h) each other document (if any) required by a foreign country within whose territory the flight is conducted.

*Offence*

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

Penalty: 50 penalty units.

**133.065 Carriage of documents—flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of a rotorcraft that begins or ends at an aerodrome outside Australian territory.
- (2) However, this regulation does not apply to a flight of a rotorcraft if:
  - (a) the flight:
    - (i) begins in Australia and ends at a helideck outside Australian territory;  
or
    - (ii) begins at a helideck outside Australian territory and ends in Australia;  
and
  - (b) the flight is not part of a multi-flight journey that begins or ends at an aerodrome that is outside Australian territory.
- (3) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 133 Manual of Standards for the purposes of this paragraph is not carried on the rotorcraft; and
  - (b) the rotorcraft begins the flight.

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

Penalty: 50 penalty units.

### **133.070 Keeping and updating documents etc.**

A rotorcraft operator's exposition must include the following for a flight of the rotorcraft:

- (a) procedures for keeping the documents prescribed by the Part 133 Manual of Standards accessible to a person on the ground for the duration of the flight;
- (b) procedures for providing updated information in relation to the flight to a person on the ground if:
  - (i) the flight is part of a multi-flight journey; and
  - (ii) a copy of a document for the flight has been kept on the ground in relation to an earlier flight that is part of the multi-flight journey; and
  - (iii) the information in the document requires updating; and
  - (iv) it is not practicable to keep a copy of the updated document on the ground;
- (c) the circumstances in which a person on the ground who has access to the information about the flight mentioned in paragraphs (a) and (b) may provide that information to another person;
- (d) procedures for providing information in a circumstance mentioned in paragraph (c).

### **133.075 Journey logs**

#### *Operator—preparation of journey log*

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins, the operator has not prepared a journey log for the flight:
- (a) that is capable of containing the information mentioned in subregulations (3) and (6); and
  - (b) with a place for the pilot in command to verify the entries for the flight.

#### *Pre-flight completion of journey log*

- (2) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, when the flight begins, the information about the flight mentioned in subregulation (3) is not recorded in the journey log.
- (3) The information is the following:
- (a) the rotorcraft's registration mark and flight number (if any);
  - (b) the date of the flight;
  - (c) for each crew member assigned to the flight:
    - (i) the crew member's name; and
    - (ii) the duties assigned to the crew member for the flight;

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- (d) for the flight:
    - (i) the place of departure; and
    - (ii) the time the flight begins;
  - (e) the amount of fuel added to the rotorcraft's fuel tanks before the flight begins (if any);
  - (f) the amount of fuel in the rotorcraft's fuel tanks when the flight begins.
- (4) Subregulation (2) does not apply if:
- (a) the flight is a medical transport operation; and
  - (b) the information mentioned in that subregulation is not recorded in the journey log before the flight begins because of the urgent nature of the medical transport operation; and
  - (c) the pilot in command is satisfied, when the flight begins, that the failure to record the information in the journey log before the flight begins will not affect the safety of the rotorcraft; and
  - (d) the information is recorded in the journey log as soon as practicable after the flight ends.

### *Post-flight completion of journey log*

- (5) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if the information about the flight mentioned in subregulation (6) is not recorded in the journey log for the flight as soon as practicable after the flight ends.
- (6) The information is the following:
- (a) the place of arrival;
  - (b) the time the flight ends;
  - (c) the duration of the flight;
  - (d) the amount of fuel in the rotorcraft's fuel tanks when the flight ends;
  - (e) incidents and observations (if any) relevant to the flight.

### *Offence*

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

## 133.080 Passenger lists

- (1) The operator of a rotorcraft for a flight that is a passenger transport operation contravenes this subregulation if, when the flight begins, the operator has not prepared a passenger list for the flight that contains the information mentioned in subregulation (2).
- (2) The information is the following:
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- (a) the rotorcraft's registration mark and flight number (if any);
  - (b) the name of each passenger;
  - (c) the places of departure and destination for each passenger;
  - (d) the number of infants carried;
  - (e) the date, and estimated time of departure, of the flight.
- (3) Subregulation (1) does not apply to the operator in relation to information mentioned in that subregulation if, by the time it is required to be recorded, the information is:
- (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

**133.085 Flight preparation forms for flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of a rotorcraft that begins or ends at an aerodrome outside Australian territory.
- (2) However, this regulation does not apply to a flight of a rotorcraft if:
- (a) the flight:
    - (i) begins in Australia and ends at a helideck outside Australian territory; or
    - (ii) begins at a helideck outside Australian territory and ends in Australia; and
  - (b) the flight is not part of a multi-flight journey that begins or ends at an aerodrome that is outside Australian territory.
- (3) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, when the flight begins, the pilot in command has not signed a flight preparation form certifying that the pilot in command is satisfied of the matters mentioned in subregulation (4).
- (4) The matters are the following:
- (a) the rotorcraft can be operated during the flight in accordance with its configuration deviation list (if any);
  - (b) the parts of the operator's exposition required to be available to the rotorcraft's crew before the flight by regulation 133.050 are available;
  - (c) the requirements and limitations in the operator's exposition relating to the flight can be complied with for the flight;
  - (d) regulations 133.055, 133.060 and 133.065 are being complied with for the flight;

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- (e) equipment required, under Subpart 133.K, to be fitted to, or carried on, the rotorcraft for the flight is fitted to, or carried on, the rotorcraft in accordance with that Subpart;
  - (f) equipment mentioned in paragraph (e) is:
    - (i) operative; or
    - (ii) inoperative, and permitted to be inoperative for the flight under these Regulations;
  - (g) the rotorcraft's take-off, en-route and landing performance capabilities meet the performance requirements for the circumstances and conditions expected during the flight;
  - (h) the rotorcraft's weight and balance will remain within the rotorcraft's weight and balance limits throughout the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

## **Division 133.C.4—Reporting and recording defects and incidents etc.**

### **133.090 Procedures for reporting and recording defects etc.**

A rotorcraft operator's exposition must include procedures for the reporting and recording, by a flight crew member for a flight of the rotorcraft, of any of the following that occur during the flight:

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

### **133.095 Procedures for reporting and recording incidents**

A rotorcraft operator's exposition must include procedures for the reporting and recording by crew members of incidents relating to a flight of the rotorcraft that endanger, or could endanger, the safe operation of the rotorcraft.

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## **Division 133.C.5—Search and rescue services and emergency and survival equipment**

### **133.100 Information about search and rescue services**

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

Penalty: 50 penalty units.

### **133.105 Information about emergency and survival equipment**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the Part 133 Manual of Standards prescribes an item of equipment for the purposes of this regulation; and
  - (b) when the flight begins, the information prescribed by the Part 133 Manual of Standards for that equipment is not available for immediate communication by the operator to a rescue coordination centre.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 133.C.6—Miscellaneous requirements**

### **133.110 Crew activities necessary for safe operation**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator requires a crew member for the flight to perform an activity during take-off, initial climb, final approach or landing of the rotorcraft for the flight; and
  - (b) the activity is not necessary for the safe operation of the rotorcraft.
- (2) A crew member for a flight of a rotorcraft contravenes this subregulation if:
  - (a) the crew member performs an activity during take-off, initial climb, final approach or landing of the rotorcraft for the flight; and
  - (b) the activity is not necessary for the safe operation of the rotorcraft.
- (3) Subregulations (1) and (2) do not apply if:
  - (a) the flight is a medical transport operation; and
  - (b) the crew member is a medical transport specialist; and
  - (c) the activity relates to providing care to a medical patient; and
  - (d) the crew member is satisfied that:
    - (i) it is essential to perform the activity; and
    - (ii) performing the activity will not affect the safe operation of the rotorcraft.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

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

### **133.115 Competence of ground support personnel**

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

Penalty: 50 penalty units.

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**133.120 Crew station authorisation and briefing**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) during the flight, a person occupies a crew station; and
  - (b) the person is not a person mentioned in subregulation (2).
- (2) The persons are the following:
  - (a) a flight crew member assigned to duty for the flight by the operator;
  - (b) another crew member authorised by the operator and the pilot in command to occupy the crew station during the flight;
  - (c) an authorised officer who is carrying out an audit, check, examination, inspection or test under these Regulations;
  - (d) a person who is permitted by the operator's exposition to occupy the crew station.
- (3) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
  - (a) during the flight, a person other than a member of the rotorcraft's crew occupies a crew station; and
  - (b) before the person occupies the crew station, the pilot in command does not cause the person to be briefed on the safety procedures that are relevant to the crew station.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

## **Subpart 133.D—Operational procedures**

### **Division 133.D.1—Operational control**

#### **133.125 Operational control**

A rotorcraft operator's exposition must include procedures for determining how operational control for a flight of the rotorcraft is to be exercised and by whom.

## **Division 133.D.2—Flight preparation**

### **133.130 Flight preparation requirements**

A rotorcraft operator's exposition must include procedures for complying with the following for a flight of the rotorcraft:

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



## **Division 133.D.3—Flight planning**

### **133.135 Operational flight plans**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
    - (a) the flight is:
      - (i) an IFR flight; or
      - (ii) a VFR flight at night; or
      - (iii) a flight during which the rotorcraft will not remain within 50 nautical miles of the departure aerodrome; and
    - (b) when the flight begins, an operational flight plan that meets the requirements mentioned in subregulation (2) has not been prepared for the flight.
  - (2) The requirements are the following:
    - (a) the flight plan must be prepared having regard to:
      - (i) the safety of the rotorcraft, and of the people on board the rotorcraft, during the flight; and
      - (ii) the rotorcraft's performance; and
      - (iii) the expected rotorcraft operating limitations and conditions for the flight; and
      - (iv) meteorological conditions for the flight;
    - (b) the flight plan must contain the information prescribed by the Part 133 Manual of Standards for the purposes of this paragraph.
  - (3) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
    - (a) the Part 133 Manual of Standards prescribes information about the flight for the purposes of this subregulation; and
    - (b) that information is not recorded in the operational flight plan for the flight:
      - (i) before the flight ends; or
      - (ii) if it is not practicable to record the information before the flight ends—as soon as practicable after the flight ends.
  - (4) Subregulation (1) or (3) does not apply to the operator or the pilot in command in relation to information required to be included in the operational flight plan under that subregulation if, by the time it is required to be recorded, the information is:
    - (a) recorded in another document kept by the operator; or
    - (b) readily available to the operator from another source.
- Note: An example for paragraph (a) is a journey log kept by the operator for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

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Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

### 133.140 Availability of flight planning information

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are the following:
  - (a) the pilot in command of the rotorcraft must have access to the information mentioned in subregulation (3) before and during the flight;
  - (b) each person in the operator's organisation who is responsible for flight planning for the flight must have access to the information mentioned in subregulation (3) before the flight;
  - (c) each person in the operator's organisation who is responsible for flight replanning for the flight must have access to the information mentioned in subregulation (3) during the flight;
  - (d) each person in the operator's organisation who exercises operational control for the flight must have access to the information mentioned in subregulation (3) before and during the flight.
- (3) The information is the following:
  - (a) authorised weather forecasts and authorised weather reports:
    - (i) in relation to the flight; and
    - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—in relation to the destination alternate aerodrome;
  - (b) NOTAMs for the flight;
  - (c) the suitability for a take-off or landing by the rotorcraft of:
    - (i) the departure and planned destination aerodrome for the flight; and
    - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—the destination alternate aerodrome.
- (4) Subregulation (1) does not apply in relation to information mentioned in subparagraph (3)(c)(i) about the planned destination aerodrome, if:
  - (a) when the flight begins, the rotorcraft is carrying sufficient fuel to allow the flight to be continued to another aerodrome that is suitable for the safe landing of the rotorcraft if the rotorcraft cannot land at the planned destination aerodrome; and
  - (b) before starting an approach to land at the planned destination aerodrome, the pilot in command for the flight determines, in accordance with the procedures included in the operator's exposition under regulation 133.170, that the planned destination aerodrome is suitable to land at.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4):  
see subsection 13.3(3) of the *Criminal Code*.

## Division 133.D.4—Flight rules

### 133.145 Take-off and landing minima

- (1) If a rotorcraft conducts an IFR flight to or from an aerodrome, the rotorcraft operator's exposition must include:
  - (a) procedures for determining take-off minima that meet the requirements mentioned in subregulation (2); and
  - (b) procedures for determining landing minima that meet the requirement mentioned in subregulation (3).
- (2) The requirements are the following:
  - (a) the take-off minima must not be less than the take-off minima prescribed by the take-off minima requirements for the aerodrome;
  - (b) the take-off minima must be sufficient to enable the pilot in command to control the rotorcraft, in an emergency, in a way that ensures there is no undue hazard to a person on the ground or water under the rotorcraft's flight path;
  - (c) for a multi-engine rotorcraft flown in performance class 1—the take-off minima must be sufficient to enable the pilot in command to reject or continue a take-off safely if one engine fails;
  - (d) for a multi-engine rotorcraft flown in performance class 2—the take-off minima must be sufficient to enable the pilot in command to:
    - (i) manoeuvre the rotorcraft safely to reach a suitable forced landing area; or
    - (ii) continue a take-off if one engine fails after the defined point after take-off;
  - (e) for a multi-engine rotorcraft flown in performance class 2 with exposure—the take-off minima must be sufficient to enable the pilot in command to continue a take-off if one engine fails after the defined point after take-off.
- (3) The requirement is that the landing minima must not be less than the landing minima prescribed by the landing minima requirements for the aerodrome, including for an approach with visual circling.
- (4) If a rotorcraft conducts an IFR flight to or from an aerodrome with an approach involving visual circling, the rotorcraft operator's exposition must include procedures for determining landing minima for the aerodrome.
- (5) The operator and the pilot in command of a rotorcraft for a flight mentioned in subregulation (1) or (4) each contravene this subregulation if the minima for the take-off or landing for the flight are less than the minima determined in accordance with a procedure mentioned in subregulation (1) or (4) (as the case requires).
- (6) A person commits an offence of strict liability if the person contravenes subregulation (5).

Penalty: 50 penalty units.

### **133.150 Flights to or from foreign countries that do not use ICAO procedures**

- (1) This regulation applies if:
  - (a) a rotorcraft conducts an IFR flight to or from an aerodrome:
    - (i) in a foreign country; and
    - (ii) at which IMC exist; and
  - (b) the country does not base the design of its instrument approach and departure procedures on ICAO Document 8168 (PANS-OPS).
- (2) The rotorcraft operator's exposition must include the instrument approach and departure procedures for the aerodrome that are approved by the national aviation authority of the country.
- (3) The operator of a rotorcraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (4) is not met for the flight.
- (4) The requirements are the following:
  - (a) each pilot assigned to the flight by the operator must have successfully completed training in the country's instrument approach and departure procedures;
  - (b) the flight must be conducted in accordance with the instrument approach and departure procedures for the aerodrome included in the operator's exposition.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

### **133.155 Authorised instrument approach procedures not in the AIP**

- (1) The operator of a rotorcraft for an IFR flight contravenes this subregulation if:
  - (a) during the flight, the rotorcraft conducts an instrument approach to an aerodrome for which an authorised instrument approach procedure is not published in the AIP; and
  - (b) an authorised instrument approach procedure for the aerodrome is not included in the operator's exposition.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **133.160 Exposition requirements for low-visibility operations**

A rotorcraft operator's exposition must include the following:

- (a) each type of low-visibility operation conducted using the rotorcraft;
- (b) the aircraft systems required to be used for each type of those operations;

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- (c) the aerodrome facilities required to conduct each type of those operations;
- (d) the training and qualifications required for the rotorcraft's flight crew members for each type of those operations;
- (e) the requirements to be met by the rotorcraft's flight crew members during each of those operations.

### **133.165 IFR flights without destination alternate aerodromes**

- (1) This regulation applies to a flight of a rotorcraft if:
  - (a) the flight is an IFR flight; and
  - (b) the operational flight plan for the flight does not include a destination alternate aerodrome.
- (2) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
  - (a) during the flight, the pilot in command receives an authorised weather forecast for the planned destination aerodrome for the flight; and
  - (b) because of the authorised weather forecast, a destination alternate aerodrome must be nominated in accordance with the flight preparation (alternate aerodromes) requirements; and
  - (c) the rotorcraft is not carrying sufficient fuel to allow the flight to be continued to another aerodrome that is suitable for the safe landing of the rotorcraft if the rotorcraft cannot land at the planned destination aerodrome; and
  - (d) the flight is continued to the planned destination aerodrome.
- (3) Subregulation (2) does not apply if:
  - (a) within 30 minutes before the rotorcraft's estimated arrival time at the planned destination aerodrome, the pilot in command receives an authorised weather forecast for the planned destination aerodrome; and
  - (b) the authorised weather forecast indicates that the visibility or cloud ceiling height at the planned destination aerodrome is expected to be:
    - (i) below the alternate minima for the planned destination aerodrome required by the flight preparation (alternate aerodromes) requirements; but
    - (ii) above the landing minima required by the landing minima requirements for the planned destination aerodrome.
- (4) Also, subregulation (2) does not apply if the rotorcraft is carrying sufficient fuel to allow it to hold near the planned destination aerodrome until the end of 30 minutes after the visibility and cloud ceiling height is expected to be at or above the specified landing minima for the rotorcraft for the aerodrome.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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Note: A defendant bears an evidential burden in relation to the matters in subregulation (3) or (4): see subsection 13.3(3) of the *Criminal Code*.

**133.167 Minimum height rules for medical transport operations**

Regulation 91.265, 91.267, 91.277 or 91.305 does not apply to a pilot in command of a rotorcraft for a flight that is a medical transport operation if:

- (a) circumstances prescribed by the Part 133 Manual of Standards for the purposes of this paragraph apply to the rotorcraft and the operation; or
- (b) requirements prescribed by the Part 133 Manual of Standards for the purposes of this paragraph are complied with in relation to the flight.

## Division 133.D.5—Aerodromes

### 133.170 Procedures to determine information about aerodromes

- (1) A rotorcraft operator's exposition must include the following:
  - (a) procedures to determine the kinds of information mentioned in subregulation (2) for a flight of the rotorcraft in relation to the following:
    - (i) the departure aerodrome;
    - (ii) the planned destination aerodrome;
    - (iii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—the destination alternate aerodrome;
  - (b) procedures for the pilot in command to plan a take-off from, or a landing at, an aerodrome, including a procedure to determine the kinds of information mentioned in subregulation (2) in relation to the aerodrome.
- (2) The kinds of information are the following:
  - (a) final approach and take-off area dimensions, directions, slopes, surface types and ground or water types for the aerodrome;
  - (b) touch down and lift-off area dimensions, limitations and location;
  - (c) the location of taxiways and turning nodes (if any);
  - (d) the aerodrome's elevation;
  - (e) the location on the aerodrome of the aerodrome reference point (if any);
  - (f) the location of the aerodrome's windsocks (if any);
  - (g) the aids to navigation and communication facilities available at the aerodrome (if any);
  - (h) the limitations (if any) on the use of the aerodrome;
  - (i) the special procedures (if any) in use at the aerodrome, in flight or on the ground or water;
  - (j) a contact person capable of providing information about the condition of the aerodrome;
  - (k) the special procedures and restrictions (if any) that the operator requires the flight crew of the rotorcraft to use at the aerodrome, including:
    - (i) engine failure procedures; and
    - (ii) obstacle clearance procedures.

### 133.175 Procedures for safety at aerodromes

A rotorcraft operator's exposition must include the following:

- (a) procedures to ensure the safety of persons in the vicinity of the rotorcraft when any of the following circumstances apply:
  - (i) a person is embarking or disembarking the rotorcraft;
  - (ii) the rotorcraft is being loaded or unloaded;
  - (iii) the rotorcraft is being operated at an aerodrome;



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- (b) procedures to determine the minimum distance that a person, animal or thing must be kept from the following to ensure the safety of the person, animal or thing:
- (i) the rotorcraft while it is on the ground at an aerodrome with its rotors turning;
  - (ii) the movement area of an aerodrome while the rotorcraft is landing or taking off;
  - (iii) a hazard created by the downwash of the rotorcraft at an aerodrome.

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## Division 133.D.6—Fuel requirements

### 133.180 Fuel procedures

A rotorcraft operator's exposition must include procedures to ensure that a flight of the rotorcraft is conducted in accordance with the requirements mentioned in subregulation 133.190(1).

### 133.185 Oil requirements

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

Penalty: 50 penalty units.

### 133.190 Fuel requirements

- (1) The Part 133 Manual of Standards may prescribe requirements relating to fuel for rotorcraft, including (but not limited to) the following:
  - (a) matters that must be considered when determining whether a rotorcraft has sufficient fuel to complete a flight safely;
  - (b) the amounts of fuel that must be carried on board a rotorcraft for a flight;
  - (c) procedures for monitoring amounts of fuel during a flight;
  - (d) procedures to be followed if fuel reaches specified amounts during a flight.
- (2) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (3) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

### 133.195 Fuelling safety procedures

A rotorcraft operator's exposition must include the following:

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- (a) procedures to ensure the rotorcraft is fuelled safely;
- (b) procedures relating to the safety of passengers for a flight of the rotorcraft who are embarking or disembarking, or on board, the rotorcraft during fuelling, including the normal, emergency and communication procedures to be followed by the following persons:
  - (i) any crew members for the flight other than flight crew members;
  - (ii) any flight crew members for the flight who are on duty in the cockpit;
  - (iii) any of the operator's personnel who carry out a ground support duty for the flight;
- (c) if the operator permits a person to operate low-risk electronic devices inside the cabin of the rotorcraft while the rotorcraft is being fuelled:
  - (i) a statement that radio frequency emissions from those devices will not affect systems on the rotorcraft; or
  - (ii) procedures to ensure that, before an engine of the rotorcraft is started, any effects of radio frequency emissions from those devices have been corrected.

## Division 133.D.7—Passenger transport and medical transport

### 133.200 Application of Division 133.D.7

- (1) This Division applies in relation to the operation of a rotorcraft for a passenger transport operation.
- (2) This Division (other than regulations 133.215, 133.225 and 133.235) also applies in relation to the operation of a rotorcraft for a medical transport operation.

### 133.205 Simulation of emergency or abnormal situations

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

Penalty: 50 penalty units.

### 133.210 Carriage of restricted persons

- (1) A rotorcraft operator's exposition must state whether the operator will, or will not, carry a restricted person on a flight of the rotorcraft.

Note: For other requirements for the carriage of restricted persons who are deportees, removees and other persons in custody, see Division 4.5 of the *Aviation Transport Security Regulations 2005*.

- (2) If a rotorcraft operator's exposition states that the operator will carry a restricted person on a flight of the rotorcraft, the exposition must also include the following:
  - (a) procedures for carrying a restricted person on the rotorcraft;
  - (b) procedures to inform each crew member for the flight about the carriage of a restricted person for the flight.

### 133.215 Carry-on baggage

A rotorcraft operator's exposition must include procedures for the following:

- (a) securely stowing carry-on baggage;
- (b) determining the maximum weight and size of baggage that can be taken on the rotorcraft as carry-on baggage;
- (c) determining the locations on the rotorcraft where carry-on baggage can be stowed;
- (d) giving instructions to passengers about securely stowing carry-on baggage at the following times:
  - (i) before take-off;
  - (ii) before landing;

(iii) any other time that the pilot in command directs.

### **133.220 Obstruction of emergency exits**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during the flight, an emergency exit is obstructed.
- (2) For the purposes of subregulation (1), an emergency exit is not obstructed only because a seat adjacent to the exit, or a seat in a row of seats adjacent to the exit, is occupied by a passenger.
- (3) Subregulation (1) does not apply if:
  - (a) the flight is a medical transport operation; and
  - (b) the emergency exit is obstructed by a stretcher fit-out that is described or identified in a supplemental type certificate for the rotorcraft.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

### **133.225 Passengers in seats adjacent to emergency exits**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, during the flight, the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the pilot in command of the rotorcraft for the flight must be satisfied that each person occupying a seat adjacent to an emergency exit:
  - (a) is a suitable person; or
  - (b) is accompanied or assisted, for the flight, by a suitable person who can access the emergency exit.
- (3) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins:
  - (a) a suitable person is occupying a seat adjacent to an emergency exit; and
  - (b) the suitable person has not agreed to assist the rotorcraft's crew with the evacuation of the rotorcraft in an emergency.
- (4) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins:
  - (a) a person other than a suitable person is occupying a seat adjacent to an emergency exit; and
  - (b) a suitable person is, for the flight, accompanying or assisting the person; and
  - (c) the suitable person has not agreed to assist the rotorcraft's crew with the evacuation of the rotorcraft in an emergency.

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

Penalty: 50 penalty units.

### **133.230 Carriage of passengers with reduced mobility**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during the flight, a passenger with reduced mobility occupies a seat where the passenger could:
- hinder the crew in their safety duties; or
  - obstruct access to emergency equipment; or
  - hinder the evacuation of the rotorcraft in an emergency.
- (2) Subregulation (1) does not apply in relation to a passenger with reduced mobility if:
- the passenger is accompanied or assisted, for the flight, by a suitable person who is seated adjacent to an emergency exit; and
  - the suitable person is accompanying or assisting only that passenger for the flight; and
  - the suitable person has agreed to assist the rotorcraft's crew with the evacuation of the rotorcraft in an emergency.
- (3) A rotorcraft operator's exposition must include procedures for informing crew members for a flight about any passenger with reduced mobility who is to be carried on the flight.
- (4) The operator of a rotorcraft for a flight contravenes this subregulation if a procedure mentioned in subregulation (3) is not complied with for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (4).

Penalty: 50 penalty units.

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

### **133.235 Safety briefing cards**

- (1) This regulation applies to a rotorcraft with a maximum operational passenger seat configuration of more than 2.
- (2) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins, a safety briefing card for the rotorcraft is not available to each passenger on the rotorcraft.
- (3) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins, a safety briefing card does not meet the requirements mentioned in subregulation (4).
- (4) The requirements are the following:
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- (a) the safety briefing card must include any information prescribed by the Part 133 Manual of Standards;
  - (b) the only other information that may be included in the safety briefing card is the following:
    - (i) information that is relevant to the type and model of rotorcraft;
    - (ii) information that is relevant to the safety of the rotorcraft and its passengers.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

### **133.240 Safety briefings, instructions and demonstrations**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if a passenger is not given a safety briefing, instructions or demonstrations in accordance with the requirements prescribed by the Part 133 Manual of Standards for the purposes of this regulation.
- (2) Subregulation (1) does not apply in relation to a medical patient on a flight that is a medical transport operation.
- (3) The operator of a rotorcraft for a flight contravenes this subregulation if a safety briefing, instruction or demonstration required to be given to a passenger under this regulation includes:
  - (a) information that is not relevant to the type and model of the rotorcraft; or
  - (b) information that is not relevant to the safety of the rotorcraft and its passengers.
- (4) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) a passenger with reduced mobility will be carried on the flight; and
  - (b) before the rotorcraft takes off for the flight, the passenger, or a person accompanying or assisting the passenger, is not asked by a crew member for the flight about the best way of helping the passenger if an emergency evacuation of the rotorcraft is necessary.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (3) or (4).

Penalty: 50 penalty units.

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

### **133.245 Safety briefing in the event of an emergency**

- (1) A rotorcraft operator's exposition must include procedures for briefing passengers on what to do if an emergency occurs during a flight of the rotorcraft.

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- (2) Subregulation (1) does not apply to a medical patient on a flight that is a medical transport operation.



## **Division 133.D.8—Instruments, indicators, equipment and systems**

### **133.250 Airborne weather radar equipment**

- (1) This regulation applies to a rotorcraft that conducts a flight:
  - (a) for which airborne weather radar equipment is required, under Subpart 133.K, to be fitted to the rotorcraft; or
  - (b) whilst the rotorcraft is fitted with airborne weather radar equipment (whether or not the airborne weather radar equipment is required, under Subpart 133.K, to be fitted for the flight).
- (2) The rotorcraft operator's exposition must include the following:
  - (a) procedures for using the equipment during a flight mentioned in subregulation (1);
  - (b) procedures for conducting a flight mentioned in subregulation (1) without the equipment, for use if the equipment is inoperative.

### **133.255 Head-up displays, enhanced vision systems and synthetic vision systems**

- (1) This regulation applies to a flight of a rotorcraft if:
  - (a) the rotorcraft is fitted with any of the following systems:
    - (i) a head-up display;
    - (ii) an enhanced vision system;
    - (iii) a synthetic vision system; and
  - (b) the flight is:
    - (i) an IFR flight; or
    - (ii) a VFR flight at night.
- (2) A rotorcraft operator's exposition must include the following:
  - (a) procedures for using each system that is fitted to the rotorcraft during a flight mentioned in paragraph (1)(b);
  - (b) procedures for conducting a flight mentioned in paragraph (1)(b) without an element of the system, for use if the element is inoperative.
- (3) The Part 133 Manual of Standards may prescribe requirements for the use of a system mentioned in paragraph (1)(a) for a flight of a rotorcraft.
- (4) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) a system mentioned in paragraph (1)(a) is used during the flight; and
  - (b) a requirement mentioned in subregulation (3) for that system is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

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### 133.260 Survival equipment procedures

- (1) This regulation applies to a flight of a rotorcraft if:
  - (a) the flight is in or through an area prescribed as a remote area by the Part 91 Manual of Standards; or
  - (b) the rotorcraft is required, under Subpart 133.K, to carry a life raft for the flight.
- (2) If a rotorcraft is, or will be, used to conduct a flight to which this regulation applies, the operator's exposition must include the following:
  - (a) procedures for determining the survival equipment required for the area in or through which the flight will be conducted;
  - (b) for a flight mentioned in paragraph (1)(b)—procedures for determining the pyrotechnic signalling devices required to ensure the distress signals, set out in Appendix 1 to Annex 2, *Rules of the Air*, to the Chicago Convention, can be made.

### 133.265 NVIS flights

- (1) This regulation applies to a flight of a rotorcraft if:
  - (a) the rotorcraft is fitted with a night vision imaging system; and
  - (b) the flight is:
    - (i) an IFR flight; or
    - (ii) a VFR flight at night.
- (2) A rotorcraft operator's exposition must include the following:
  - (a) procedures for using a night vision imaging system during a flight to which subregulation (1) applies;
  - (b) procedures for conducting such a flight without an element of a night vision imaging system, for use if the element is inoperative.
- (3) The Part 133 Manual of Standards may prescribe requirements for the use of a night vision imaging system for a flight of a rotorcraft.
- (4) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) a night vision imaging system is used during the flight; and
  - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

### 133.270 Securing moveable equipment

A rotorcraft operator's exposition must include the following:

- (a) procedures for identifying items of moveable equipment that must be stowed securely on board the rotorcraft at the following times during a flight:
  - (i) while the rotorcraft is taking off;
  - (ii) while the rotorcraft is landing;
  - (iii) any other time that the pilot in command directs;
- (b) procedures for stowing the items.

## Division 133.D.9—Miscellaneous

### 133.275 Procedures relating to ice

A rotorcraft operator's exposition must include the following in relation to a flight of the rotorcraft:

- (a) procedures for the inspection of the rotorcraft by the pilot in command before a flight if frost or freezing conditions exist;
- (b) if de-icing and anti-icing measures are required for the flight—procedures for carrying out these measures before the flight;
- (c) procedures for using de-icing and anti-icing equipment (where fitted) during the flight.

### 133.280 Procedures relating to portable electronic devices

A rotorcraft operator's exposition must include procedures for the operation of portable electronic devices for a flight of the rotorcraft.

### 133.285 Procedures relating to carriage of animals

A rotorcraft operator's exposition must include procedures for the carriage of animals for a flight of the rotorcraft.

### 133.290 Polar operations

- (1) This regulation applies to a rotorcraft that conducts a flight to or from an aerodrome in a polar region.
- (2) A rotorcraft operator's exposition must include procedures for the following:
  - (a) monitoring and dealing with fuel freezing;
  - (b) ensuring communication capability for the duration of an operation that includes a flight mentioned in subregulation (1);
  - (c) training the rotorcraft's flight crew in polar operations;
  - (d) mitigating crew member and passenger exposure to cosmic radiation during solar flare activity;
  - (e) if the rotorcraft is not flown over water during a flight mentioned in subregulation (1)—ensuring that each person on the rotorcraft wears a serviceable, cold-weather, anti-exposure suit that is appropriate for the temperatures in which the flight is conducted;
  - (f) if the rotorcraft is flown over water during a flight mentioned in subregulation (1)—ensuring that each person on the rotorcraft wears an immersion suit that is appropriate for the temperatures in which the flight is conducted.

**133.295 External load operations involving winching a person**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) an external load operation involving winching a person is conducted during the flight; and
  - (b) a requirement prescribed by the Part 133 Manual of Standards is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## Subpart 133.F—Performance

### 133.305 Take-off performance

- (1) The Part 133 Manual of Standards may prescribe requirements relating to take-off performance for a flight of a rotorcraft.
- (2) Without limiting subregulation (1), the Part 133 Manual of Standards may prescribe requirements that relate to one or more of the following:
  - (a) the kinds of operations to be carried out during the flight;
  - (b) characteristics of the aerodrome at which the rotorcraft takes off;
  - (c) characteristics of the route flown by the rotorcraft;
  - (d) characteristics of the aerodrome at which the rotorcraft lands.
- (3) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

### 133.310 Landing performance

- (1) The Part 133 Manual of Standards may prescribe requirements relating to landing performance for a flight of a rotorcraft.
- (2) Without limiting subregulation (1), the Part 133 Manual of Standards may prescribe requirements relating to one or more of the following:
  - (a) the rotorcraft's configuration;
  - (b) the operation of any equipment for the flight;
  - (c) characteristics of the aerodrome at which the rotorcraft lands;
  - (d) safety factor percentages to be applied.
- (3) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.

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- (4) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

**133.315 Flight in a performance class**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during any stage of the flight, the rotorcraft is not flown in a performance class.
- (2) Subregulation (1) does not apply in relation to a stage of a flight if:
  - (a) the flight is a medical transport operation; and
  - (b) the stage of the flight is conducted at a medical transport operating site; and
  - (c) the operator's exposition includes risk assessment and management procedures that must be complied with if the rotorcraft is not flown in a performance class during such a stage; and
  - (d) the procedures are complied with for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

**133.320 Rotorcraft permitted to fly in performance class 1 or 2, or performance class 2 with exposure**

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during any stage of the flight:
  - (a) the rotorcraft is flown in performance class 1 or 2, or performance class 2 with exposure; and
  - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the rotorcraft must be a rotorcraft of a kind prescribed by the Part 133 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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### 133.325 Flight in performance class 2 with exposure

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) the rotorcraft is flown in performance class 2 with exposure during the take-off, take-off and initial climb, approach and landing, or baulked landing stage of the flight; and
  - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
  - (a) the rotorcraft must be flown in accordance with any requirements prescribed by the Part 133 Manual of Standards for the purposes of this paragraph;
  - (b) the operator must hold an approval under regulation 133.015 for the rotorcraft to be flown in performance class 2 with exposure during that stage of the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 133.330 Flight in performance class 1 for certain rotorcraft

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if:
  - (a) the rotorcraft has a maximum operational passenger seat configuration of more than 19; and
  - (b) the rotorcraft is flown in a performance class other than performance class 1 during a stage of the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 133.335 Flight in performance class 1 or 2, or performance class 2 with exposure for certain rotorcraft

- (1) This regulation applies to a flight of a rotorcraft if:
  - (a) the rotorcraft has a maximum operational passenger seat configuration of more than 9 and not more than 19; or
  - (b) the flight is a medical transport operation; or
  - (c) all of the following apply:
    - (i) the rotorcraft has a maximum operational passenger seat configuration of not more than 19;
    - (ii) the flight is a passenger transport operation;
    - (iii) the flight is conducted under the IFR or at night.



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- (2) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The requirements are the following:
  - (a) during the take-off, take-off and initial climb, the approach and landing, or baulked landing, stage of the flight, the rotorcraft must be flown in performance class 1 or 2, or performance class 2 with exposure;
  - (b) during any other stage of the flight, the rotorcraft must be flown in performance class 1.
- (4) Subregulation (2) does not apply in relation to the take-off, take-off and initial climb, the approach and landing, or baulked landing stage of a flight, if:
  - (a) the flight is a medical transport operation; and
  - (b) the stage is conducted from or at a place as part of the medical transport operation; and
  - (c) the operator holds an approval under regulation 133.015 in relation to the place and the rotorcraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

### **133.340 Flight in performance class 3 over populous areas**

- (1) The operator and the pilot in command of a rotorcraft for a flight over a populous area each contravene this subregulation if:
  - (a) during a stage of the flight, the rotorcraft is flown in performance class 3; and
  - (b) a suitable forced landing area is not available to the rotorcraft; and
  - (c) the requirements prescribed by the Part 133 Manual of Standards are not met.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## Subpart 133.J—Weight and balance

### 133.345 Loading of rotorcraft

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, when the flight begins, the rotorcraft is loaded in a way that contravenes the rotorcraft's weight and balance limits.
- (2) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during the flight, the rotorcraft ceases to be loaded in accordance with the rotorcraft's weight and balance limits.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 133.350 Procedures for loading rotorcraft etc.

A rotorcraft operator's exposition must include the following:

- (a) procedures for loading the rotorcraft for a flight to comply with regulation 133.345;
- (b) procedures for working out the following weights for a flight of the rotorcraft:
  - (i) the total weight of the crew members and the carry-on baggage of the crew members;
  - (ii) the total weight of the passengers and the carry-on baggage of the passengers;
  - (iii) the total weight of the cargo (other than carry-on baggage);
  - (iv) the total weight of the usable fuel to be carried;
- (c) procedures to ensure that a last-minute change to a load does not cause the rotorcraft to exceed its weight and balance limits;
- (d) procedures for offloading passengers or cargo to ensure that the rotorcraft does not exceed its weight and balance limits.

### 133.355 Weight and balance documents

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, when the flight begins, the weight and balance documents for the flight do not comply with subregulation (2).
- (2) The weight and balance documents must include the following:
  - (a) the weight and balance of the rotorcraft and the information used to calculate the weight and balance;
  - (b) the name of the person who prepared the weight and balance documents;

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- (c) confirmation by the person responsible for planning and supervising the loading of the rotorcraft that the rotorcraft has been loaded in accordance with:
    - (i) the procedures set out in the operator’s exposition for loading the rotorcraft; and
    - (ii) the weight and balance documents;
  - (d) if the person mentioned in paragraph (c) is not the pilot in command or the co-pilot—confirmation of the acceptance of the weight and balance documents by the pilot in command or the co-pilot;
  - (e) any other information that the pilot in command needs to ensure that the loading of the rotorcraft is in accordance with the weight and balance limits for the rotorcraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 133.K—Equipment**

### **133.360 Requirements relating to equipment**

- (1) The Part 133 Manual of Standards may prescribe requirements relating to:
  - (a) the fitment and non-fitment of equipment to a rotorcraft; and
  - (b) the carrying of equipment on a rotorcraft; and
  - (c) equipment that is fitted to, or carried on, a rotorcraft.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## Subpart 133.N—Flight crew

### Division 133.N.1—General

#### 133.370 Composition, number, qualifications and training

*General*

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
  - (a) the composition of the rotorcraft’s flight crew for the flight must comply with the rotorcraft’s flight manual;
  - (b) if the rotorcraft has a maximum operational passenger seat configuration of more than 9—the flight crew must include 2 pilots;
  - (c) if the flight is a kind of operation for which the operator’s exposition requires the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
  - (d) each flight crew member must be qualified under regulation 133.385 or 133.390 to carry out the duties assigned to the flight crew member by the operator for the flight;
  - (e) if the flight is a VFR flight at night that is a passenger transport operation or a medical transport operation—at least one of the flight crew members must hold an instrument rating;
  - (f) the pilot in command and the co-pilot (if any) for the flight must have the recent experience for the flight required by Division 133.N.4;
  - (g) each flight crew member must meet the training and checking requirements for the flight crew member and the flight mentioned in subregulation (4);
  - (h) if the operator’s exposition includes requirements, in accordance with regulation 133.400, in relation to knowledge that the pilot in command must have relating to the route of, and aerodromes for, the flight—the pilot in command must meet the requirements;
  - (i) each flight crew member for whom, under the operator’s exposition, differences training for the rotorcraft is required, must have successfully completed the differences training.
- (3) For the purposes of paragraph (2)(c), the rotorcraft operator’s exposition must include the kinds of operation (if any) for which additional flight crew members must be carried.
- (4) The Part 133 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a flight crew member for a flight.

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### *New or inexperienced crew members*

- (5) A rotorcraft operator's exposition must include the requirements that must be met for new or inexperienced crew members to be assigned to duty for a flight of the rotorcraft.

### *Offence*

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

Penalty: 50 penalty units.

## **133.375 Competence**

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

Penalty: 50 penalty units.

## **133.377 Training and checking to be conducted by certain persons**

- (1) The operator of a rotorcraft contravenes this subregulation if:
- (a) a flight crew member of the operator's personnel undertakes training or a check that is required under this Part; and
  - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by:
- (a) an individual who:
    - (i) is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
    - (ii) meets the requirements prescribed by the Part 133 Manual of Standards; or
  - (b) a Part 142 operator with whom the operator has a contract for the Part 142 operator to conduct the training or check for the operator.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**133.380 Assignment to duty of pilot in command**

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

Penalty: 50 penalty units.

**133.385 Pilot in command**

- (1) A pilot is qualified as pilot in command for a flight of a rotorcraft if:
  - (a) the pilot meets the minimum flying experience requirements specified, in accordance with subregulation (2), in the rotorcraft operator's exposition for the rotorcraft; and
  - (b) for a flight described in an item of column 1 of the following table—the pilot has completed, in a rotorcraft of that kind, the flight hours mentioned in column 2 of the item; and
  - (c) for a flight that is a multi-crew operation—the pilot has successfully completed command training that complies with the requirements prescribed by the Part 133 Manual of Standards; and
  - (d) the pilot is:
    - (i) if the rotorcraft is an Australian aircraft—authorised to pilot the rotorcraft during the flight as pilot in command under Part 61; or
    - (ii) if the rotorcraft is a foreign registered aircraft—authorised to pilot the rotorcraft during the flight as pilot in command by the rotorcraft's State of registry.

**Flight hours required to qualify as pilot in command**

<b>Item</b>	<b>Column 1 Flight</b>	<b>Column 2 Flight hours</b>
1	Flight at night	5 hours as pilot in command, or pilot in command under supervision, at night
2	VFR flight in single-engine rotorcraft	Either: (a) 5 hours as pilot in command, or pilot in command under supervision, by day in a rotorcraft of that kind; or (b) if the pilot has 5 hours of aeronautical experience in another kind of single-engine rotorcraft—3 hours as pilot in command, or pilot in command under supervision, by day in a rotorcraft of the kind referred to in paragraph (a)
3	VFR flight in multi-engine rotorcraft	10 hours as pilot in command, or pilot in command under supervision, by day
4	IFR flight in multi-engine rotorcraft	15 hours as pilot in command under supervision under the IFR
5	Flight that is a multi-crew	Either:

Regulation 133.390

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**Flight hours required to qualify as pilot in command**

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Item	Column 1 Flight	Column 2 Flight hours
	operation	(a) 20 hours as pilot in command; or (b) 20 hours as pilot in command under supervision in a multi-crew operation

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- (2) For the purposes of paragraph (1)(a), the rotorcraft operator's exposition must include minimum flying experience requirements for all rotorcraft operated by the operator for Australian air transport operations.
- (3) To avoid doubt, more than one item of column 2 of the table in subregulation (1) may apply to a particular hour of flight time.

**133.390 Co-pilot**

- (1) A pilot is qualified as co-pilot for a flight of a rotorcraft if:
- (a) the pilot is:
    - (i) if the rotorcraft is an Australian aircraft—authorised to pilot the rotorcraft during the flight as co-pilot under Part 61; or
    - (ii) if the rotorcraft is a foreign registered aircraft—authorised to pilot the rotorcraft during the flight as co-pilot by the rotorcraft's State of registry; and
  - (b) the pilot has completed supervised line flying on a rotorcraft of that aircraft type rating as co-pilot for the number of sectors or flight hours mentioned in the operator's exposition.
- (2) A pilot is qualified as co-pilot for a flight of a rotorcraft if the pilot is qualified under regulation 133.385 as pilot in command of the rotorcraft for the flight.

**133.395 Pilot in command in non-command pilot's seat**

*Operator*

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
- (a) the operator requires the pilot in command of the rotorcraft for the flight to do any of the following in the non-command pilot's seat:
    - (i) operate the rotorcraft as pilot in command;
    - (ii) carry out the duties of co-pilot;
    - (iii) carry out training or examining duties; and
  - (b) the pilot in command does not hold a valid proficiency check, in accordance with the requirements prescribed by the Part 133 Manual of Standards, for the operator and the rotorcraft for a pilot who will be required to operate the rotorcraft in the non-command pilot's seat.



*Pilot in command*

- (2) The pilot in command of a rotorcraft for a flight contravenes this subregulation if:
- (a) the pilot in command operates the rotorcraft in the non-command pilot's seat; and
  - (b) the pilot in command does not hold a valid proficiency check, in accordance with the requirements prescribed by the Part 133 Manual of Standards, for the operator and the rotorcraft for a pilot who will be required to operate the rotorcraft in the non-command pilot's seat.

*Offence*

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

Penalty: 50 penalty units.

**133.400 Knowledge of route and aerodromes**

A rotorcraft operator's exposition must include requirements in relation to the knowledge that a pilot in command of the rotorcraft for a flight must have of:

- (a) the route of the flight; and
- (b) the departure aerodrome and the planned destination aerodrome for the flight; and
- (c) any alternate aerodrome required for the flight by the flight preparation (alternate aerodromes) requirements; and
- (d) if the flight is to an unfamiliar aerodrome—any procedures included in the operator's exposition under regulation 133.170 or 133.175 that relate to managing the safety of operations to an unfamiliar aerodrome.

**Part 133** Australian air transport operations—rotorcraft

**Subpart 133.N** Flight crew

**Division 133.N.2** Flight crew training—miscellaneous

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## **Division 133.N.2—Flight crew training—miscellaneous**

Note: This Division is reserved for future use.

## **Division 133.N.3—Operation of rotorcraft of different types**

### **133.410 Application of Division 133.N.3**

This Division applies to the operator of a rotorcraft if the operator operates rotorcraft of more than one type for Part 133 operations.

### **133.415 Assignment of flight crew to different multi-engine rotorcraft**

A rotorcraft operator's exposition must include the following:

- (a) a description of the circumstances in which the operator may assign a flight crew member to duty on 2 or more different multi-engine rotorcraft;
- (b) the combinations of different rotorcraft that a single flight crew member may be assigned to duty on by the operator;
- (c) the flying experience, checks and training that a flight crew member must gain or complete, while the flight crew member is employed by the operator, before being assigned to duty on 2 or more different multi-engine rotorcraft;
- (d) procedures to ensure that, if a flight crew member is assigned to duty on 2 or more different multi-engine rotorcraft within one tour of duty, the flight crew member has adequate time between flights on the different rotorcraft for the flight crew member to prepare for duty.

## Division 133.N.4—Recent experience

### 133.420 Recent experience requirements—90 days before flight

#### *Operator*

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator assigns a pilot to duty as pilot in command or co-pilot of the rotorcraft for the flight; and
  - (b) the pilot does not have:
    - (i) if the flight is a flight by day—the recent experience required for the flight by subregulation (3); or
    - (ii) if the flight is a flight at night—the recent experience required for the flight by subregulation (4).

#### *Pilot*

- (2) A pilot of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the pilot operates the rotorcraft as pilot in command or co-pilot for the flight; and
  - (b) the pilot does not have:
    - (i) if the flight is a flight by day—the recent experience required for the flight by subregulation (3); or
    - (ii) if the flight is a flight at night—the recent experience required for the flight by subregulation (4).

#### *Requirements for flights by day*

- (3) The recent experience required for a flight by day is that, within 90 days before the flight:
  - (a) the pilot must have carried out, in a rotorcraft of that kind or an approved flight simulator for the rotorcraft:
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling the rotorcraft or simulator; and
    - (ii) at least 3 landings while controlling the rotorcraft or simulator; or
  - (b) the pilot must have passed a flight test for the grant of a pilot licence or a rating on a pilot licence in a rotorcraft of that kind or an approved flight simulator for the rotorcraft; or
  - (c) the pilot must have successfully completed a proficiency check for the rotorcraft that complies with the requirements prescribed by the Part 133 Manual of Standards.

Note: For other recent experience requirements, see Part 61.

*Requirements for flights at night*

- (4) The recent experience required for a flight at night is that, within 90 days before the flight:
- (a) the pilot must have carried out, at night in a rotorcraft of that kind or under night time conditions in an approved flight simulator for the rotorcraft:
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling the rotorcraft or simulator; and
    - (ii) at least 3 landings while controlling the rotorcraft or simulator; or
  - (b) the pilot must have passed a flight test for the grant of a pilot licence or a rating on a pilot licence in a rotorcraft of that kind or an approved flight simulator for the rotorcraft; or
  - (c) the pilot must have successfully completed a proficiency check for the rotorcraft that complies with the requirements prescribed by the Part 133 Manual of Standards.

*Offence*

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

Penalty: 50 penalty units.

## Subpart 133.P—Crew other than flight crew

### Division 133.P.1—Cabin crew

#### 133.425 Number, qualifications, experience and training

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins:
  - (a) under subregulation (2), a cabin crew member must be carried on the flight; and
  - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (2) A cabin crew member must be carried on the flight if circumstances prescribed by the Part 133 Manual of Standards exist for the flight.
- (3) The requirements are the following:
  - (a) the number of cabin crew for the flight must be at least the number prescribed by the Part 133 Manual of Standards;
  - (b) each cabin crew member must meet the training and checking requirements for the cabin crew member and the flight mentioned in subregulation (4).
- (4) The Part 133 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a cabin crew member for a flight of a rotorcraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### 133.430 Competence

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

Penalty: 50 penalty units.

#### 133.435 Minimum age

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins, a cabin crew member for the flight has not turned 18.

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

Penalty: 50 penalty units.

### **133.440 English proficiency**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
- (a) the operator assigns a person to duty as a cabin crew member for the flight; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).

- (2) The requirement is that the person must meet the ICAO level 4, 5 or 6 aviation English language proficiency standards mentioned in the Part 61 Manual of Standards.

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

Penalty: 50 penalty units.

### **133.445 Assignment to duty as senior cabin crew member**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if, when the flight begins:
- (a) there is more than one cabin crew member for the flight; and
  - (b) none of the cabin crew members is assigned to duty as the senior cabin crew member for the flight.

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

Penalty: 50 penalty units.

### **133.450 Training and checking requirements for senior cabin crew member**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
- (a) the operator assigns a cabin crew member to duty as the senior cabin crew member for a flight; and
  - (b) the cabin crew member has not successfully completed the training and checking requirements for a senior cabin crew member set out in the operator's exposition.

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

Penalty: 50 penalty units.

## Division 133.P.2—Air crew

### 133.455 Training and checking

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) an air crew member is carried on the flight; and
  - (b) the air crew member does not meet the training and checking requirements for the air crew member and the flight mentioned in subregulation (2).
- (2) The Part 133 Manual of Standards may prescribe requirements relating to training and checking that must be completed by an air crew member for a flight of a rotorcraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 133.460 Competence

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

Penalty: 50 penalty units.

### 133.465 English proficiency

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as an air crew member for the flight; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).
- (2) The requirement is that the person must meet the ICAO level 4, 5 or 6 aviation English language proficiency standards mentioned in the Part 61 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.



## **Division 133.P.3—Medical transport specialists**

### **133.470 Training and checking**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) a medical transport specialist is carried on the flight; and
  - (b) the medical transport specialist does not meet the training and checking requirements for the medical transport specialist and the flight mentioned in subregulation (2).
- (2) The Part 133 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a medical transport specialist for a flight of a rotorcraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **133.475 Competence**

- (1) The operator of a rotorcraft for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as a medical transport specialist for a flight; and
  - (b) the person has not been assessed by the operator, in accordance with the operator's exposition, as competent to perform the duties assigned to the person for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## Subpart 135.A—Preliminary

### 135.005 Application of Part 135

This Part applies in relation to the operation of an aeroplane for an Australian air transport operation if the aeroplane has:

- (a) a maximum operational passenger seat configuration of not more than 9;  
and
- (b) a maximum take-off weight of not more than 8,618 kg.

### 135.010 Compliance with Part 121 provisions

An operator is taken to comply with a provision of this Part about a particular matter if:

- (a) there is a provision in Part 121 about the same matter; and
- (b) the operator complies with that provision of Part 121.

### 135.015 Definition of *suitable forced landing area* for aeroplane flights

#### *Areas of ground*

- (1) An area of ground is a ***suitable forced landing area*** for a flight of an aeroplane if the aeroplane could make a forced landing in the area with a reasonable expectation that there would be no injuries to persons in the aeroplane or on the ground.

#### *Areas of water*

- (2) An area of water that meets the requirements mentioned in subregulation (3) is a ***suitable forced landing area*** for a flight of an aeroplane if:
  - (a) both of the following apply:
    - (i) the aeroplane is a prescribed single-engine aeroplane;
    - (ii) the area of water is closer to land than the distance prescribed by the Part 135 Manual of Standards; or
  - (b) the aeroplane has a type certificate or supplemental type certificate for landing on water.
- (3) For the purposes of subregulation (2), the requirements are the following:
  - (a) the aeroplane must be able to ditch in the area of water with a reasonable expectation that there would be no injuries to persons in the aeroplane or on the water;
  - (b) there must be a reasonable expectation that persons in the aeroplane would survive in the area of water for the time that it would take to rescue the persons;
  - (c) if the flight is a passenger transport operation or a medical transport operation—the area of water must be:

- (i) adjacent to land; or
  - (ii) adjacent to an offshore installation with search and rescue capabilities;  
or
  - (iii) in a location, set out in the aeroplane operator's exposition, that has search and rescue capabilities.
- (4) Factors that affect whether there is a reasonable expectation about the matters mentioned in paragraphs (3)(a) and (b) include the following:
- (a) the surface condition of the area of water, including the wave height, wind conditions and swell;
  - (b) the limits of the capability of the life rafts carried on the aeroplane to stay upright and floating in certain sea states, and to support the survival of persons who were in the aeroplane.

### **135.020 Approvals by CASA for Part 135**

- (1) If a provision of this Part, or of the Part 135 Manual of Standards, refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

### **135.025 Issue of Manual of Standards for Part 135**

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

- (a) required or permitted by these Regulations to be prescribed by the Part 135 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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

## Subpart 135.C—General

### Division 135.C.1—General flight limitations

#### 135.030 Permitted categories of aeroplanes

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the aeroplane begins the flight; and
  - (b) the aeroplane is not type certificated in any of the following categories:
    - (i) transport;
    - (ii) commuter;
    - (iii) normal;
    - (iv) a category prescribed by the Part 135 Manual of Standards.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### 135.035 Flight distance limitations

- (1) The Part 135 Manual of Standards may prescribe requirements relating to flight distance limitations for a flight of an aeroplane.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (2A) Subregulation (2) does not apply to:
  - (a) an operator or a pilot; and
  - (b) a requirement;if the operator or the pilot holds an approval under regulation 135.020 for the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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



**Division 135.C.2—Operational documents****135.040 Compliance with flight manual**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, during the flight, the aeroplane is operated in a way that does not meet a requirement or limitation that:

- (a) is set out in the aircraft flight manual instructions for the aeroplane; and
- (b) relates to the operation of the aeroplane.

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

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

Penalty: 50 penalty units.

**135.045 Operator to have minimum equipment list for certain flights**

- (1) The operator of an aeroplane for an IFR flight contravenes this subregulation if:

- (a) there is a master minimum equipment list for the aeroplane; and
- (b) when the flight begins, there is no minimum equipment list for the aeroplane.

- (2) The operator of an aeroplane for a flight contravenes this subregulation if:

- (a) the flight begins or ends at an aerodrome outside Australian territory; and
- (b) when the flight begins, there is no minimum equipment list for the aeroplane.

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

Penalty: 50 penalty units.

**135.050 Availability of checklists**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.

- (2) The requirement is that, before a crew member for the flight begins to carry out a duty for the flight, the operator must make available to the member each checklist of normal, abnormal and emergency procedures for the aeroplane that is relevant to the duty.

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

Penalty: 50 penalty units.

## Division 135.C.3—Flight related documents

### 135.055 Electronic documents

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

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

### 135.060 Availability of parts of exposition

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

Penalty: 50 penalty units.

### 135.065 Carriage of documents

#### *Documents required by the Part 135 Manual of Standards*

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 135 Manual of Standards is not carried on the aeroplane; and
  - (b) the aeroplane begins the flight.

#### *Flight crew medical certificates*

- (2) The operator and a flight crew member of an aeroplane for a flight each contravene this subregulation if:
  - (a) the flight crew member's medical certificate is not carried on the aeroplane for the flight; and
  - (b) the flight crew member does not give CASA written notice that the certificate is not being carried on the aeroplane for the flight:
    - (i) before the flight begins; or
    - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

*Flight crew licences*

- (3) The operator and a flight crew member of an aeroplane for a flight each contravene this subregulation if:
- (a) the flight crew member's flight crew licence is not carried on the aeroplane for the flight; and
  - (b) the flight crew member does not give CASA written notice that the licence is not being carried on the aeroplane for the flight:
    - (i) before the flight begins; or
    - (ii) if it is not practicable to give the notice before the flight begins—within 24 hours after the flight ends.

*Offence*

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

Penalty: 50 penalty units.

**135.070 Availability or carriage of documents for certain flights***Flights for which documents must be carried*

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
- (a) the aeroplane begins:
    - (i) an IFR flight; or
    - (ii) a VFR flight at night; or
    - (iii) a flight during which the aeroplane will not remain within 50 nautical miles of the departure aerodrome; and
  - (b) a document mentioned in subregulation (4) is not carried on the aeroplane.

*Flights for which documents must be available or carried*

- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
- (a) the aeroplane begins a VFR flight by day during which the aeroplane will remain within 50 nautical miles of the departure aerodrome; and
  - (b) the requirement mentioned in subregulation (3) is not met.
- (3) The requirement is that each document mentioned in subregulation (4) must be:
- (a) available to the pilot in command immediately before the flight; or
  - (b) carried on the aeroplane.

*Required documents*

- (4) The documents are the following:
- (a) if a flight notification is required for the flight under Part 91—the flight notification;
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- (b) weight and balance documents for the flight;
- (c) any NOTAMs and AIS briefing documents for the flight;
- (d) any authorised weather forecasts for:
  - (i) the planned route of the flight; and
  - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—the destination alternate aerodrome;
- (e) if there is a person on board who may require special consideration during the flight or during an evacuation of the aeroplane—a statement identifying the person and the special consideration;
- (f) forms to comply with the reporting requirements under the operator's safety management system (if any);
- (g) if the aeroplane is fitted with computerised navigation equipment—the operating instructions for the equipment;
- (h) each other document (if any) required by a foreign country within whose territory the flight is conducted.

#### *Offence*

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

Penalty: 50 penalty units.

### **135.075 Carriage of documents—flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of an aeroplane that begins or ends at an aerodrome outside Australian territory.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) a document prescribed by the Part 135 Manual of Standards for the purposes of this paragraph is not carried on the aeroplane; and
  - (b) the aeroplane begins the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **135.080 Keeping and updating documents etc.**

An aeroplane operator's exposition must include the following for a flight of the aeroplane:

- (a) procedures for keeping the documents prescribed by the Part 135 Manual of Standards accessible to a person on the ground for the duration of the flight;

- (b) procedures for providing updated information in relation to the flight to a person on the ground if:
  - (i) the flight is part of a multi-flight journey; and
  - (ii) a copy of a document for the flight has been kept on the ground in relation to an earlier flight that is part of the multi-flight journey; and
  - (iii) the information in the document requires updating; and
  - (iv) it is not practicable to keep a copy of the updated document on the ground;
- (c) the circumstances in which a person on the ground who has access to the information about the flight mentioned in paragraphs (a) and (b) may provide that information to another person;
- (d) procedures for providing information in a circumstance mentioned in paragraph (c).

### **135.085 Journey logs**

*Operator—preparation of journey log*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, the operator has not prepared a journey log for the flight:
  - (a) that is capable of containing the information mentioned in subregulations (3) and (5); and
  - (b) with a place for the pilot in command to verify the entries for the flight.

*Pre-flight completion of journey log*

- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the information about the flight mentioned in subregulation (3) is not recorded in the journey log.
- (3) The information is the following:
  - (a) the aeroplane's registration mark or flight number;
  - (b) the date of the flight;
  - (c) for each crew member assigned to the flight:
    - (i) the crew member's name or another means to identify the crew member; and
    - (ii) the duties assigned to the crew member for the flight;
  - (d) for the flight:
    - (i) the place of departure; and
    - (ii) the time the flight begins;
  - (e) the amount of fuel added to the aeroplane's fuel tanks before the flight begins (if any);
  - (f) the amount of fuel in the aeroplane's fuel tanks when the flight begins.

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### *Post-flight completion of journey log*

- (4) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if the information about the flight mentioned in subregulation (5) is not recorded in the journey log for the flight as soon as practicable after the flight ends.
- (5) The information is the following:
  - (a) the place of arrival;
  - (b) the time the flight ends;
  - (c) the duration of the flight;
  - (d) the amount of fuel in the aeroplane's fuel tanks when the flight ends;
  - (e) incidents and observations (if any) relevant to the flight.

### *Exceptions to completion of journey log*

- (6) Subregulations (1), (2) and (4) do not apply to the operator or the pilot in command in relation to information mentioned in those subregulations if, by the time it is required to be recorded, the information is:
  - (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.

Note: An example for paragraph (a) is an operational flight plan kept by the operator for the flight.

- (7) Subregulation (2) does not apply to the operator or the pilot in command in relation to information mentioned in that subregulation if:
  - (a) the flight is a medical transport operation; and
  - (b) the information is not recorded in the journey log before the flight begins because of the urgent nature of the medical transport operation; and
  - (c) the pilot in command is satisfied, when the flight begins, that the failure to record the information in the journey log before the flight begins will not affect the safety of the aeroplane; and
  - (d) the information is recorded in the journey log as soon as practicable after the flight ends.

### *Offence*

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (6) or (7): see subsection 13.3(3) of the *Criminal Code*.

## **135.090 Passenger lists**

- (1) The operator of an aeroplane for a flight that is a passenger transport operation contravenes this subregulation if, when the flight begins, the operator has not
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prepared a passenger list for the flight that contains the information mentioned in subregulation (2).

- (2) The information is the following:
  - (a) the aeroplane's registration mark or flight number;
  - (b) the name of each passenger;
  - (c) the places of departure and destination for each passenger;
  - (d) the number of infants carried;
  - (e) the date, and estimated time of departure, of the flight.
- (3) Subregulation (1) does not apply to the operator in relation to information mentioned in that subregulation if, by the time it is required to be recorded, the information is:
  - (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

### **135.095 Flight preparation forms for flights that begin or end outside Australian territory**

- (1) This regulation applies to a flight of an aeroplane that begins or ends at an aerodrome outside Australian territory.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the pilot in command has not signed a flight preparation form certifying that the pilot in command is satisfied of the matters mentioned in subregulation (3).
- (3) The matters are the following:
  - (a) the aeroplane can be operated during the flight in accordance with its configuration deviation list (if any);
  - (b) the parts of the operator's exposition required to be available to the aeroplane's crew before the flight by regulation 135.060 are available;
  - (c) the requirements and limitations in the operator's exposition relating to the flight can be complied with for the flight;
  - (d) regulations 135.065, 135.070 and 135.075 are being complied with for the flight;
  - (e) equipment required, under Subpart 135.K, to be fitted to, or carried on, the aeroplane for the flight is fitted to, or carried on, the aeroplane in accordance with that Subpart;
  - (f) equipment mentioned in paragraph (e) is:
    - (i) operative; or

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- (ii) inoperative, and permitted to be inoperative for the flight under these Regulations;
  - (g) the aeroplane's take-off, en-route and landing performance capabilities meet the performance requirements for the circumstances and conditions expected during the flight;
  - (h) the aeroplane's weight and balance will remain within the aeroplane's weight and balance limits throughout the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.



## **Division 135.C.4—Reporting and recording defects and incidents etc.**

### **135.100 Procedures for reporting and recording defects etc.**

An aeroplane operator's exposition must include procedures for the reporting and recording by a flight crew member for a flight of the aeroplane of any of the following that occur during the flight:

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

### **135.105 Procedures for reporting and recording incidents**

An aeroplane operator's exposition must include procedures for the reporting and recording by crew members of incidents relating to a flight of the aeroplane that endanger, or could endanger, the safe operation of the aeroplane.

## **Division 135.C.5—Search and rescue services and emergency and survival equipment**

### **135.110 Information about search and rescue services**

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

Penalty: 50 penalty units.

### **135.115 Information about emergency and survival equipment**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the Part 135 Manual of Standards prescribes an item of equipment for the purposes of this regulation; and
  - (b) when the flight begins, the information prescribed by the Part 135 Manual of Standards for that equipment is not available for immediate communication by the operator to a rescue coordination centre.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

**Division 135.C.6—Miscellaneous requirements****135.120 Crew activities necessary for safe operation**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator requires a crew member for the flight to perform an activity during take-off, initial climb, final approach or landing of the aeroplane for the flight; and
  - (b) the activity is not necessary for the safe operation of the aeroplane.
- (2) A crew member for a flight of an aeroplane contravenes this subregulation if:
  - (a) the crew member performs an activity during take-off, initial climb, final approach or landing of the aeroplane for the flight; and
  - (b) the activity is not necessary for the safe operation of the aeroplane.
- (3) Subregulations (1) and (2) do not apply if:
  - (a) the flight is a medical transport operation; and
  - (b) the crew member is a medical transport specialist; and
  - (c) the activity relates to providing care to a medical patient; and
  - (d) the crew member is satisfied that:
    - (i) it is essential to perform the activity; and
    - (ii) performing the activity will not affect the safety of the aeroplane or a person on board the aeroplane.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

**135.125 Competence of ground support personnel**

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

Penalty: 50 penalty units.

**135.130 Flight crew seat authorisation and briefing**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
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- (a) during the flight, a person occupies a flight crew seat; and
  - (b) the person is not a person mentioned in subregulation (2).
- (2) The persons are the following:
- (a) a flight crew member assigned to duty for the flight by the operator;
  - (b) another crew member authorised by the operator and the pilot in command to occupy the flight crew seat during the flight;
  - (c) an authorised officer who is carrying out an audit, check, examination, inspection or test under these Regulations;
  - (d) a person who is permitted by the operator's exposition to occupy the flight crew seat.
- (3) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
- (a) during the flight, a person other than a member of the aeroplane's crew occupies a flight crew seat; and
  - (b) before the person occupies the flight crew seat, the pilot in command does not cause the person to be briefed on the safety procedures that are relevant to the seat.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

## **Subpart 135.D—Operational procedures**

### **Division 135.D.1—Operational control**

#### **135.135 Operational control**

An aeroplane operator's exposition must include procedures for determining how operational control for a flight of the aeroplane is to be exercised and by whom.

## **Division 135.D.2—Flight preparation**

### **135.140 Flight preparation requirements**

An aeroplane operator's exposition must include procedures for complying with the following for a flight of the aeroplane:

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

## Division 135.D.3—Flight planning

### 135.145 Operational flight plans

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the flight is:
    - (i) an IFR flight; or
    - (ii) a VFR flight at night; or
    - (iii) a flight during which the aeroplane will not remain within 50 nautical miles of the departure aerodrome; and
  - (b) when the flight begins, an operational flight plan that meets the requirements mentioned in subregulation (2) has not been prepared for the flight.
- (2) The requirements are the following:
  - (a) the flight plan must be prepared having regard to:
    - (i) the safety of the aeroplane, and of the people on board the aeroplane, during the flight; and
    - (ii) the aeroplane's performance; and
    - (iii) the expected aeroplane operating limitations and conditions for the flight; and
    - (iv) meteorological conditions for the flight;
  - (b) the flight plan must contain the information prescribed by the Part 135 Manual of Standards for the purposes of this paragraph.
- (3) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) the Part 135 Manual of Standards prescribes information about the flight for the purposes of this subregulation; and
  - (b) that information is not recorded in the operational flight plan for the flight:
    - (i) unless subparagraph (ii) applies—before the flight ends; or
    - (ii) if it is not practicable to record the information before the flight ends—as soon as practicable after the flight ends.
- (4) Subregulation (1) or (3) does not apply to the operator or the pilot in command in relation to information required to be included in the operational flight plan under that subregulation if, by the time it is required to be recorded, the information is:
  - (a) recorded in another document kept by the operator; or
  - (b) readily available to the operator from another source.

Note: An example for paragraph (a) is a journey log kept by the operator for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

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Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

### 135.150 Availability of flight planning information

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

Penalty: 50 penalty units.



## **Division 135.D.4—Flight rules**

### **135.155 Take-off and landing minima**

- (1) If an aeroplane conducts an IFR flight to or from an aerodrome, the aeroplane operator's exposition must include:
  - (a) procedures for determining take-off minima that meet the requirements mentioned in subregulation (2); and
  - (b) procedures for determining landing minima that meet the requirement mentioned in subregulation (3).
- (2) The requirements are the following:
  - (a) the take-off minima must not be less than the take-off minima prescribed by the take-off minima requirements for the aerodrome;
  - (b) the take-off minima must be sufficient to enable the pilot in command to control the aeroplane if it is necessary to conduct a discontinued take-off in adverse circumstances;
  - (c) for a multi-engine aeroplane—the take-off minima must be sufficient to enable the pilot in command to control the aeroplane if it is necessary to conduct a continued take-off after:
    - (i) failure of the aeroplane's critical engine; or
    - (ii) if the aeroplane does not have a critical engine—the failure of an engine.
- (3) The requirement is that the landing minima must not be less than the landing minima prescribed by the landing minima requirements for the aerodrome, including for an approach with visual circling.
- (4) If an aeroplane conducts an IFR flight to or from an aerodrome with an approach involving visual circling, the aeroplane operator's exposition must include procedures for determining landing minima for the aerodrome.
- (5) The operator and the pilot in command of an aeroplane for a flight mentioned in subregulation (1) or (4) each contravene this subregulation if the minima for the take-off or landing for the flight are less than the minima determined in accordance with a procedure mentioned in subregulation (1) or (4) (as the case requires).
- (6) A person commits an offence of strict liability if the person contravenes subregulation (5).

Penalty: 50 penalty units.

### **135.160 IFR flights to or from foreign countries that do not use ICAO procedures**

- (1) This regulation applies if:
  - (a) an aeroplane conducts an IFR flight to or from an aerodrome:

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- (i) in a foreign country; and
    - (ii) at which IMC exist; and
  - (b) the country does not base the design of its instrument approach and departure procedures on ICAO Document 8168 (PANS-OPS).
- (2) The aeroplane operator's exposition must include the instrument approach and departure procedures for the aerodrome that are approved by the national aviation authority of the country.

### **135.165 Authorised instrument approach procedures not in the AIP**

- (1) The operator of an aeroplane for an IFR flight contravenes this subregulation if:
- (a) during the flight, the aeroplane conducts an instrument approach to an aerodrome for which an authorised instrument approach procedure is not published in the AIP; and
  - (b) an authorised instrument approach procedure for the aerodrome is not included in the operator's exposition.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **135.170 Exposition requirements for low-visibility operations**

An aeroplane operator's exposition must include the following:

- (a) each type of low-visibility operation conducted using the aeroplane;
- (b) the aircraft systems required to be used for each type of those operations;
- (c) the aerodrome facilities required to conduct each type of those operations;
- (d) the training and qualifications required for the aeroplane's flight crew members for each type of those operations;
- (e) the requirements to be met by the aeroplane's flight crew members during each of those operations.

### **135.175 Stabilised approach requirements**

An aeroplane operator's exposition must include procedures about conducting stabilised approaches to land at an aerodrome.

### **135.180 Take-off alternate aerodromes**

- (1) This regulation applies to a flight of a multi-engine aeroplane if:
- (a) the flight is a passenger transport operation or a medical transport operation; and
  - (b) the flight is an IFR flight.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:

- (a) at the time of take-off, the aeroplane will not be able to return to the departure aerodrome:
    - (i) because the visibility and cloud ceiling height at the departure aerodrome will be less than the landing minima requirements for the aerodrome for at least 1 hour after take-off; or
    - (ii) for any other reason; and
  - (b) the operational flight plan for the flight does not include a take-off alternate aerodrome that meets the requirements mentioned in subregulation (3).
- (3) The requirements are the following:
- (a) the authorised weather forecast for the take-off alternate aerodrome must indicate that the visibility and cloud ceiling height at the aerodrome meet the landing minima requirements for the aerodrome for at least 1 hour after take-off;
  - (b) the take-off alternate aerodrome must be within the distance from the departure aerodrome that the aeroplane can fly in 1 hour at the aeroplane's one-engine inoperative cruising speed.
- (4) Subregulation (2) does not apply if:
- (a) the flight is a medical transport operation; and
  - (b) when the flight begins, the aeroplane is carrying sufficient fuel:
    - (i) to fly to the planned destination aerodrome for the flight; or
    - (ii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—to comply with the requirements for conducting a flight to a destination alternate prescribed by the flight preparation (alternate aerodromes) requirements.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4): see subsection 13.3(3) of the *Criminal Code*.

### **135.185 Alternate aerodrome requirements in certain circumstances**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
  - (a) circumstances prescribed by the Part 135 Manual of Standards apply for the flight; and
  - (b) a requirement prescribed by the Part 135 Manual of Standards relating to alternate aerodromes is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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**135.190 IFR flights without destination alternate aerodromes**

- (1) This regulation applies to a flight of an aeroplane if:
  - (a) the flight is an IFR flight; and
  - (b) the operational flight plan for the flight does not include a destination alternate aerodrome.
- (2) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) during the flight, the pilot in command receives an authorised weather forecast for the planned destination aerodrome for the flight; and
  - (b) because of the authorised weather forecast, a destination alternate aerodrome must be nominated in accordance with the flight preparation (alternate aerodromes) requirements; and
  - (c) the aeroplane is not carrying sufficient fuel to allow the flight to be continued to another aerodrome that is suitable for the safe landing of the aeroplane if the aeroplane cannot land at the planned destination aerodrome; and
  - (d) the flight is continued to the planned destination aerodrome.
- (3) Subregulation (2) does not apply if:
  - (a) within 30 minutes before the aeroplane's estimated arrival time at the planned destination aerodrome, the pilot in command receives an authorised weather forecast for the planned destination aerodrome; and
  - (b) the authorised weather forecast indicates that the visibility or cloud ceiling height at the planned destination aerodrome is expected to be:
    - (i) below the alternate minima for the planned destination aerodrome required by the flight preparation (alternate aerodromes) requirements; but
    - (ii) above the landing minima required by the landing minima requirements for the planned destination aerodrome.
- (4) Also, subregulation (2) does not apply if the aeroplane is carrying sufficient fuel to allow it to hold near the planned destination aerodrome until the end of 30 minutes after the visibility and cloud ceiling height is expected to be at or above the specified landing minima for the aeroplane for the aerodrome.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (3) or (4): see subsection 13.3(3) of the *Criminal Code*.

## **Division 135.D.5—Aerodromes**

### **135.195 Procedures to determine information about aerodromes**

- (1) An aeroplane operator's exposition must include the following:
  - (a) procedures to determine the kinds of information mentioned in subregulation (2) for a flight of the aeroplane in relation to the following:
    - (i) the departure aerodrome;
    - (ii) the planned destination aerodrome;
    - (iii) if a destination alternate aerodrome is required for the flight by the flight preparation (alternate aerodromes) requirements—the destination alternate aerodrome;
  - (b) procedures for the pilot in command to plan a take-off from, or a landing at, an aerodrome, including a procedure to determine the kinds of information mentioned in subregulation (2) in relation to the aerodrome.
- (2) The kinds of information are the following:
  - (a) runway or strip lengths, widths, directions, slopes and surface types for the aerodrome;
  - (b) the location of taxiways and turning nodes (if any);
  - (c) the aerodrome's elevation;
  - (d) the location on the aerodrome of the aerodrome reference point (if any);
  - (e) the location of the aerodrome's windsocks (if any);
  - (f) the aids to navigation and communication facilities available at the aerodrome (if any);
  - (g) the limitations (if any) on the use of the aerodrome;
  - (h) the special procedures (if any) in use at the aerodrome, in flight or on the ground or water;
  - (i) a contact person capable of providing information about the condition of the aerodrome;
  - (j) the special procedures and restrictions (if any) that the operator requires the flight crew of the aeroplane to use at the aerodrome, including:
    - (i) engine failure procedures; and
    - (ii) obstacle clearance procedures.

### **135.200 Procedures for safety at aerodromes**

An aeroplane operator's exposition must include procedures to ensure the safety of persons in the vicinity of the aeroplane when any of the following circumstances apply:

- (a) a person is embarking or disembarking the aeroplane;
- (b) a passenger is embarking or disembarking, or on board, the aeroplane while an engine of the aeroplane is operating but the aeroplane is not being flown or fuelled;
- (c) the aeroplane is being loaded or unloaded;

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(d) the aeroplane is being operated at an aerodrome.

## **Division 135.D.6—Fuel requirements**

### **135.205 Fuel procedures**

An aeroplane operator's exposition must include procedures to ensure that a flight of the aeroplane is conducted in accordance with the requirements mentioned in subregulation 135.215(1).

### **135.210 Oil requirements**

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

Penalty: 50 penalty units.

### **135.215 Fuel requirements**

- (1) The Part 135 Manual of Standards may prescribe requirements relating to fuel for aeroplanes, including (but not limited to) the following:
  - (a) matters that must be considered when determining whether an aeroplane has sufficient fuel to complete a flight safely;
  - (b) the amounts of fuel that must be carried on board an aeroplane for a flight;
  - (c) procedures for monitoring amounts of fuel during a flight;
  - (d) procedures to be followed if fuel reaches specified amounts during a flight.
- (2) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

### **135.220 Fuelling safety procedures**

An aeroplane operator's exposition must include the following:

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- (a) procedures to ensure the aeroplane is fuelled safely;
- (b) procedures relating to the safety of passengers for a flight of the aeroplane who are embarking or disembarking, or on board, the aeroplane during fuelling, including the normal, emergency and communication procedures to be followed by the following persons:
  - (i) any cabin crew for the flight;
  - (ii) any flight crew members for the flight who are on duty in the cockpit;
  - (iii) any of the operator's personnel who carry out a ground support duty for the flight;
- (c) if the operator permits a person to operate low-risk electronic devices inside the cabin of the aeroplane while the aeroplane is being fuelled—procedures to ensure that, before an engine of the aeroplane is started, any effects of radio frequency emissions from those devices have been corrected.



## **Division 135.D.7—Passenger transport and medical transport**

### **135.225 Application of Division 135.D.7**

This Division applies to the operation of an aeroplane for a passenger transport operation or a medical transport operation.

### **135.230 IFR flights**

- (1) The operator of an aeroplane for an IFR flight contravenes this subregulation if the aeroplane does not meet the requirement mentioned in subregulation (2).
- (2) The requirement is that the aeroplane must be a multi-engine aeroplane or a prescribed single-engine aeroplane.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **135.235 VFR flights at night**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the flight is a VFR flight at night; and
  - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
  - (a) the aeroplane must be a multi-engine aeroplane or a prescribed single-engine aeroplane;
  - (b) the aeroplane must have a maximum take-off weight of not more than 5,700 kg;
  - (c) a flight crew member for the flight must meet the requirement mentioned in paragraph 135.380(2)(d).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **135.240 Prescribed single-engine aeroplanes**

- (1) This regulation applies to a prescribed single-engine aeroplane that conducts:
  - (a) an IFR flight; or
  - (b) a VFR flight at night.
- (2) The aeroplane operator's exposition must include procedures for the matters prescribed by the Part 135 Manual of Standards for the purposes of this subregulation.

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- (3) A single-engine aeroplane is a *prescribed single-engine aeroplane* if it is of a kind prescribed by the Part 135 Manual of Standards for the purposes of this subregulation.

### 135.245 Simulation of emergency or abnormal situations

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

Penalty: 50 penalty units.

### 135.250 Carriage of restricted persons

- (1) An aeroplane operator's exposition must state whether the operator will, or will not, carry a restricted person on a flight of the aeroplane.

Note: For other requirements for the carriage of restricted persons who are deportees, removees and other persons in custody, see Division 4.5 of the *Aviation Transport Security Regulations 2005*.

- (2) If the operator's exposition states that the operator will carry a restricted person on a flight of the aeroplane, the exposition must also include the following:
- (a) procedures for carrying a restricted person on the aeroplane;
  - (b) procedures to inform each crew member for the flight about the carriage of a restricted person for the flight.

### 135.255 Carry-on baggage

An aeroplane operator's exposition must include procedures for the following:

- (a) securely stowing carry-on baggage;
- (b) determining the maximum weight and size of baggage that can be taken on the aeroplane as carry-on baggage;
- (c) determining the locations on the aeroplane where carry-on baggage can be stowed;
- (d) giving instructions to passengers about securely stowing carry-on baggage at the following times:
  - (i) before take-off;
  - (ii) before landing;
  - (iii) any other time that the pilot in command directs.

### 135.260 Obstruction of emergency exits

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, at any of the following times, an emergency exit is obstructed:
- (a) while the aeroplane is taxiing;

- (b) while the aeroplane is taking-off;
  - (c) while the aeroplane is landing;
  - (d) any other time that the pilot in command directs.
- (2) An emergency exit is not obstructed only because a seat adjacent to the exit is occupied by a passenger.
- (3) Subregulation (1) does not apply if:
- (a) the flight is a medical transport operation; and
  - (b) the emergency exit is obstructed by a stretcher fit-out that is described or identified in a supplemental type certificate for the aeroplane.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

### **135.265 Passengers in seats adjacent to emergency exits**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, during the flight, the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the pilot in command of the aeroplane for the flight must be satisfied that each person occupying a seat adjacent to an emergency exit:
- (a) is a suitable person; or
  - (b) is accompanied or assisted, for the flight, by a suitable person who can access the emergency exit.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins:
- (a) a suitable person is occupying a seat adjacent to an emergency exit; and
  - (b) the suitable person has not agreed to assist the aeroplane's crew with the evacuation of the aeroplane in an emergency.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins:
- (a) a person other than a suitable person is occupying a seat adjacent to an emergency exit; and
  - (b) a suitable person is, for the flight, accompanying or assisting the person; and
  - (c) the suitable person has not agreed to assist the aeroplane's crew with the evacuation of the aeroplane in an emergency.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (3) or (4).

Penalty: 50 penalty units.

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**135.270 Carriage of passengers with reduced mobility**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, during the flight, a passenger with reduced mobility occupies a seat where the passenger could:
  - (a) hinder the crew in their safety duties; or
  - (b) obstruct access to emergency equipment; or
  - (c) hinder the evacuation of the aeroplane in an emergency.
- (2) Subregulation (1) does not apply in relation to a passenger with reduced mobility if:
  - (a) the person is accompanied or assisted, for the flight, by a suitable person who is seated adjacent to an emergency exit; and
  - (b) the suitable person is accompanying or assisting only that person for the flight; and
  - (c) the suitable person has agreed to assist the aeroplane's crew with the evacuation of the aeroplane in an emergency.
- (3) An aeroplane operator's exposition must include procedures for informing crew members for a flight about any passenger with reduced mobility who is to be carried on the flight.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if a procedure mentioned in subregulation (3) is not complied with for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (4).

Penalty: 50 penalty units.

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

**135.275 Safety briefing cards**

- (1) This regulation applies to an aeroplane that has more than 2 rows of seats.
- (2) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a safety briefing card for the aeroplane is not available to each passenger on the aeroplane.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a safety briefing card does not meet the requirements mentioned in subregulation (4).
- (4) The requirements are the following:
  - (a) the safety briefing card must include any information prescribed by the Part 135 Manual of Standards;
  - (b) the only other information that may be included in the safety briefing card is the following:
    - (i) information that is relevant to the type and model of aeroplane;

- (ii) information that is relevant to the safety of the aeroplane and its passengers.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).
- Penalty: 50 penalty units.

### **135.280 Safety briefings, instructions and demonstrations**

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if a passenger is not given a safety briefing, instructions or demonstrations in accordance with the requirements prescribed by the Part 135 Manual of Standards for the purposes of this regulation.
- (2) Subregulation (1) does not apply in relation to a medical patient on a flight that is a medical transport operation.
- (3) The operator of an aeroplane for a flight contravenes this subregulation if a safety briefing, instruction or demonstration required to be given to a passenger under this regulation includes:
  - (a) information that is not relevant to the type and model of the aeroplane; or
  - (b) information that is not relevant to the safety of the aeroplane and its passengers.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a passenger with reduced mobility will be carried on the flight; and
  - (b) before the aeroplane takes off for the flight, the passenger, or a person accompanying or assisting the passenger, is not asked by a crew member for the flight about the best way of helping the passenger if an emergency evacuation of the aeroplane is necessary.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (3) or (4).

Penalty: 50 penalty units.

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

### **135.285 Safety briefing in the event of an emergency**

- (1) An aeroplane operator's exposition must include procedures for briefing passengers on what to do if an emergency occurs during a flight of the aeroplane.
- (2) Subregulation (1) does not apply to a medical patient on a flight that is a medical transport operation.

### **135.290 Flights over water for single-engine aeroplanes**

- (1) The operator and the pilot in command of a single-engine aeroplane (other than a prescribed single-engine aeroplane) for a flight each contravene this
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subregulation if, during the flight, the aeroplane is flown more than 25 nautical miles over water from a suitable forced landing area.

- (2) The operator and the pilot in command of a prescribed single-engine aeroplane for a flight each contravene this subregulation if:
- (a) during the flight, the aeroplane is flown more than 25 nautical miles over water from a suitable forced landing area; and
  - (b) either:
    - (i) the aeroplane is not a kind of aeroplane allowed by the Part 135 Manual of Standards for the purposes of this regulation to be flown more than 25 nautical miles over water from a suitable forced landing area; or
    - (ii) the aeroplane is a kind of aeroplane allowed by the Part 135 Manual of Standards to be flown more than 25 nautical miles over water from a suitable forced landing area, but is flown in a way that contravenes a procedure prescribed by the Part 135 Manual of Standards for that kind of flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **Division 135.D.8—Instruments, indicators, equipment and systems**

### **135.295 Airborne weather radar equipment**

- (1) This regulation applies to an aeroplane that conducts a flight:
  - (a) for which airborne weather radar equipment is required, under Subpart 135.K, to be fitted to the aeroplane; or
  - (b) whilst the aeroplane is fitted with airborne weather radar equipment (whether or not the airborne weather radar equipment is required, under Subpart 135.K, to be fitted for the flight).
- (2) The aeroplane operator's exposition must include the following:
  - (a) procedures for using airborne weather radar equipment during a flight mentioned in subregulation (1);
  - (b) procedures for conducting a flight mentioned in subregulation (1) without airborne weather radar equipment, for use if the equipment is inoperative.

### **135.300 Head-up displays, enhanced vision systems and synthetic vision systems**

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

### **135.305 Survival equipment procedures**

- (1) This regulation applies to a flight of an aeroplane if:
  - (a) the flight is in or through an area prescribed as a remote area by the Part 91 Manual of Standards; or
  - (b) the aeroplane is required, under Subpart 135.K, to carry a life raft for the flight.
- (2) If an aeroplane is, or will be, used to conduct a flight to which this regulation applies, the aeroplane operator's exposition must include the following:
  - (a) procedures for determining the survival equipment required for the area in or through which the flight will be conducted;

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



## **Division 135.D.9—Miscellaneous**

### **135.310 Procedures relating to ice**

An aeroplane operator's exposition must include the following in relation to a flight of the aeroplane:

- (a) procedures for the inspection of the aeroplane by the pilot in command before the flight if frost or freezing conditions exist;
- (b) if ground de-icing and ground anti-icing measures are required for the flight—procedures for carrying out these measures before the flight;
- (c) procedures for using de-icing and anti-icing equipment (where fitted) during the flight.

### **135.315 Procedures relating to portable electronic devices**

An aeroplane operator's exposition must include procedures for the operation of portable electronic devices for a flight of the aeroplane.

### **135.320 Procedures relating to carriage of animals**

An operator's exposition must include procedures for the carriage of animals for a flight of the aeroplane.

### **135.325 Polar operations**

- (1) This regulation applies to an aeroplane that conducts a flight to or from an aerodrome in a polar region.
- (2) The aeroplane operator's exposition must include procedures for the following:
  - (a) monitoring and dealing with fuel freezing;
  - (b) ensuring communication capability for the duration of an operation that includes a flight mentioned in subregulation (1);
  - (c) training the aeroplane's flight crew in polar operations;
  - (d) mitigating crew member and passenger exposure to cosmic radiation during solar flare activity;
  - (e) if the aeroplane is not flown over water during a flight mentioned in subregulation (1)—ensuring that each person on the aeroplane wears a serviceable, cold weather, anti-exposure suit that is appropriate for the temperatures in which the flight is conducted;
  - (f) if the aeroplane is flown over water during a flight mentioned in subregulation (1)—ensuring that each person on the aeroplane wears an immersion suit that is appropriate for the temperatures in which the flight is conducted.

### **135.330 Cosmic radiation**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
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- (a) the operator's exposition does not state a limit for the total cosmic radiation receivable inside the aeroplane's cabin during the flight; and
  - (b) the aeroplane is flown above flight level 490.
- (2) The operator of an aeroplane contravenes this subregulation if:
- (a) a flight crew member of the operator's personnel has, in the previous 12 month period, flown on a flight of an aeroplane operated by the operator during which the aeroplane was flown above flight level 490; and
  - (b) the operator does not have a record of the total cosmic radiation dose received by the member during that period on such flights.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 135.335 Exceeding cosmic radiation limits

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if:
- (a) the aeroplane is flown above flight level 490; and
  - (b) during the flight, the limit stated in the operator's exposition for the total cosmic radiation receivable inside the aeroplane's cabin during a flight is exceeded; and
  - (c) the pilot in command does not, as soon as practicable after the limit is exceeded, descend to the lowest altitude at which it is practicable to complete the flight safely.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Subpart 135.F—Performance

### 135.340 Performance data

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, in making a calculation relating to the aeroplane's performance for a flight, data other than the following is used:
  - (a) the performance data set out in the aircraft flight manual instructions for the aeroplane;
  - (b) performance data for the aeroplane for which the operator holds an approval under regulation 135.020.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 135.345 Take-off performance

- (1) The Part 135 Manual of Standards may prescribe requirements relating to take-off performance for a flight of an aeroplane.
- (2) Without limiting subregulation (1), the Part 135 Manual of Standards may prescribe requirements that relate to one or more of the following:
  - (a) the kinds of operations to be carried out during the flight;
  - (b) characteristics of the aerodrome at which the aeroplane takes off;
  - (c) characteristics of the route flown by the aeroplane;
  - (d) characteristics of the aerodrome at which the aeroplane lands.
- (3) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

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**135.350 Landing performance**

- (1) The Part 135 Manual of Standards may prescribe requirements relating to landing performance for a flight of an aeroplane.
- (2) Without limiting subregulation (1), the Part 135 Manual of Standards may prescribe requirements relating to one or more of the following:
  - (a) the aeroplane's configuration;
  - (b) the operation of any equipment for the flight;
  - (c) characteristics of the aerodrome at which the aeroplane lands;
  - (d) safety factor percentages to be applied.
- (3) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

## Subpart 135.J—Weight and balance

### 135.355 Loading of aeroplane

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the aeroplane is loaded in a way that contravenes the aeroplane's weight and balance limits.
- (2) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, during the flight, the aeroplane ceases to be loaded in accordance with the aeroplane's weight and balance limits.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### 135.360 Procedures for loading aeroplane etc.

An aeroplane operator's exposition must include the following:

- (a) procedures for loading the aeroplane for a flight to comply with regulation 135.355;
- (b) procedures for working out the following weights for a flight of the aeroplane:
  - (i) the total weight of the crew members;
  - (ii) the total weight of the passengers;
  - (iii) the total weight of the cargo, including carry-on baggage;
  - (iv) the total weight of the fuel to be carried;
- (c) procedures to ensure that a last-minute change to a load does not cause the aeroplane to exceed its weight and balance limits;
- (d) procedures for offloading passengers or cargo to ensure that the aeroplane does not exceed its weight and balance limits.

### 135.365 Weight and balance documents

- (1) The operator and the pilot in command of an aeroplane for a flight each contravene this subregulation if, when the flight begins, the weight and balance documents for the flight do not comply with subregulation (2).
- (2) The weight and balance documents must include the following:
  - (a) the weight and balance of the aeroplane and the information used to calculate the weight and balance;
  - (b) the name of the person who prepared the weight and balance documents;
  - (c) confirmation by the person responsible for planning and supervising the loading of the aeroplane that the aeroplane has been loaded in accordance with:

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- (i) the procedures set out in the operator's exposition for loading the aeroplane; and
  - (ii) the weight and balance documents;
  - (d) if the person mentioned in paragraph (c) is not the pilot in command or the co-pilot—confirmation of the acceptance of the weight and balance documents by the pilot in command or the co-pilot;
  - (e) any other information that the pilot in command needs to ensure that the loading of the aeroplane is in accordance with the weight and balance limits for the aeroplane.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 135.K—Equipment**

### **135.370 Requirements relating to equipment**

- (1) The Part 135 Manual of Standards may prescribe requirements relating to:
  - (a) the fitment and non-fitment of equipment to an aeroplane; and
  - (b) the carrying of equipment on an aeroplane; and
  - (c) equipment that is fitted to, or carried on, an aeroplane.
- (2) A person contravenes this subregulation if:
  - (a) the person is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## Subpart 135.N—Flight crew

### Division 135.N.1—General

#### 135.380 Composition, number, qualifications and training

*General*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
  - (a) the composition of the aeroplane's flight crew for the flight must comply with the aircraft flight manual instructions for the aeroplane;
  - (b) if the flight is a kind of operation for which the operator's exposition requires the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
  - (c) each flight crew member must be qualified under regulation 135.395 or 135.400 to carry out the duties assigned to the flight crew member by the operator for the flight;
  - (d) if the flight is a VFR flight at night that is a passenger transport operation or a medical transport operation—at least one of the flight crew members must hold an instrument rating;
  - (e) the pilot in command and the co-pilot for the flight must have the recent experience for the flight required by Division 135.N.4;
  - (f) each flight crew member must meet the training and checking requirements for the flight crew member and the flight mentioned in subregulation (4);
  - (g) if the operator's exposition includes requirements, in accordance with regulation 135.410, in relation to knowledge that the pilot in command must have of the route of, and aerodromes for, the flight—the pilot in command must meet the requirements;
  - (h) each flight crew member for whom, under the operator's exposition, differences training for the aeroplane is required, must have successfully completed the differences training.
- (3) For the purposes of paragraph (2)(b), the aeroplane operator's exposition must include the kinds of operation (if any) for which additional flight crew members must be carried.
- (4) The Part 135 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a flight crew member for a flight.



*New or inexperienced crew members*

- (5) An aeroplane operator's exposition must include the requirements that must be met for new or inexperienced crew members to be assigned to duty for a flight of the aeroplane.

*Offences*

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

Penalty: 50 penalty units.

**135.385 Competence**

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

Penalty: 50 penalty units.

**135.387 Training and checking to be conducted by certain persons**

- (1) The operator of an aeroplane contravenes this subregulation if:
- (a) a flight crew member of the operator's personnel undertakes training or a check that is required under this Part; and
  - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by:
- (a) an individual who:
    - (i) is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
    - (ii) meets the requirements prescribed by the Part 135 Manual of Standards; or
  - (b) a Part 142 operator with whom the operator has a contract for the Part 142 operator to conduct the training or check for the operator.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Regulation 135.390

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**135.390 Assignment to duty of pilot in command**

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

Penalty: 50 penalty units.

**135.395 Pilot in command**

- (1) A pilot is qualified as pilot in command for a flight of an aeroplane if:
  - (a) the pilot meets the minimum flying experience requirements specified, in accordance with subregulation (2), in the aeroplane operator's exposition for the aeroplane; and
  - (b) for a flight described in an item of column 1 of the following table—the pilot has completed, in an aeroplane of that kind, the flight hours mentioned in column 2 of the item; and
  - (c) the pilot has successfully completed command training that complies with the requirements prescribed by the Part 135 Manual of Standards; and
  - (d) the pilot is:
    - (i) if the aeroplane is an Australian aircraft—authorised to pilot the aeroplane during the flight as pilot in command under Part 61; or
    - (ii) if the aeroplane is a foreign registered aircraft—authorised to pilot the aeroplane during the flight as pilot in command by the aeroplane's State of registry.

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**Flight hours required to qualify as pilot in command**

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<b>Item</b>	<b>Column 1 Flight</b>	<b>Column 2 Flight hours</b>
1	IFR flight at night	15 hours as pilot in command, or pilot in command under supervision, under the IFR at night
2	Flight in a multi-engine aeroplane that has a maximum take-off weight of less than 5,700 kg	Both: (a) 10 hours as pilot in command, or pilot in command under supervision, of a multi-engine aeroplane; and (b) 10 hours as pilot in command, or pilot in command under supervision, of an aeroplane of that kind
3	Flight in a multi-engine aeroplane that has a maximum take-off weight of at least 5,700 kg	Both: (a) 50 hours as pilot in command, or pilot in command under supervision, of a multi-engine aeroplane; and (b) 10 hours as pilot in command, or pilot in command under supervision, of an aeroplane of that kind
4	Flight in a prescribed	20 hours as pilot in command, or pilot in command under supervision,

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## Regulation 135.400

**Flight hours required to qualify as pilot in command**

<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Flight</b>	<b>Flight hours</b>
	single-engine aeroplane	of an aeroplane of that kind
5	Flight in an aeroplane covered by an aircraft type rating	25 hours as pilot in command, or pilot in command under supervision, of an aeroplane of that aircraft type rating

- (2) For the purposes of paragraph (1)(a), the operator's exposition must include minimum flying experience requirements for all aeroplanes operated by the operator for Australian air transport operations.
- (3) To avoid doubt, more than one item of column 2 of the table in subregulation (1) may apply to a particular hour of flight time.

**135.400 Co-pilot**

- (1) A pilot is qualified as co-pilot for a flight of an aeroplane if:
- (a) the pilot is:
    - (i) if the aeroplane is an Australian aircraft—authorised to pilot the aeroplane during the flight as co-pilot under Part 61; or
    - (ii) if the aeroplane is a foreign registered aircraft—authorised to pilot the aeroplane during the flight as co-pilot by the aeroplane's State of registry; and
  - (b) the pilot has completed supervised line flying on an aeroplane of that kind as co-pilot for the number of sectors or flight hours mentioned in the operator's exposition.
- (2) A pilot is qualified as co-pilot for a flight of an aeroplane if the pilot is qualified under regulation 135.395 as pilot in command for the flight.

**135.405 Pilot in command in non-command pilot's seat***Operator*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
- (a) the operator requires the pilot in command of the aeroplane for the flight to do any of the following in the non-command pilot's seat:
    - (i) operate the aeroplane as pilot in command;
    - (ii) carry out the duties of co-pilot;
    - (iii) carry out training or examining duties; and
  - (b) the pilot in command does not hold a valid proficiency check, in accordance with the requirements prescribed by the Part 135 Manual of Standards, for the operator and the flight for a pilot who will be required to operate the aeroplane in the non-command pilot's seat.

**Regulation 135.410**

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*Pilot in command*

- (2) The pilot in command of an aeroplane for a flight contravenes this subregulation if the pilot in command:
- (a) operates the aeroplane in the non-command pilot's seat; and
  - (b) does not hold a valid proficiency check, in accordance with the requirements prescribed by the Part 135 Manual of Standards, for the operator and the flight for a pilot who will be required to operate the aeroplane in the non-command pilot's seat.

*Offence*

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

Penalty: 50 penalty units.

**135.410 Knowledge of route and aerodromes**

An aeroplane operator's exposition must include requirements in relation to the knowledge that a pilot in command of the aeroplane for a flight must have of:

- (a) the route of the flight; and
- (b) the departure aerodrome and the planned destination aerodrome for the flight; and
- (c) any alternate aerodrome required for the flight by the flight preparation (alternate aerodromes) requirements.

## **Division 135.N.2—Operation of aeroplanes of different type ratings**

### **135.415 Application of Division 135.N.2**

This Division applies in relation to the operator of an aeroplane if:

- (a) under the operator's AOC, the operator operates aeroplanes of more than one type rating for Part 135 operations; and
- (b) the operator assigns, or is likely to assign, a flight crew member employed by the operator to duty on aeroplanes of more than one type rating.

### **135.420 Assignment of flight crew to aeroplanes of different type ratings**

An aeroplane operator's exposition must include the following:

- (a) a description of the circumstances in which the operator may assign a flight crew member to duty on aeroplanes of more than one type rating;
- (b) the combinations of aeroplanes with different type ratings that a single flight crew member may be assigned to duty on by the operator;
- (c) the flying experience, checks and training that a flight crew member must gain or complete, while the flight crew member is employed by the operator, before being assigned to duty on aeroplanes of more than one type rating;
- (d) procedures to ensure that, if a flight crew member is assigned to duty on aeroplanes with different type ratings within one tour of duty, the flight crew member has adequate time between flights on aeroplanes with different ratings for the flight crew member to prepare for duty.

## **Division 135.N.3—Operation of aeroplanes of different types**

### **135.425 Application of Division 135.N.3**

This Division applies to the operator of an aeroplane if the operator operates aeroplanes of more than one type for Part 135 operations.

### **135.430 Assignment as pilot in command on aeroplanes of different types**

#### *Turbine-engine aeroplanes*

- (1) An operator contravenes this subregulation if:
  - (a) the operator assigns a pilot to duty as pilot in command for flights on different types of turbine-engine aeroplanes; and
  - (b) the pilot does not hold a valid proficiency check, in accordance with the requirements prescribed by the Part 135 Manual of Standards, for an aeroplane of each type for a pilot in command.

#### *Piston-engine aeroplanes*

- (2) An operator contravenes this subregulation if:
  - (a) the operator assigns a pilot to duty as pilot in command for flights on different types of piston-engine aeroplanes; and
  - (b) the pilot does not meet the requirement mentioned in subregulation (3).
- (3) For the purposes of paragraph (2)(b), the requirement is that:
  - (a) if the aeroplanes are of the same aircraft class rating—the pilot must hold a valid proficiency check, in accordance with the requirements prescribed by the Part 135 Manual of Standards, for an aeroplane of one of the types for a pilot in command; or
  - (b) if the aeroplanes are of different aircraft class ratings—the pilot must hold a valid proficiency check, in accordance with the requirements prescribed by the Part 135 Manual of Standards, for an aeroplane of each class for a pilot in command.

#### *Offence*

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

Penalty: 50 penalty units.

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**Division 135.N.4—Recent experience****135.435 Recent experience requirements—90 days before flight***Operator*

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a pilot to duty as pilot in command or co-pilot of the aeroplane for the flight; and
  - (b) the pilot does not have:
    - (i) if the flight is a flight by day—the recent experience required for the flight by subregulation (3); or
    - (ii) if the flight is a flight at night—the recent experience required for the flight by subregulation (4).

*Pilot*

- (2) A pilot of an aeroplane for a flight contravenes this subregulation if:
  - (a) the pilot operates the aeroplane as pilot in command or co-pilot for the flight; and
  - (b) the pilot does not have:
    - (i) if the flight is a flight by day—the recent experience required for the flight by subregulation (3); or
    - (ii) if the flight is a flight at night—the recent experience required for the flight by subregulation (4).

*Requirements for flights by day*

- (3) The recent experience required for a flight by day is that, within 90 days before the flight:
  - (a) the pilot must have carried out, in an aeroplane of that kind or an approved flight simulator for the aeroplane:
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling the aeroplane or simulator; and
    - (ii) at least 3 landings while controlling the aeroplane or simulator; or
  - (b) the pilot must have passed a flight test for the grant of a pilot licence or a rating on a pilot licence in an aeroplane of that kind or an approved flight simulator for the aeroplane; or
  - (c) the pilot must have successfully completed a proficiency check, in accordance with the requirements prescribed by the Part 135 Manual Standards, for the aeroplane.

Note: For other recent experience requirements, see Part 61.

**Regulation 135.435**

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*Requirements for flights at night*

- (4) The recent experience required for a flight at night is that, within 90 days before the flight:
- (a) the pilot must have carried out, at night in an aeroplane of that kind or under night time conditions in an approved flight simulator for the aeroplane:
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling the aeroplane or simulator; and
    - (ii) at least 3 landings while controlling the aeroplane or simulator; or
  - (b) the pilot must have passed a flight test for the grant of a pilot licence or a rating on a pilot licence in an aeroplane of that kind or an approved flight simulator for the aeroplane; or
  - (c) the pilot must have successfully completed a proficiency check, in accordance with the requirements prescribed by the Part 135 Manual Standards, for the aeroplane.

*Offence*

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

Penalty: 50 penalty units.



## **Subpart 135.P—Crew other than flight crew**

### **Division 135.P.1—General**

Note: This Division is reserved for future use.

## Division 135.P.2—Air crew

### 135.445 Training and checking

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) an air crew member is carried on the flight; and
  - (b) the air crew member does not meet the training and checking requirements for the air crew member and the flight mentioned in subregulation (2).
- (2) The Part 135 Manual of Standards may prescribe requirements relating to training and checking that must be completed by an air crew member for a flight of an aeroplane.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 135.450 Competence

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

Penalty: 50 penalty units.

### 135.455 English proficiency

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as an air crew member for the flight; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).
- (2) The requirement is that the person must meet the ICAO level 4, 5 or 6 aviation English language proficiency standards mentioned in the Part 61 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 135.P.3—Medical transport specialists**

### **135.460 Training and checking**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) a medical transport specialist is carried on the flight; and
  - (b) the medical transport specialist does not meet the training and checking requirements for the medical transport specialist and the flight mentioned in subregulation (2).
- (2) The Part 135 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a medical transport specialist for a flight of an aeroplane.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **135.465 Competence**

- (1) The operator of an aeroplane for a flight contravenes this subregulation if:
  - (a) the operator assigns a person to duty as a medical transport specialist for a flight; and
  - (b) the person has not been assessed by the operator, in accordance with the operator's exposition, as competent to perform the duties assigned to the person for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.