



Civil Aviation Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 213

I, PROFESSOR MARIE BASHIR, AC, CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Civil Aviation Act 1988*.

Dated 30 August 2012

MARIE BASHIR
Administrator

By Her Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure and Transport

1 Name of regulation

This regulation is the *Civil Aviation Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Civil Aviation Regulations 1988*

Schedule 1 amends the *Civil Aviation Regulations 1988*.

Schedule 1 Amendments

(section 3)

[1] Subregulation 2 (1), definition of *large-capacity aeroplane*

omit

[2] Regulation 205

substitute

205 Additional conditions—Australian AOC with ANZA privileges

- (1) For paragraph 28B (1) (e) of the Act, it is a condition for the issue of an Australian AOC with ANZA privileges that CASA must be satisfied that each aeroplane that the applicant proposes to operate under the AOC for ANZA activities in New Zealand complies with the requirements mentioned in subregulation (3).

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- (2) For paragraph 28BA (1) (b) of the Act, it is a condition of an Australian 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 requirements mentioned in subregulation (3).
- (3) For subregulations (1) and (2), the requirements are that the aeroplane must:
- (a) either:
- (i) have a maximum take-off weight of more than 15 000 kg; or
- (ii) be permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats; and
- (b) be registered in Australia or New Zealand.

[3] Part 14, Division 5

substitute

Division 5 Airborne collision avoidance systems—turbine-powered commercial aeroplanes

Subdivision 1 Definitions for Division 5

262AA Definitions for Division 5

In this Division:

ACAS means an airborne collision avoidance system for an aircraft that is used to provide information to a pilot of the aircraft for avoiding a collision with another aircraft.

approved TCAS means an approved TCAS II or TCAS II Version 7.1.

approved TCAS II means a TCAS that complies with TSO-C119b or EASA CS ETSO-C119b.

approved TCAS II Version 7.1 means a TCAS that complies with TSO-C119c or EASA CS ETSO-C119c.

resolution advisory means information that:

- (a) is provided to a pilot of an aircraft by a TCAS that is fitted to the aircraft; and
- (b) is about a manoeuvre for averting a collision with another aircraft that the TCAS recognises as a threat.

TCAS means a type of ACAS that:

- (a) interrogates, and receives replies from, a secondary surveillance radar transponder; and
- (b) uses those replies to provide:
 - (i) resolution advisories in the vertical plane; or
 - (ii) traffic advisories.

traffic advisory means information that:

- (a) is provided to a pilot of an aircraft by a TCAS that is fitted to the aircraft; and
- (b) is about another aircraft that the TCAS recognises as a threat.

turbine-powered commercial aeroplane means an aeroplane that:

- (a) is propelled by turbojet, turbofan or turboprop engines; and
- (b) is being used to conduct a public transport service.

**Subdivision 2 Airborne-collision avoidance systems—
 Australian turbine-powered commercial
 aeroplanes**

262AB Application of Subdivision 2

This Subdivision applies to an Australian aircraft that is a turbine-powered commercial aeroplane.

**262AC ACAS requirements—larger capacity aeroplanes:
flights before 1 January 2014**

- (1) This regulation applies to a flight of an aeroplane if:
 - (a) the aeroplane:
 - (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; and
 - (b) the flight is conducted before 1 January 2014.
- (2) The pilot in command of the aeroplane commits an offence if, when the aeroplane begins the flight:
 - (a) the aeroplane is not fitted with an approved TCAS that is serviceable; and
 - (b) the flight is not permitted under subregulation (3) or (4).

Penalty: 25 penalty units.
- (3) For paragraph (2) (b), the flight is permitted if the purpose of the flight is to move the aeroplane to a place to fit the aeroplane with an approved TCAS II Version 7.1.
- (4) For paragraph (2) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS that is unserviceable; and
 - (b) either:
 - (i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or
 - (ii) when the aeroplane begins the flight, the approved TCAS fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.
- (5) An offence against subregulation (2) is an offence of strict liability.

**262AD ACAS requirements—larger capacity aeroplanes:
flights on or after 1 January 2014**

- (1) This regulation applies to a flight of an aeroplane if:
 - (a) the aeroplane:
 - (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; and
 - (b) the flight is conducted on or after 1 January 2014.
- (2) The pilot in command commits an offence if, when the aeroplane begins the flight:
 - (a) the aeroplane is not fitted with an approved TCAS II Version 7.1 that is serviceable; and
 - (b) the flight is not permitted under subregulation (3), (4), or (5).

Penalty: 25 penalty units.

- (3) For paragraph (2) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS II that was fitted before 1 January 2014; and
 - (b) that TCAS is serviceable.
- (4) For paragraph (2) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS II that:
 - (i) was fitted before 1 January 2014; and
 - (ii) is not serviceable; and
 - (b) one of the following circumstances applies:
 - (i) the purpose of the flight is to move the aeroplane to a place to fit it with an approved TCAS II Version 7.1;
 - (ii) the purpose of the flight is to move the aeroplane to a place to repair or overhaul the approved TCAS II;
 - (iii) when the aeroplane begins the flight, the approved TCAS II fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.

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- (5) For paragraph (2) (b), the flight is permitted if:
- (a) the aeroplane is fitted with an approved TCAS II Version 7.1 that is unserviceable; and
 - (b) either:
 - (i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or
 - (ii) when the aeroplane begins the flight, the TCAS II Version 7.1 fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.
- (6) An offence against subregulation (2) is an offence of strict liability.

262AE ACAS requirements—certain new aeroplanes first registered on or after 1 January 2014

- (1) This regulation applies to an aeroplane if:
- (a) the aeroplane:
 - (i) has a maximum take-off weight of more than 5 700 kg but less 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 19 but less than 31; and
 - (b) on or after 1 January 2014, the aeroplane is first registered in Australia.
- (2) The pilot in command of the aeroplane commits an offence if, when the aeroplane begins a flight:
- (a) the aeroplane is not fitted with an approved TCAS II Version 7.1 that is serviceable; and
 - (b) the flight is not permitted under subregulation (3) or (4).
- Penalty: 25 penalty units.
- (3) For paragraph (2) (b), the flight is permitted if the purpose of the flight is to move the aeroplane to a place to fit the aeroplane with an approved TCAS II Version 7.1.

- (4) For paragraph (2) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS II Version 7.1 that is unserviceable; and
 - (b) either:
 - (i) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the TCAS; or
 - (ii) when the aeroplane begins the flight, the approved TCAS fitted to the aeroplane being unserviceable is a permissible unserviceability for the aeroplane.
- (5) An offence against subregulation (2) is an offence of strict liability.

262AF Serviceable ACAS must be activated during flight

- (1) This regulation applies to an aeroplane if the aeroplane:
 - (a) either:
 - (i) has a maximum take-off weight of more than 5 700 kg; or
 - (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and
 - (b) is fitted with an approved TCAS that is serviceable.
- (2) The pilot in command of the aeroplane commits an offence if the approved TCAS is not activated during a flight.

Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

262AG Reporting unserviceable ACAS during flight

- (1) This regulation applies to an aeroplane if the aeroplane:
 - (a) either:
 - (i) has a maximum take-off weight of more than 5 700 kg; or

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- (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and
 - (b) is fitted with an approved TCAS that becomes unserviceable during a flight in, or into, Australian territory.
 - (2) The pilot in command of the aeroplane commits an offence if the pilot in command does not tell air traffic control of the unserviceability:
 - (a) if the aeroplane is in controlled airspace—as soon as practicable after the approved TCAS becomes unserviceable; or
 - (b) if the aeroplane is not in controlled airspace—before entering controlled airspace.

Penalty: 5 penalty units.

- (3) Strict liability applies to paragraph (2) (b).

262AH Reporting unserviceable ACAS before flight

- (1) This regulation applies to an aeroplane if the aeroplane:
 - (a) either:
 - (i) has a maximum take-off weight of more than 5 700 kg; or
 - (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19; and
 - (b) is not fitted with an approved TCAS that is serviceable.
- (2) The pilot in command of the aeroplane commits an offence if, before beginning the flight, the pilot in command does not tell air traffic control:
 - (a) that the aeroplane is beginning the flight without an approved TCAS that is serviceable; and
 - (b) the purpose for which, or the circumstances in which, the flight is being conducted.

Penalty: 5 penalty units.

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

Subdivision 3 Airborne collision avoidance systems—foreign turbine-powered commercial aeroplanes

262AI Application of Subdivision 3

This Subdivision applies to a foreign registered aircraft if the aeroplane:

- (a) is a turbine-powered commercial aeroplane; and
- (b) either:
 - (i) has a maximum take-off weight of more than 5 700 kg; or
 - (ii) is permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 19.

262AJ ACAS requirements—turbine-powered commercial aeroplanes

- (1) The pilot in command of an aeroplane commits an offence if:
 - (a) when the aeroplane begins a flight in Australian territory, the aeroplane is not fitted with an approved TCAS that is serviceable; and
 - (b) the flight is not permitted under subregulation (2) or (3).

Penalty: 25 penalty units.

- (2) For paragraph (1) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS that is unserviceable; and
 - (b) the purpose of the flight is to move the aeroplane to a place to repair, remove or overhaul the approved TCAS.
- (3) For paragraph (1) (b), the flight is permitted if:
 - (a) the aeroplane is fitted with an approved TCAS that is unserviceable; and

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- (b) when the aeroplane begins the flight:
- (i) the unserviceability is permitted for the aeroplane under a law of the country in which the aeroplane is registered; and
 - (ii) the approved TCAS has been unserviceable for not more than 10 days; and
 - (iii) the aeroplane has been in Australian territory for a total of not more than 72 hours since the approved TCAS became unserviceable.

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

262AJA Serviceable ACAS must be activated during flight

- (1) This regulation applies to an aeroplane if the aeroplane is fitted with an approved TCAS that is serviceable.
- (2) The pilot in command of the aeroplane commits an offence if the approved TCAS is not activated during a flight in Australian territory.

Penalty: 25 penalty units.

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

262AJB Reporting unserviceable ACAS during flight

- (1) This regulation applies to an aeroplane if the aeroplane is fitted with an approved TCAS that becomes unserviceable during a flight in, or into, Australian territory.
- (2) The pilot in command of the aeroplane commits an offence if the pilot in command does not tell air traffic control of the unserviceability:
- (a) if the aeroplane is in controlled airspace—as soon as practicable after the TCAS becomes unserviceable; or
 - (b) if the aeroplane is not in controlled airspace—before entering controlled airspace.

Penalty: 5 penalty units.

- (3) Strict liability applies to paragraph (2) (b).

262AJC Reporting unserviceable ACAS before flight

- (1) This regulation applies to an aeroplane if the aeroplane is to begin a flight in Australian territory and is not fitted with an approved TCAS that is serviceable.
- (2) The pilot in command of the aeroplane commits an offence if, before beginning the flight, the pilot in command does not tell air traffic control:
- (a) that the aeroplane is beginning the flight without an approved TCAS that is serviceable; and
 - (b) the purpose for which, or the circumstances in which, the flight is being conducted.

Penalty: 5 penalty units.

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

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.