

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument No. , 2016**

Issued by the authority of the Minister for Infrastructure and Transport

*Civil Aviation Act 1988*  
*Transport Safety Investigation Act 2003*  
*Civil Aviation Legislation Amendment (Part 132) Regulation 2016*

The *Civil Aviation Act 1988* (the Act) establishes the regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Subsection 98(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Subsection 98(1) also provides that the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the *Convention on International Civil Aviation* (Chicago Convention) relating to aviation safety, and in relation to the safety of air navigation, being regulations with respect to any other matters to which the Parliament has power to make laws.

Subsection 9(1) of the Act specifies, in part, that the Civil Aviation Safety Authority (CASA) has the function of conducting the safety regulation of civil air operations in Australian territory by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

The *Transport Safety Investigation Act 2003* (TSI Act) establishes a framework to investigate transport safety matters in the aviation, marine and rail transport modes, to assist with improving transport safety outcomes. Section 71 of the TSI Act provides that the Governor-General may make regulations prescribing matters required or permitted by the TSI Act. Section 20A provides the Governor-General to prescribe regulations that may establish a scheme for the voluntary and confidential reporting of issues that affect or might affect transport safety.

The Regulation makes various amendments to the *Civil Aviation Regulations 1988 (CAR)* and the *Civil Aviation Safety Regulations 1998 (CASR)*, primarily to transfer the regulations governing operations in limited category aircraft from the CAR to the CASR in a new Part 132. Limited category aircraft are aircraft mentioned in regulation 21.189 of CASR and include aircraft such as ex-armed forces replica and historic aircraft.

Part 132 of CASR sets out:

- the requirements that permit the civil operation of ex-armed forces aircraft (warbirds);
- the conditions under which the operation of various limited category aircraft may be conducted, including:
  - requirements that apply to operators of adventure flight operations;
  - restrictions on flights over populous areas for certain types of limited category aircraft;
  - restrictions on the number of occupants during a flight of a limited category aircraft;
  - the responsibilities of persons involved in limited category aircraft operations; and
  - the offences that relate to limited category aircraft operations.

Part 132 provides for limited category aircraft to be operated under the auspices of an administering organisation as described in subregulation 262AN(1) of CAR.

Under existing subregulation 262AN(4) of CAR, a person may apply to CASA for approval to operate other than in accordance with an operations manual produced by an approved administering organisation. The Regulation phases out subregulation 262AN(4), which effectively requires all ex-armed forces aircraft to be operated under an administration and oversight of the administering organisation (variously referred to in the Regulation as the ‘limited category organisation’ or the ‘administering authority’).

The existing requirements in the CAR relating to administering organisations have been carried over and enhanced, requiring the administering organisation to:

- issue certificates of airworthiness for limited category aircraft;
- assign permit index numbers to limited category aircraft;
- assess and approve as appropriate, adventure flight procedures;
- assess and approve as appropriate, applications for approvals to fly permit index 1 aircraft over populous areas;
- assess and approve as appropriate, defects and modifications to limited category aircraft;
- assess and approve as appropriate, maintenance programs and maintenance data for limited category aircraft;
- carry out safety surveillance of limited category aircraft operations; and
- appoint appropriately trained and qualified persons to carry out these functions on behalf of the organisation.

The Regulation incorporates changes to allow personal use, glider towing and air racing in limited category aircraft. It also permits a greater degree of flexibility for operation of ex-armed forces aircraft by reducing some certification costs.

The Regulation also allows limited category aircraft with unapproved major modifications, expired airframe fatigue life or life limited components that have exceeded their life limits to be eligible for a limited certificate for personal use subject to restrictions in relation to flying over populous areas. These aircraft are not permitted to undertake adventure flights for payment or reward.

The Regulation has incorporated requirements that are in addition to existing requirements for the giving of safety briefings to adventure flight passengers (persons who pay to experience flight in a warbird).

The new requirements are structured to ensure that adventure flight passengers are properly advised of the risks of such a flight in a language the passenger can understand, and that the briefing is given before the person enters the aircraft or is fitted out with special clothing for a flight. Provision is also made to ensure that if a minor is carried on an adventure flight, the briefing must be given to a parent or guardian who must then sign the written acknowledgement of the briefing. Other requirements relate to carriage of an adventure flight passenger who is reasonably believed to be unable to understand the safety briefing. In such cases a parent, guardian or carer must sign an acknowledgement of the briefing and accompany the passenger on the flight.

The Regulation places limitations on the purposes for which an experimental certificate of airworthiness (CofA) may be issued to an ex-armed forces aircraft, such as for the purposes of research and development and air racing for heavily modified aircraft, but excluding exhibition, which is now permitted under a limited certificate.

## **Consultation**

In accordance with section 17 of the *Legislation Act 2003*, CASA developed the Regulation in consultation with warbird operators. The main methods of consultation during the regulatory development phase were via email communication with individuals and the executive of the administering organisation, and CASA representatives attending general meetings of the administering organisation for updates and discussions with the membership and the board of management.

Additionally, CASA published a draft Part 132 for public consultation in February 2015 allowing eight weeks for public comment. All matters raised during this consultation period have been addressed in the final Regulation and further consultation with the administering organisation has confirmed that the matters have been satisfactorily resolved.

## **Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) assessed that the amendments will have minor impacts and that no further analysis in the form of a Regulation Impact Statement was required (OBPR reference 18640).

## **Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at [Attachment A](#).

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the Regulation are set out in [Attachment B](#).

The provisions of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016* commence three months after the date of registration.

The Act does not specify conditions that need to be met before the power to make the proposed Regulation may be exercised.

Authority: Subsection 98(1) of the  
*Civil Aviation Act 1988*  
Section 71 of the  
*Transport Safety Investigation Act 2003*

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Civil Aviation Legislation Amendment (Part 132) Regulation 2016**

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The legislative instrument (the Regulation) makes various amendments to the *Civil Aviation Regulations 1988* (CAR) and the *Civil Aviation Safety Regulations 1998* (CASR) primarily to transfer the regulations governing operations in limited category aircraft from CAR to CASR in a new Part 132. Limited category aircraft are aircraft mentioned in regulation 21.189 of CASR and include ex-armed forces aircraft (warbirds) and historic aircraft.

The move from CAR to CASRs was commenced in the late 1980s to align where possible with international practice, improve aviation safety by addressing known risks, incorporate lessons learned from aviation accidents around the world, and maintain Australia's reputation of having an aviation industry that is recognised as being one of the safest in the world. The CASRs also consolidate related safety standards where possible, so they can be found in one place.

CASR Part 132 prescribes the operational requirements and limitations for limited category aircraft and establishes a self-administering regime involving approved limited category organisations.

CASR Part 132 sets out:

- the requirements that permit the civil operation of ex-armed forces aircraft (warbirds);
- the conditions under which the operation of various limited category aircraft may be conducted, including:
  - requirements that apply to operators of adventure flight operations,
  - restrictions on flights over populous areas for certain types of limited category aircraft;
  - restrictions on the number of occupants during a flight of a limited category aircraft;
  - the responsibilities of persons involved in the limited category aircraft operations, and
  - the offences that relate to limited category aircraft operations.

CASR Part 132 provides for limited category aircraft to be operated under the auspices of an administering organisation (known as an administering authority) as described in subregulation 262AN(1) of CAR.

Under existing subregulation 262AN(4) of CAR, a person may apply to CASA for approval to operate other than in accordance with an operations manual produced by an approved administering organisation. The Regulation would phase out subregulation 262AN(4) which would effectively require all ex-armed forces aircraft to be operated under the administration and oversight of the administering organisation.

The Regulation incorporates changes to allow personal use, glider towing and air racing in limited category aircraft. It would also permit a greater degree of flexibility for operation of ex-armed forces aircraft by reducing some certification costs.

The Regulation also allows limited category aircraft with unapproved major modifications, expired airframe fatigue life or life limited components that have exceeded their life limits to be eligible for a limited certificate for personal use subject to restrictions in relation to flying in populous areas and adventure flights.

The Regulation has incorporated requirements which are in addition to existing requirements for the giving of safety briefings to adventure flight passengers (persons who pay to experience flight in a warbird). The new requirements aim to ensure that adventure flight passengers are properly advised of the risks of such a flight in a language the passenger can understand, and that the briefing is given before the person enters the aircraft or is fitted out with special clothing for a flight. Provision is also made to ensure that if a minor is carried on an adventure flight, the briefing must be given to a parent or guardian who must then sign the written acknowledgement of the briefing. Other requirements relate to carriage of an adventure flight passenger who is unable to understand the safety briefing. In such cases a parent, guardian or carer must sign an acknowledgement of the briefing and accompany the passenger on the flight.

An existing requirement of the CAR has been carried over and enhanced to clarify that all limited category aircraft operate under the administration and safety oversight of an approved self-administering aviation organisation (variously referred to in the proposed Regulation as the limited category organisation or the administering authority). For example, a limited category organisation is required to:

- issue certificates of airworthiness for limited category aircraft;
- assign permit index numbers to limited category aircraft;
- assess and approve as appropriate, adventure flight procedures;
- assess and approve as appropriate, applications for approvals to fly permit index 1 aircraft over populous areas;
- assess and approve as appropriate, defects and modifications to limited category aircraft;
- assess and approve as appropriate, maintenance programs and maintenance data for limited category aircraft;
- carry out safety surveillance of limited category aircraft operations; and
- appoint appropriately trained and qualified persons to carry out these functions on behalf of the organisation.

The Regulation places limitations on the purposes for which an experimental certificate of airworthiness may be issued to an ex-armed forces aircraft such as for the purposes of research and development, and air racing for heavily modified aircraft but excluding exhibition which will be permitted instead under a limited certificate.

## Human rights implications

The Regulation engages the following rights:

- the right to the presumption of innocence in Article 14(2) of the *International Covenant on Civil and Political Rights* (ICCPR);
- the right to protection against arbitrary and unlawful interferences with privacy in Article 17 of the ICCPR;
- the right to work and rights of work under Articles 6(1) and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); and
- the rights of equality and non-discrimination in Articles 2(1) and 26 of the ICCPR, Article 2(2) of ICESCR and Article 5 of the Convention on the Rights of Persons with Disabilities (CRPD).

### *Presumption of Innocence*

The presumption of innocence is contained in Article 14(2) of the ICCPR. The presumption of innocence imposes on the prosecution the burden of proving the charge, and guarantees that no guilt can be presumed until charges have been proved beyond reasonable doubt.

Strict liability offences engage the presumption of innocence through the imposition of liability without the need to prove fault.

A total of 26 offence provisions specified in this legislative instrument are strict liability offences, of which 16 are new provisions. These offences engage the right to the presumption of innocence by applying strict liability to all elements of the relevant offences. However, the defence of honest and reasonable mistake of fact, as set out in section 9.2 of the Criminal Code, will be available to the defendant.

These offences relate to administrative and safety requirements that must be adhered to by regulated individuals, operators or organisations involved in the aviation industry to ensure the integrity of the aviation safety system.

Subpart 132.B specifies offences that relate to any flight conducted in a limited category aircraft and are framed to ensure that operations of this category of aircraft do not put flying and non-flying third parties at risk by placing limits on passenger numbers and applying conditions to flights over populous areas. Other provisions in this Subpart ensure that a passenger must be advised before participating in a flight, including by way of displaying a warning placard on the aircraft and a passenger briefing which draws attention to the fact that the aircraft is not subject to any design standards recognised by CASA.

Division 132.C.1 specifies offences in relation to adventure flight operations, which are flights for which payment is made. The offences are framed to ensure that aircraft with certain modifications or on which certain component or airframe life limits have expired, are not used for the carriage of paying passengers.

Division 132.C.2 sets out the requirements for detailed pre-booking and pre-boarding safety briefings for adventure flights, for which failure to comply is an offence, to ensure that a paying passenger, or their parent, guardian or carer, is able to make an informed decision on whether to book and board the flight.

Division 132.D.1 sets out offences relating to certification and airworthiness matters for limited category aircraft. The offences are framed to ensure that the giving of approvals or airworthiness advice for limited category aircraft is done in accordance with prescribed standards and procedures set out in the Part 132 Manual of Standards.

Division 132.D.2 sets out an offence if an administering organisation does not comply with a direction by CASA to issue a new permit index number to an aircraft. The permit index number is a risk rating that is used to determine whether an aircraft may be flown over a populous area. If CASA is satisfied that an aircraft's existing permit index number does not comply with regulatory requirements, CASA must direct the administering authority to issue a new permit index number in the interest of public safety.

Division 132.D.3 prescribes offences that will apply to an administering authority if it does not:

(a) notify CASA within 14 days of assigning a permit index number to a limited category aircraft.

(b) give prior notice to CASA of matters that are potentially contentious and that could involve CASA in disputes that could possibly be avoided. Matters such as:

- refusal to issue a limited category certificate;
- refusal to vary a limited category certificate;
- proposing to assign a permit index number to a limited category aircraft which is different to a permit index number previously assigned by CASA; and
- refusal to vary a permit index number.

(c) notify CASA if the organisation believes that a matter exists in relation to a limited category aircraft which CASA may wish to deal with by suspending or cancelling an aircraft's limited certificate in the interest of safety of aviation.

The strict liability offences are considered reasonable, necessary and proportionate to the objective of ensuring aviation safety, and therefore not impermissibly limiting the presumption of innocence. The offences are regulatory in nature and framed to ensure an acceptable level of safety for persons flying in limited category aircraft while preserving the safety of third party persons and property.

There is an expectation that operating crew and passengers in limited category aircraft (participants) are deemed to have accepted certain safety risks. However, the offence provisions are included to minimise risk to participants to an acceptable level and ensure that the safety of other airspace users and people on the ground or water is not compromised by their operations, and to ensure passengers are aware of the increased risk. The deterrence effect of the strict liability offence also contributes significantly to maintaining the integrity of the aviation safety system and preserving the safety of passengers, pilots, cabin crew and people on the ground that could be affected by aviation accidents or incidents.

The strict liability offences are also proportionate in that they fall at the lower end of the scale, not exceeding 50 penalty units.

#### *Right to privacy*

The right to protections against arbitrary and unlawful interferences with privacy, contained in Article 17 of the ICCPR, provides that no one shall be subjected to arbitrary or unlawful interference with his or her privacy.

The right to privacy is engaged by the new regulation 21.174 of CASR, which empowers CASA to give an application made to CASA for a limited category certificate, to a limited category organisation for the purposes of the organisation deciding the application. If there is more than one limited category organisation that may deal with the application, CASA must ask the applicant to nominate a limited category organisation for the application.

Subregulation 21.174 (4) provides that, if CASA gives the application to a limited category organisation, CASA must also give the organisation anything in CASA's records about the applicant that is relevant to the organisation making a decision on the application. This could conceivably include CASA's records on the applicant's operating procedures and records on the applicant's personnel. Under subregulation 21.174 (6), a limited category organisation may also consult with, or seek information from, CASA for the purposes of deciding the application.

It is necessary for a limited category organisation to receive relevant information or documents about the applicant in the course of deciding whether to accept or reject an application. This would include considering, in accordance with the procedures and policies in the organisation's manual as approved by CASA, the applicant's operational procedures and the competency of its personnel. The requirement for CASA to disclose any information about the applicant that is relevant to the application ensures that an authorisation, if granted by the limited category organisation, is done so with aviation safety being the paramount consideration.

The protections provided by the *Privacy Act 1988* (the Privacy Act) and CASA's Privacy Policy continue to apply to personal information collected by CASA. Australian Privacy Principle 6 under the Privacy Act deals with the use or disclosure of personal information, including that personal information about an individual collected for a primary purpose must not be used or disclosed for a secondary purpose unless, among other things, the use or disclosure is required or authorised by or under Australian law. CASA's Privacy Policy also states that CASA may disclose personal information to third parties if, among other things, the disclosure is required or authorised by or under law, or is otherwise permitted by the Australian Privacy Principles.

Regulation 21.174 empowers CASA to disclose any information about an applicant to a limited category organisation for the purpose of assessing the application, only if that information is relevant to the application. The requirements of the Regulation are necessary in order to ensure proper administration and enforcement of Australia's aviation safety system. Any interference with privacy is lawful and not arbitrary. The sharing of personal information is necessary, reasonable and proportionate in promoting the objective of improving aviation safety.

#### *Right to work*

The right to work and rights of work, contained in Articles 6(1) and 7 of the ICESCR, includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept.

These rights are engaged by paragraph 132.050(2)(g), which requires a pilot in command of a limited category aircraft to be authorised under Part 61 (flight crew licensing) of CASR, and regulations 132.105, 132.110 and 132.115, which require the operator to hold certificates and/or a special flight permit in order to conduct adventure flights.

These requirements are necessary in order to ensure that a person who pays for a flight in a limited category aircraft is being flown by a pilot with suitable qualifications and experience and, more broadly, that the operator of the aircraft holds the necessary authorisations to operate the aircraft safely. These provisions also promote a safe working environment for flight crew operating the aircraft.

To the extent that certain aircraft are not permitted to carry passengers for payment, it might be said that this would contravene the right to work for owners of such aircraft since they cannot make use of their aircraft for a commercial purpose.



However, such differential treatment arises from the requirements of aviation safety for the particular types of specialised aircraft involved. In most cases, there is an increased scope for private enjoyment of limited category aircraft even if owners cannot use their aircraft for a commercial purpose.

Accordingly, any potential limitations on the right to work are necessary, reasonable and proportionate in achieving the aim of improving aviation safety.

*Right to equality and non-discrimination*

The right to equality and non-discrimination is protected by Article 2(1) of the ICCPR and Article 2(2) of the ICESCR, which guarantee the rights enshrined in the Covenants to all people without discrimination. Article 26 of the ICCPR separately provides that all people are equal before the law and entitled without any discrimination to the equal protection of the law.

The CRPD further describes the content of these rights, describing the specific elements that States Parties are required to take into account to ensure the right to equality before the law for people with disabilities, on an equal basis with others. Article 5 of the CRPD reaffirms that people with disability are entitled to the equal protection and equal benefit of the law, and expressly prohibits all discrimination on the basis of disability.

Differential treatment will not constitute discrimination if it can be shown to be justifiable; that is, if it can be shown to be based on objective and reasonable grounds and is a proportionate measure in pursuit of a legitimate objective.

Regulation 132.065 provides that if a person is giving a safety briefing to a passenger on a flight that is not an adventure flight and the person reasonably believes that the passenger is unable to understand the briefing, then the briefing must be given to the person who has care of the passenger. A similar requirement exists in regulation 132.165 for adventure flight passengers. In all cases the safety briefings must be conducted in a language understood by the passenger's carer.

Regulation 132.140 of CASR provides that a passenger on an adventure flight must be accompanied on the flight by a parent, guardian or carer if the person who is giving the safety briefing to the passenger reasonably believes that the passenger is not able to understand the briefing.

The assessment by the person who is conducting the safety briefing as to a passenger's ability to understand the briefing, and subsequent denial of boarding if the passenger is not accompanied by a parent, guardian or carer, engages the right to equality and non-discrimination. The person who makes this assessment is required to do so in the interests of ensuring that an informed decision on the risks involved in the flight has been made by each passenger or their parent, guardian or carer.

Additionally, if an emergency were to occur during the adventure flight, it is considered essential that a parent, guardian or carer be on hand to assist a passenger who may not be able to understand the emergency instructions given by the operating crew.

Similar provisions are in place for passengers who are under the age of 18 and the same reasoning applies.

The risks of flying in a warbird are considered to be such that if a minor is to participate, a parent or guardian must be made aware of the risks and give consent for the minor to accept those risks by signing the written acknowledgment of the briefing.

Accordingly, the requirement for the passenger to be accompanied by a parent or guardian is a necessary, reasonable and proportionate limitation to ensure that aviation safety is maintained and that the safety of the passenger is properly considered by a person legally entitled to accept the risk on the passenger's behalf.

**Conclusion**

The legislative instrument is compatible with human rights and to the extent that it may also limit human rights, those limitations are reasonable and proportionate in order to ensure the safety of aviation operations and to promote the integrity of the aviation safety system.

**ATTACHMENT B****Details of the Civil Aviation Legislation Amendment (Part 132) Regulation 2016****Section 1 - Name of regulation**

Item 1 provides that the title of the Regulation is the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

**Section 2 – Commencement**

This section provides that the regulation commences three months after the date of registration.

**Section 3 – Authority**

This section provides that the regulation is made under the *Civil Aviation Act 1988* and the *Transport Safety Investigation Act 2003*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

**Schedule 1 - Amendments***Civil Aviation Regulations 1988***Item [1] Subregulation 42CA(2)**

Item [1] omits *CASA* and substitutes *CASA or a limited category organisation*.

**Item [2] Subregulation 47(1A)**

Item [2] omits *if, under subregulation 21.007A(2) of CASR, CASA or an authorised person or approved design organisation advises*, and substitutes *if advice has been given under regulation 21.007A of CASR*.

**Item [3] After subregulation 47(1A)**

Item [3] inserts new subregulations 47(1B) and (1C) to clarify that damage to, or a defect in, a limited category aircraft is taken not to be major damage or a defect if advice has been given under regulation 132.175 of CASR that the damage is not major damage or that the defect is not a major defect.

**Item [4] Subparagraph 206(1)(b)(i)**

Item [4] omits *or carriage for an operation mentioned in subregulation 262AM(7)*, to exclude the carriage of passengers in limited category aircraft and where payment is made for that carriage from the meaning of ‘commercial purposes’ and ‘charter purposes’ under Regulation 206 of CAR.

**Item [5] Subregulation 206(1A)**

Item [5] repeals the subregulation and inserts a new subregulation to clarify that certain limited category aircraft operations do not constitute ‘commercial purposes’ for the purpose of subregulation 206(1) of CAR.

**Item [6] Regulation 262AK (paragraph (a) of the note)**

Item [6] omits *limited* from the list of aircraft to which the Division applies.

**Item [7] Regulations 262AM and 262AN**

Item [7] repeals regulation 262AM, which contained the operating requirements for limited category aircraft that have been wholly migrated to Part 132 of CASR. It also repeals regulation 262AN and replaced it with a new regulation 262AN that specifies certain additional responsibilities for an approved limited category aircraft administering organisation, and removed the offence-related provisions.

**Item [8] Subregulation 263(1) (definition of approval)**

Item [8] amends the definition of *approval* to include an approval issued under regulation 262AN for a limited category organisation.

**Item [9] Subregulation 297A(1) (table item 31)**

Item [9] updates the reference to the existing reviewable decision relating to refusing to approve an organisation in relation to limited category aircraft.

**Item [10] Subregulation 324(1)**

Item [10] repeals subregulation 324(1), which referred to regulation 262AM, consequential to the repeal of regulation 262AM by Item [7].

**Item [11] Subregulation 324(2)**

Item [11] removes redundant numbering, consequential to the repeal of subregulation 324(1) by Item [10].

**Item [12] At the end of Part 20**

Item [12] inserts a transitional regulation that preserves existing CASA approval of the Australian Warbirds Association Limited as a limited category organisation for a period of six months after the amendment regulation commences.

*Civil Aviation Safety Regulations 1998***Item [13] After regulation 11.026**

Item [13] inserts new *Regulation 11.027 Application of Part 11 to relevant approved organisations*, which specifies that a limited category organisation has the powers to carry out functions related to granting authorisations and varying or suspending certain authorisations at the holder's request.

**Item [14] At the end of subregulation 11.040(1)**

Item [14] adds a note to explain that a person or organisation who receives an application for a certificate of airworthiness may request any additional information that is considered necessary in order for it to properly assess an application.

**Item [15] Subregulation 11.056(2)**

Item [15] amends the subregulation to specify that a condition imposed on an authorisation may be set out in the authorisation or attached to it.

**Item [16] Regulation 21.173**

Item [16] repeals the existing regulation and substitutes new regulation 21.173 and 21.174. Regulation 21.173 provides for an administering authority to receive applications for a limited certificate and regulation 21.174 provides for CASA to pass on to an approved organisation an application for a limited category certificate that is made to CASA. If more than one approved organisation is in existence, CASA is required to ask the applicant to nominate the organisation to which CASA should pass the application.

**Item [17] Subregulation 21.176(1)**

Item [17] amends subregulation 21.176(1) to provide for a limited category organisation to issue certain certificates of airworthiness.

**Item [18] After subregulation 21.176(4)**

Item [18] inserts subregulations 21.176(5) and 21.176(5A), which provide that CASA or a limited category organisation must assign a permit index number to an aircraft, in accordance with regulation 132.195, when issuing a limited category certificate for the aircraft, and that information about the permit index number and special purposes for which the aircraft is to be operated must be included on or as an attachment to a limited category certificate.

**Item [19] Subparagraph 21.189(1)(a)(i)**

Item [19] replaces *an authorised person* with *the limited category organisation deciding the application*.

**Item [20] Subparagraph 21.189(1)(a)(ii)**

Item [20] replaces *an authorised person* with *the limited category organisation deciding the application*.

**Item [21] Paragraphs 21.189(1)(b) and (c)**

Item [21] replaces *an authorised person* with *the limited category organisation*.

**Item [22] Subregulation 21.189(2)**

Item [22] replaces *an authorised person* with *the limited category organisation*.

**Item [23] Paragraphs 21.189(2)(a) and (c)**

Item [23] replaces *authorised person* with *limited category organisation*.

**Item [24] Paragraph 21.189(3)(a)**

Item [24] deletes *in adventure style operations* to align with new examples of ‘special purpose operations’ added by Item 25.

**Item [25] After paragraph 21.189(3)(a)**

Item [25] inserts additional special purposes for a limited category aircraft, being conducting adventure flights in historic or ex-military aircraft, air racing for aircraft that have not had a major modification, and glider towing.

**Item [26] Paragraph 21.189(3)(g)**

Item [26] replaces *jumping* with *descents* in relation to parachute operations.

**Item [27] Subregulation 21.189(4)**

Item [27] replaces *an authorised person* with *the limited category organisation*.

**Item [28] Paragraph 21.189(4)(b)**

Item [28] replaces *authorised person* with *limited category organisation*.

**Item [29] Subregulation 61.495(3)**

Item [29] removes *aerodromes or* as these words are redundant in the existing formulation that says *aerodromes or landing areas*.

**Item [30] After Part 129**

Item [30] inserts new Part 132 regarding limited category aircraft into the CASR after Part 129.

**Part 132—Limited category aircraft****Subpart 132.A—Preliminary**

This Subpart inserts a complete new Subpart 132.A of CASR 1998, inclusive of regulations 132.005 to 132.045, which provides the general background on how Part 132 of CASR 1998 is applied.

**Regulation 132.005 - What Part 132 is about**

**Subregulations 132.005(1) to 132.005(5)** specify that Part 132 applies in addition to the requirements of the CAR and also broadly describes the matters that are covered by Subparts 132.A to 132.D.

**Regulation 132.010** sets out key definitions for Part 132.

**Regulation 132.015** defines an *adventure flight* for a limited category aircraft as a flight on which a passenger is carried, and that is conducted for hire or reward or publicly available.

**Regulation 132.020 - Definition of *major* for modifications and repairs for limited category aircraft**

**Subregulation 132.020(1)** describes the factors that constitute a major modification or repair.

**Subregulation 132.020(2)** permits a determination to be made under regulation 132.175 that a modification or repair is not major.

**Subregulation 132.020(3)** clarifies the meaning of *modification* and *repair*.

**Regulation 132.025 - Definition of *safety-critical aeronautical product* for limited category aircraft**

**Subregulation 132.025(1)** defines a safety-critical aeronautical product as something that would endanger the aircraft if it is missing or inoperative.

**Subregulation 132.025(2)** permits a determination to be made under regulation 132.175 that an aeronautical product is not safety critical.

Regulation 132.030 - Approval of modifications and repairs for limited category aircraft

**Subregulation 132.030(1)** describes the organisations that may approve a modification or repair to a limited category aircraft.

**Subregulation 132.030(2)** provides that a modification or repair, or a design for a modification or repair to a limited category aircraft is approved if it has been approved under Part 21 by an authorised person, or an approved design organisation.

**Subregulation 132.030(3)** provides that a modification or repair to a limited category aircraft is approved if an approval 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.

Regulation 132.035 - Approvals by CASA or administering authority for Part 132

**Subregulation 132.035(1)** specifies that certain applications may be made to CASA for approval.

**Subregulation 132.035(2)** specifies that certain applications may be made to the administering authority for approval.

**Subregulation 132.035(3)** specifies that subject to regulation 11.055, CASA or the administering authority must grant the approval.

**Subregulation 132.035(4)** specifies that certain approvals granted under this subregulation are subject to subregulation 11.055(1B), which requires that granting of the authorisation would preserve a level of aviation safety that is at least acceptable.

**Regulation 132.040** provides for CASA to issue a Manual of Standards (MOS) for Part 132.

Regulation 132.045 - Relationship of Part 132 to other requirements for operating limited category aircraft

**Subregulation 132.045(1)** states that Part 132 is additional to the requirements of the CAR 1988 and that in the case of an inconsistency, Part 132 prevails to the extent of the inconsistency.

**Subregulation 132.045(2)** provides a list of documents in which conditions or limitations may be set out that are more stringent than comparable conditions or limitation in the CAR 1988.

Subpart 132.B—Flying limited category aircraft—general requirements

This Subpart inserts a complete new Subpart 132.B of CASR 1998, inclusive of regulations 132.050 to 132.085, which set out the general operating permissions, requirements and limitations that apply to operations in limited category aircraft.

Regulation 132.050 - General operational requirements

**Subregulation 132.050(1)** provides that the operator and pilot in command each contravene the subregulation if a special flight permit is not in force for the aircraft, and the aircraft is operated for a flight and a requirement mentioned in subregulation 132.050(2) is not met for the flight.

**Subregulations 132.050(2) and 132.050(3)** specify a list of interlinked requirements that must be met.

**Subregulation 132.050(4)** provides that the operator and pilot in command each contravene the subregulation if a special flight permit is in force for the aircraft; and the aircraft is operated for a flight; and either the operation of the aircraft for the flight is not in accordance with the special flight permit; or a requirement mentioned in paragraph (2)(d) or (e), subparagraph (2)(f)(ii) or paragraph (2)(g) is not met for the flight.

**Subregulation 132.050(5)** provides that contravention of subregulation 132.050(1) or 132.050(4) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.055 - Authorised operations for limited category aircraft

**Subregulation 132.055(1)** sets out the types of operations that are permitted to be carried out in a limited category aircraft.

**Subregulation 132.055(2)** defines *personal use* in relation to paragraph 132.055(1)(a).

Regulation 132.060 - Maximum number of persons to be carried

**Subregulation 132.060(1)** states that an operator may carry the number of persons stated in an approval given under regulation 132.035 if such an approval exists.

**Subregulation 132.060(2)** states that the number of persons for subregulation 132.060(1) must not exceed the number of persons the aircraft was designed to carry.

**Subregulation 132.060(3)** permits a number of persons greater than the design capacity to be carried if an approved modification permits the greater number of persons to be carried.

**Subregulation 132.060(4)** states that unless approved otherwise, the maximum number of persons carried is either six (6) or the designed seating capacity of the aircraft, whichever is lower.

Regulation 132.065 - Passenger briefing for flights other than adventure flights

**Subregulation 132.065(1)** provides that the regulation applies to a flight of a limited category aircraft if a passenger is to be carried on the flight and the flight is not an adventure flight.

**Subregulation 132.065(2)** provides that the operator contravenes the subregulation if subregulation 132.065(3) is not met for the passenger for the flight.



**Subregulation 132.065(3)** provides that for subregulation 132.065(2), on the day of the flight and before the passenger is taken to the aircraft, a briefing that complies with subregulation 132.065(4) must be given to the passenger. It also provides that if the passenger is under the age of 18 the briefing must also be given to the passenger's parent or guardian, and that if the person giving the briefing reasonably believes that the passenger will not be able to understand the briefing then the briefing must also be given to the person who has care of the passenger.

**Subregulation 132.065(4)** provides that the briefing must include the content mentioned in subregulation 132.070(1) and be in a language that the passenger (and, if applicable, the passenger's parent, guardian or carer) understands.

**Subregulation 132.065(5)** provides that subregulation 132.165(2) does not apply to the operator if the passenger was carried on an earlier flight of the aircraft on the same day and the requirement mentioned in subregulation (3) was met for the passenger for the earlier flight.

**Subregulation 132.065(6)** provides that contravention of subregulation 132.065(2) is an offence of strict liability. The penalty for the offence is 50 penalty units.

#### Regulation 132.070 - Content of safety briefing for flights other than adventure flights

**Subregulation 132.070(1)** specifies the details that must be included in a safety briefing required by paragraph 132.065(4)(a).

**Subregulation 132.070(2)** specifies additional information that is required to be given if an aircraft has exceeded its approved airframe life, has a safety critical aeronautical product that has reached its life limit or has had a major modification or repair that is not approved for the purpose of adventure flights.

#### Regulation 132.075 - Flights over populous areas

**Subregulation 132.075(1)** provides that the operator and pilot in command contravene the subregulation if the aircraft is flown over a populous area and the flight is not permitted by this regulation.

**Subregulation 132.075(2)** provides that a limited category aircraft that has not been assigned a permit index number is not permitted to be flown over a populous area.

**Subregulation 132.075(3)** provides that a limited category aircraft with a permit index of 0 may be flown over a populous area.

**Subregulation 132.075(4)** provides that a limited category aircraft with a permit index of 1 may be flown over a populous area if it has an approval to do so from the administering authority under regulation 132.035. It also provides that the aircraft may be flown over a populous area for the purpose of taking off from or landing at a landing area other than those prescribed as unsuitable by the Part 132 MOS.

**Subregulation 132.075(5)** provides that when considering an approval for a permit index 1 aircraft to fly over a populous area, the administering authority must take into account the permit index number and any other matter that may be relevant to the safety of other airspace users and persons on the ground or water.

**Subregulation 132.075(6)** provides that a limited category aircraft with a permit index of 2 may fly over a populous area in accordance with an approval issued by CASA under regulation 132.035.

**Subregulation 132.075(7)** provides that when considering an approval for a permit index 2 aircraft to fly over a populous area, CASA must take into account the permit index number and any other matter that may be relevant to the safety of other airspace users and persons on the ground or water.

**Subregulation 132.075(8)** provides that despite subregulations 132.075(3), (4) and (6), an aircraft is not permitted to be flown over a populous area if the aircraft:

- has reached its approved airframe life or would reach its approved airframe life during the flight, or
- is fitted with a safety critical aeronautical product that has reached its life limit or will reach its life limit during the flight, or
- has a major modification that is not approved.

**Subregulation 132.075(9)** provides that contravention of subregulation 132.075(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

#### Regulation 132.080 - Parachute descents

**Subregulation 132.080(1)** provides that an operator and pilot in command each contravene the subregulation if a limited category aircraft is used for parachute descents and the parachute descent is a training descent or a tandem descent.

**Subregulation 132.080(2)** provides that contravention of subregulation 132.080(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

#### Regulation 132.085 – Flights in foreign country’s airspace

**Subregulation 132.085(1)** provides that an operator or pilot in command each contravene the subregulation if the aircraft is operated in a foreign country's airspace without permission of the National Aviation Authority (NAA) of that country, or in contravention of a condition that was attached to any such permission.

**Subregulation 132.085(2)** provides that contravention of subregulation 132.085(1) is an offence of strict liability. The penalty for the offence is 10 penalty units.

#### Subpart 132.C—Flying limited category aircraft—adventure flights

This Subpart inserts a complete new Subpart 132.C of CASR 1998, inclusive of regulations 132.090 to 132.170, which sets out the requirements relating to adventure flights in limited category aircraft.

Division 132.C.1—Adventure flights—general requirements

This Division inserts complete new regulations 132.090 to 132.140 that provide for general requirements for adventure flights in limited category aircraft.

Regulation 132.090 – Adventure flight procedures required

**Subregulation 132.090(1)** provides that an operator or pilot in command each contravene the subregulation if, when an adventure flight begins, there are no adventure flight procedures in place for the aircraft.

**Subregulation 132.090(2)** provides that contravention of subregulation 132.090(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.095 - Limited category certificate must include adventure flights as special purpose operation

**Subregulation 132.095(1)** provides that an operator contravenes the subregulation if adventure flights are conducted in an aircraft and the limited certificate for the aircraft does not include ‘conducting adventure flights in historic or ex-military aircraft’ as a special purpose operation for the aircraft.

**Subregulation 132.095(2)** provides that contravention of subregulation 132.095(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.100 - When adventure flights prohibited—aircraft airframe life and life-limited safety-critical aeronautical products

**Subregulation 132.100(1)** provides that an operator contravenes the subregulation if a limited category aircraft that has exceeded its airframe life or has a time-expired safety critical aeronautical product is operated for an adventure flight.

**Subregulation 132.100(2)** provides that an operator contravenes the subregulation if, during an adventure flight, a limited category aircraft either reaches a life limit for its airframe or a safety critical aeronautical component.

**Subregulation 132.100(3)** provides that contravention of subregulation 132.100(1) or subregulation 132.100(2) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.105 – When adventure flights prohibited – major modifications or repairs

**Subregulation 132.105(1)** provides that the regulation applies to the operator of a limited category aircraft if the aircraft has a modification or repair and the modification is a major modification or repair.

**Subregulation 132.105(2)** provides that an operator contravenes the subregulation if, when the aircraft begins an adventure flight, the modification or repair is not approved for the purposes of regulation 132.030.

**Subregulation 132.105(3)** provides that an operator contravenes the 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.

**Subregulation 132.105(4)** provides that contravention of subregulation 132.105(2) or subregulation 132.105(3) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.110 – When adventure flights prohibited – certain aircraft that are not ex-armed forces or historic aircraft

**Subregulation 132.110(1)** provides that Regulation 132.110 applies to a limited category aircraft that is not an ex-armed forces aircraft or historic aircraft.

**Subregulation 132.110(2)** provides that an operator contravenes the subregulation if an adventure flight is conducted by an aircraft that meets the airworthiness requirements for a standard certificate of airworthiness (CofA).

**Subregulation 132.110(3)** provides that contravention of subregulation 132.110(2) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.115 – When adventure flight prohibited – aircraft with special flight permit

**Subregulation 132.115(1)** provides that an operator contravenes the subregulation if an aircraft for which a special flight permit is in force, begins an adventure flight.

**Subregulation 132.115(2)** provides that contravention of subregulation 132.115(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.120 – Requirements for pilot in command of adventure flights

**Subregulation 132.120(1)** provides that an operator or pilot in command each contravene the subregulation if they do not meet any requirements that are set out in the adventure flight procedures for the aircraft when the adventure flight begins.

**Subregulation 132.120(2)** provides that contravention of subregulation 132.120(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.125 - Unbroken round trips only

**Subregulation 132.125(1)** provides that an operator contravenes the subregulation if an adventure flight of the aircraft contravenes subregulation 132.125(2).

**Subregulation 132.125(2)** provides that the adventure flight must be conducted as an unbroken round trip only.

**Subregulation 132.125(3)** provides that contravention of subregulation 132.130(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

### Regulation 132.130 – Sightseeing flights prohibited

**Subregulation 132.130(1)** provides that an operator contravenes the subregulation if an adventure flight of the aircraft is marketed or represented as a sightseeing flight. Sightseeing flights are specified as charter operations in subparagraph 206(1)(b)(i) of CAR and, under section 27 of the Act, are required to be conducted under an Air Operator's Certificate. This subregulation is intended to ensure that a form of charter operation cannot be conducted using limited category aircraft, which are not required to meet the higher safety standards of design, maintenance and operation required by CASA for charter purposes.

**Subregulation 132.130(2)** provides that contravention of subregulation 132.130(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

### Regulation 132.135 – Clothes and equipment supplied by operator

**Subregulation 132.135(1)** provides that an operator contravenes the subregulation if it provides clothing or equipment to a passenger for an adventure flight before the passenger has been given the safety briefing required by subregulation 132.155(2).

**Subregulation 132.135(2)** provides that contravention of subregulation 132.135(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

### Regulation 132.140 – Passengers who cannot understand safety briefing to be accompanied on adventure flights

**Subregulation 132.140(1)** provides that an operator contravenes the subregulation if a passenger who is reasonably believed to be unable to understand the safety briefing required by subregulation 132.155(2) is not accompanied on the flight by a parent, guardian or carer.

**Subregulation 132.140(2)** provides that contravention of subregulation 132.140(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

### Division 132.C.2—Adventure flights—passenger safety briefings

This Division inserts complete new regulations 132.145 to 132.170 inclusive that set out requirements for adventure flight passenger safety briefings.

### Regulation 132.145 - Requirement for passenger safety briefing when booking

**Subregulation 132.145(1)** provides that an operator contravenes the subregulation if a safety briefing is not given at the time a booking is made for an adventure flight, whether it is made by the operator, an employee or agent of the operator or a booking vendor for the aircraft. A booking vendor is a person who is not an agent or an employee of the operator. The content of the briefing is required to comply with regulation 132.150 and be given in a language that the person understands.

**Subregulation 132.145(2)** establishes the circumstances under which subregulation 132.145(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.

**Subregulation 132.145(3)** provides that contravention of subregulation 132.145(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

**Subregulation 132.145(4)** provides the definition of a *booking vendor* for the purpose of regulation 132.145.

**Regulation 132.150** sets out the required content of a safety briefing to be given at the time of making a booking. The briefing is required to include statements to the effect that:

- the aircraft is not designed or manufactured in accordance with airworthiness standards recognised by CASA;
- the aircraft is not required by CASA to be operated to the same safety standards as a regular public transport (RPT) or charter flight;
- the passenger will travel at his or her own risk;
- a more detailed briefing about the safety aspects of the flight is given prior to the passenger boarding the aircraft;
- if the person making the booking is not the passenger, advice that a pre-boarding briefing is given to the passenger on the day of the flight; and
- advice that if a passenger is unable to understand the safety briefing, the person must be accompanied by a responsible person as required by regulation 132.140.

#### Regulation 132.155 - Requirement for passenger safety briefing before boarding aircraft

**Subregulation 132.155(1)** provides that an operator contravenes the subregulation if the aircraft is used to conduct an adventure flight and the requirements under subregulation 132.155(2) are not met for a passenger for the flight.

**Subregulation 132.155(2)** specifies that the requirement for subregulation 132.155(1) is that the briefing must be given on the day of the flight in a language that the passenger understands before the passenger is taken to the aircraft. It also requires the briefing to include the information specified by subregulation 132.155(4).

**Subregulation 132.155(3)** specifies that the briefing would not be required to be given to the same person more than once on the same day.

**Subregulation 132.155(4)** lists the information that the briefing must include.

**Subregulation 132.155(5)** provides that contravention of subregulation 132.155(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

#### Regulation 132.160 - Acknowledgement by passengers who are at least 18 and who can understand passenger safety briefing

**Subregulation 132.160(1)** provides that an operator contravenes the subregulation if the aircraft is used to conduct an adventure flight for a passenger who is at least 18, and the person giving the briefing reasonably believes that the passenger can understand the briefing, and subregulation 132.160(2) is not complied with.

**Subregulation 132.160(2)** specifies that a written copy of the briefing mentioned in subregulation 132.155(2) must be given to a passenger before the passenger is taken to the aircraft and the operator must obtain a signed acknowledgement of the briefing from the passenger. The written copy of the briefing and the acknowledgment document are both required to be in a language that the passenger understands.

**Subregulation 132.160(3)** provides that contravention of subregulation 132.160(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.165 - Acknowledgement for passengers under 18 or who cannot understand passenger safety briefing

**Subregulation 132.165(1)** provides that an operator contravenes the subregulation if the aircraft is used to conduct an adventure flight for a passenger who is under 18 and/or is reasonably believed to be unable to understand a safety briefing, and subregulation 132.165(2) is not complied with.

**Subregulation 132.165(2)** requires that a parent, guardian or carer must sign a written acknowledgement of the safety briefing before the passenger is taken to the aircraft. The briefing and acknowledgement is required to be in a language that the parent, guardian or carer understands.

**Subregulation 132.165(3)** provides that contravention of subregulation 132.165(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.170 – Retention of acknowledgments

**Subregulation 132.170(1)** provides that an operator contravenes the subregulation if the aircraft is used to conduct an adventure flight and the operator does not retain the signed passenger acknowledgements mentioned in paragraph 132.160(2)(b) or 132.165(2)(b) for at least 3 months after the day of the flight.

**Subregulation 132.170(2)** provides that contravention of subregulation 132.170(1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Subpart 132.D—Limited category aircraft—certification and airworthiness requirements

This Subpart introduces a complete new Subpart 132.D of CASR 1998, inclusive of regulations 132.175 to 132.190, which sets out the requirements relating to airworthiness of limited category aircraft.

Division 132.D.1—Certification and airworthiness—general

This Division inserted complete new regulations 132.175 to 132.235 that provide for general requirements relating to certification of limited category aircraft.

Regulation 132.175 - Advice about modifications, repairs, damage, defects and life-limited aeronautical products

**Subregulation 132.175(1)** permits an operator to ask an administering authority, in writing, to give advice as to whether modifications, repairs, defects or damage are major modifications, repairs, defects or damage, and whether a life limited aeronautical product is safety-critical for the aircraft.

**Subregulation 132.175(2)** requires the administering authority to give an opinion in writing if such advice is requested.

**Subregulation 132.175(3)** permits the administering authority to give such advice on its own initiative about any matters mentioned in subregulation 132.175(1).

Regulation 132.180 - Requirements for giving approvals, certificates and advice—individuals

**Subregulation 132.180(1)** provides that a person contravenes the subregulation if they give an approval, certificate or advice under subregulation 132.180(4) and have not been authorised under subregulation 132.185(1) to do so.

**Subregulation 132.180(2)** provides that a person contravenes the subregulation if they give an approval, certificate or advice under subregulation 132.180(4) and the approval, certificate or advice is not given in accordance with the requirements of the limited category organisation's approved procedures manual.

**Subregulation 132.180(3)** provides that a person contravenes the subregulation if they give an approval, certificate or advice under subregulation 132.180(4) and it does not comply with a requirement set out in the Part 132 MOS.

**Subregulation 132.180(4)** lists the types of approvals, certificates or advice to which subregulation 132.180(3) applies.

**Subregulation 132.180(5)** provides that contravention of subregulations 132.180(1), (2) or (3) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.185 – Authorisations to give approvals, certificates and advice for limited category aircraft

**Subregulation 132.185(1)** specifies that an individual is authorised to give an approval, certificate or advice covered by subregulation 132.180(4) on behalf of a limited category organisation, for a limited category aircraft, if the individual holds a written authorisation issued by the limited category organisation.

**Subregulation 132.185(2)** specifies that a limited category organisation must be satisfied that an individual has the qualifications and experience prescribed in the Part 132 MOS before authorising the individual for the purposes of subregulation 132.185(1).

**Subregulation 132.185(3)** specifies that if an individual is authorised under subregulation 132.185(1) by a limited category organisation, any approvals, certificates and advice given by the individual (other than regulation 132.180) are taken to be given on behalf of the limited category organisation.



Regulation 132.190 – Requirements for giving approvals, certificates and advice – limited category organisations

**Subregulation 132.190(1)** provides that a limited category organisation contravenes the subregulation if it does not comply with a requirement contained within an approval, certificate or advice covered by subregulation 132.180(4), or a procedure included in the organisation's manual for the purposes of paragraph 262AN(3)(d) of CAR.

**Subregulation 132.190(2)** provides that a limited category organisation contravenes the subregulation if it gives an approval, certificate or advice under subregulation 132.180(4) and the approval or certificate is covered by a requirement prescribed by the Part 132 Manual of Standards, but the organisation does not comply with the requirement.

**Subregulation 132.190(3)** provides that contravention of subregulations 132.190(1) or 132.190(2) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Division 132.D.2—Certification and airworthiness—Permit index numbers

This Division inserts complete new regulations 132.195 to 132.220 that set out requirements relating to limited category certificates.

Regulation 132.195 – Assignment of permit index numbers—general

**Subregulation 132.195(1)** stipulates that a permit index number must be assigned in accordance with the Part 132 MOS and the number assigned must not be likely to have an adverse effect on safety of other airspace users and people on the ground or water.

**Subregulation 132.195(2)** stipulates that the permit index number must be a whole number from 0 to 3.

**Regulation 132.200** requires an administering authority to assign a new permit index number on its own initiative if satisfied that the existing permit index number does not comply with regulation 132.195.

Regulation 132.205 – Assignment of new permit index numbers at CASA direction

**Subregulation 132.205(1)** provides that the regulation applies if there is a limited category organisation in relation to a limited category aircraft and CASA is satisfied that an existing permit index number does not comply with regulation 132.195.

**Subregulation 132.205(2)** provides that CASA must direct the organisation to assign a new permit index number to the aircraft.

**Subregulation 132.205(3)** provides that a limited category organisation contravenes the subregulation if it does not comply with the direction.

**Subregulation 132.205(4)** provides that a contravention of subregulation 132.205(3) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 132.210 - Assignment of new permit index numbers on application by registered operator

**Subregulation 132.210(1)** provides that the registered operator of a limited category aircraft may apply in writing to an administering authority for the assignment of a new permit index number.

**Subregulation 132.210(2)** provides that Part 11 of CASR 1998 applies to such an application.

**Subregulation 132.210(3)** provides that, subject to regulation 11.055, the administering authority must assign a new permit index number to the aircraft.

**Regulation 132.215** specifies that a new permit index number takes effect when the reissued certificate or attachment is given to the registered operator.

**Regulation 132.220** requires that if a new permit index number is given to an aircraft that is being operated by a person who is not the registered operator, then the administering authority must notify that person (the operator) of the new permit index number.

Division 132.D.3—Certification and airworthiness—notice to CASA of certain matters  
This Division inserts complete new regulations 132.225 to 132.235 that provide for requirements for giving notification to CASA about matters relating to limited category aircraft.

Regulation 132.225 – Notice to CASA – permit index numbers assigned by limited category organisation aircraft

**Subregulation 132.225(1)** provides that the 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.

**Subregulation 132.225(2)** provides that a limited category organisation contravenes the subregulation if it does not give CASA written notice of the assignment of the number in accordance with subregulation 132.225(3).

**Subregulation 132.225(3)** provides that the notice must include the aircraft's registration mark and the permit index number assigned to the aircraft, and be given not later than 14 days after the day the number is assigned.

**Subregulation 132.225(4)** provides that a contravention of subregulation 132.225(2) is an offence of strict liability. The penalty for the offence is 10 penalty units.

Regulation 132.230 - Notice to CASA - certain proposed actions by limited category organisation

**Subregulation 132.230(1)** provides that this regulation applies if the limited category organisation proposes to refuse to either issue or vary a limited category certificate.

**Subregulation 132.230(2)** provides that this regulation also applies if the limited category organisation proposes to assign a new permit index number in place of a permit index number that was issued by CASA.

**Subregulation 132.230(3)** provides that a limited category organisation contravenes the subregulation if it does not give notice to CASA of the proposed action in accordance with the organisation's operations manual.

**Subregulation 132.230 (4)** provides that CASA may give the organisation advice or comments in relation to the proposed action.

**Subregulation 132.230(5)** provides that a limited category organisation contravenes the subregulation if it does not have regard to any advice or comments given to it by CASA under subregulation 132.230(4) when deciding whether to take the action.

**Subregulation 132.230(6)** provides that contravention of subregulation 132.230(3) or 132.230(5) is an offence of strict liability. The penalty for the offence is 10 penalty units.

#### Regulation 132.235 - Notice to CASA - safety of aircraft

**Subregulation 132.235(1)** provides that the regulation applies if a limited category organisation reasonably believes that a matter exists in relation to a limited category aircraft and CASA might want to exercise powers to suspend or cancel the aircraft's limited category certificate because of the matter.

**Subregulation 132.235(2)** requires a limited category organisation to notify CASA of the matter in accordance with the organisations operations manual.

#### Subpart 132.M—Limited category aircraft—airworthiness and maintenance

This Subpart heading is reserved for future use.

#### **Item [31] Subregulation 201.004(2) (after table item 4)**

Item [31] inserts a new reviewable decision as item 4A, being a decision under subregulation 21.176(5) or Division 132.D.2 to assign a permit index number or to refuse to assign a new permit index number requested by the aircraft's registered operator.

#### **Item [32] At the end of subregulation 201.004(4)**

Item [32] adds a new paragraph 201.004(4)(e) to provide that an application may be made to the Administrative Appeals Tribunal in relation to a relevant decision made by a limited category organisation.

#### **Item [33] At the end of subregulation 201.004(5)**

Item [33] inserts a new paragraph 201.004(5)(e) to provide that a decision under subregulation 21.176(5) or Division 132.D.2 to assign a permit index number or to refuse to assign a new permit index number requested by the aircraft's registered operator may be subject to application for review by the Administrative Appeals Tribunal.

#### **Item [34] At the end of Division 202.AJ.1**

Item [34] inserts a new Subdivision 202.AJ.1.D inclusive of regulations 202.052AA to 202.052E.

Subdivision 202.AJ.1.D—Amendments made by the Civil Aviation Legislation Amendment (Part 132) Regulation 2016

**Regulation 202.052AA** inserts the definition of *commencement time* in reference to the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

**Regulation 202.052B** provides a transitional arrangement to allow for an application for a limited category certificate that was made before implementation of Part 132 to be completed in accordance with the regulations that were in force at the time of making the application.

**Regulation 202.052C** provides a transitional arrangement specifying that subregulations 21.176(5) and (5A) would apply to a limited category certificate that was issued on or after commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

**Regulation 202.052D** provides a grandfathering provision that stipulates that if a person held a special CofA for adventure flights immediately prior to the making of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*, the making of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016* would not affect the certificate.

**Regulation 202.052E** specifies that certain experimental certificates issued to ex-armed forces aircraft would expire no later than six months after the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*. The regulation also specifies the earliest times that the certificates may expire.

**Item [35] After Subpart 202.FR**

Item [35] inserts a new Subpart 202.FS outlining transitional provisions:

Subpart 202.FS - Transitional provisions for Part 132 (Limited category aircraft)

Division 202.FS.1 - Amendments made by the Civil Aviation Legislation Amendment (Part 132) Regulation 2016

This Division inserts Division 202.FS.1 inclusive of regulations 202.609 to 202.614.

**Regulation 202.609** provides the definition of *commencement time as being* the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

Regulation 202.610 – Warning placards

**Subregulation 202.610(1)** provides that the regulation applies to an aircraft for which a limited category certificate was in force immediately before the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

**Subregulation 202.610(2)** provides that for applicable aircraft, existing warning placard that complied with subregulation 262AM(6) of CAR is taken to comply with the Part 132 MOS.

Regulation 202.611 – Permit indexes assigned by CASA or Australian Warbirds Association Limited

**Subregulation 202.611(1)** provides that the regulation applies to an aircraft for which a limited category certificate was in force immediately before the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016* and that had in force a permit index assigned under regulation 262AM of CAR by CASA or the Australian Warbirds Association Limited.

**Subregulation 202.611(2)** provides that such an assigned permit index is taken to be the permit index number of the aircraft.

**Subregulation 202.611(3)** provides that the permit index number is taken to have been assigned to the aircraft under subregulation 21.176(5) of CASR.

Regulation 202.612 – Limited category aircraft without permit index

**Subregulation 202.612(1)** provides that subregulation 202.612(2) applies to an aircraft that, immediately before commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*, had in force a limited category certificate but had no permit index in force under regulation 262AM of CAR.

**Subregulation 202.612(2)** provides that the administering authority must assign a permit index number to a limited category aircraft in accordance with regulation 132.195.

**Subregulation 202.612(3)** provides that subregulation 202.612(4) applies to a limited category aircraft that was suspended and had no permit index in force under regulation 262AM of CAR at the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*.

**Subregulation 202.612(4)** provides that if the suspension is lifted, the administering authority for the aircraft must assign a permit index number to the aircraft in accordance with regulation 132.195.

Regulation 202.613 – Approval of major modifications and repairs

**Subregulation 202.613(1)** provides that the regulation applies to an aircraft that, immediately before the commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*, had a major modification or repair and had in force a limited category certificate that included operating historic or ex-military aircraft in adventure style operations as a special purpose operation.

**Subregulation 202.613(2)** provides that on or after the commencement of *Civil Aviation Legislation Amendment (Part 132) Regulation 2016* the major modification or repair is taken to have been approved for the purposes of regulation 132.030.

Regulation 202.614 – Approval to carry more than 6 passengers

**Subregulation 202.614(1)** provides that the regulation applies to an aircraft if, immediately before commencement of the *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*, the aircraft had in force an approval under paragraph 262AM(4)(a) of CAR to carry more than 6 passengers.

**Subregulation 202.614(2)** provides that, on or after the commencement of *Civil Aviation Legislation Amendment (Part 132) Regulation 2016*, such an approval would have effect as if it were an approval granted under regulation 132.035 for the purposes of paragraph 132.050(2)(d).

**Item [36] Part 1 of the Dictionary**

Item [36] inserts references to the definitions of *administering authority*, *adventure flight*, *adventure flight procedures*, *approved airframe life*, *ex-armed forces aircraft*, *historic aircraft* and *life limit* within Part 132 of CASR or the Part 132 MOS.

**Item [37] Part 1 of the Dictionary**

Item [37] inserts references to definitions for *limited category aircraft*, *limited category certificate*, *limited category organisation* and *major* in Part 132 of CASR.

**Item [38] Part 1 of the Dictionary (definition of operations manual)**

Item [38] repeals the existing definition of *operations manual* and inserted a new definition.

**Item [39] Part 1 of the Dictionary**

Item [39] inserts definitions for *Part 132 Manual of Standards*, *permit index number*, *populous area*, *safety-critical aeronautical product* and *special purpose operation* into the Dictionary.

**Item [40] Clause 55 of Part 2 of the Dictionary**

Item [40] repeals the clause, including the note that the clause was reserved for future use.

*Transport Safety Investigation Regulations 2003*

**Item [41] Regulation 2.2 (definition of charter operation)**

Item [41] amends the definition of *charter operation* in the *Transport Safety Investigation Regulations 2003* to reflect the change from CAR.