



Civil Aviation Legislation Amendment (Part 149) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 12 July 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Michael McCormack
Deputy Prime Minister and Minister for Infrastructure and Transport

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1 Name

This instrument is the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	A single day to be fixed by the Minister by notifiable instrument. However, if the provisions do not commence within the period of 12 months beginning on the day after this instrument is registered, they commence on the day after the end of that period.	14 July 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Civil Aviation Act 1988*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Part 1—Main amendments

Civil Aviation Safety Regulations 1998

1 Part 149

Repeal the Part, substitute:

Part 149—Approved self-administering aviation organisations

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Subpart 149.A—General

149.005 Approvals by CASA for Part 149

- (1) If a provision of this Part refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.

149.010 Manual of Standards for Part 149

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

- (a) required or permitted by these Regulations to be prescribed by the Part 149 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

149.015 Aviation administration functions—ASAO certificate required

- (1) A person must not perform an aviation administration function if the person does not hold an ASAO certificate authorising the person to perform the function.

Note: This regulation does not apply to certain sport aviation bodies for a limited period: see regulation 202.861.

- (2) Subregulation (1) does not apply if the person is otherwise permitted, under these Regulations, to perform the function.

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

- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

149.020 Compliance with conditions of ASAO certificate

- (1) An ASAO must not contravene a condition of its ASAO certificate.
- (2) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 149.B—ASAO certificates

149.060 CASA may limit number of ASAO certificates

- (1) For the purposes of subsection 98(5A) of the Act, CASA may issue a legislative instrument imposing limits on the number of ASAO certificates that may be issued if CASA is satisfied that exceeding the limit is likely to have an adverse effect on the safety of air navigation.
- (2) A limit may be imposed:
- (a) indefinitely or for a specified period; or
 - (b) generally or in relation to a specified class of aviation administration functions.
- (3) CASA may, by legislative instrument, vary or revoke an instrument made under subregulation (1).

149.070 Application for ASAO certificate

- (1) A person may apply to CASA, in writing, for the issue of an ASAO certificate to the person.
- (2) However, a body corporate may make an application only if it is incorporated in Australia.
- (3) An application for an ASAO certificate must include the following:
- (a) the applicant's name and contact details;
 - (b) any operating or business name of the organisation (the *applicant's organisation*) established, or proposed to be established, by the applicant to perform the aviation administration functions covered by the application on behalf of the ASAO, including its ABN (if any);

- (c) the principal physical address at which the person proposed to be appointed as the accountable manager of the applicant's organisation will perform their duties and responsibilities;
 - (d) if the applicant is a corporation—the name of each of the officers of the corporation, its ACN and the address of its registered office;
 - (e) details of the aviation administration functions covered by the application, including:
 - (i) the kinds of aircraft (if any) that the applicant proposes to administer; and
 - (ii) the activities that the applicant proposes to administer; and
 - (iii) any ASAO enforcement powers that the ASAO proposes to exercise;
 - (f) a written undertaking from the person proposed to be appointed as the accountable manager of the applicant's organisation that, if CASA issues the certificate, the applicant and the applicant's organisation will:
 - (i) be capable of operating in accordance with the applicant's exposition and the civil aviation legislation; and
 - (ii) operate in accordance with the applicant's exposition and the civil aviation legislation.
- (4) The application must be:
- (a) accompanied by a copy of the applicant's proposed exposition; and
 - (b) signed by the person proposed to be appointed as the accountable manager of the applicant's organisation.

149.075 Issue of ASAO certificate

- (1) Subject to regulations 11.055 and 149.060, CASA must issue an ASAO certificate to an applicant if CASA is satisfied:
- (a) that the applicant's proposed exposition complies with regulation 149.340; and
 - (b) about the following matters in relation to the organisation (the **applicant's organisation**) established, or proposed to be established, by the applicant to perform, on behalf of the applicant, the aviation administration functions covered by the application:
 - (i) the applicant's organisation can perform the functions safely and in accordance with the applicant's exposition and the civil aviation legislation;
 - (ii) the applicant's organisation has the facilities and equipment required by regulation 149.280;
 - (iii) the applicant's organisation has the reference materials required by regulation 149.285; and
 - (c) that the applicant has nominated an individual for each of the key personnel positions of the applicant's organisation; and
 - (d) that the individuals nominated to hold the positions of accountable manager and safety manager of the applicant's organisation have the qualifications and experience required by the applicant's proposed exposition; and
 - (e) that each individual nominated to hold any other key personnel position of the applicant's organisation is appropriately qualified to hold the position.
- (2) If CASA decides to issue the ASAO certificate, CASA must:

- (a) determine the aviation administration functions that the applicant is authorised to perform, including:
 - (i) the kinds of aircraft (if any) that the applicant is authorised to administer; and
 - (ii) the activities that the applicant is authorised to administer; and
 - (iii) the ASAO enforcement powers (if any) that the ASAO may exercise; and
- (b) determine the period (not exceeding 5 years) for which the certificate is in force.

149.080 Approval of exposition

If CASA issues an ASAO certificate to the applicant, CASA is taken to have also approved the applicant's proposed exposition.

149.085 Conditions of ASAO certificate

Each of the following is a condition of an ASAO certificate issued to an ASAO:

- (a) the ASAO must comply with the ASAO's exposition and the civil aviation legislation;
- (b) the ASAO must comply with any direction given to the ASAO, or obligation imposed on the ASAO, by CASA under these Regulations;
- (c) each of the key personnel of the ASAO must comply with:
 - (i) each provision of this Part that applies to the person; and
 - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
 - (iii) each other provision of the civil aviation legislation that applies to the ASAO's approved functions;
- (d) each vacancy in the key personnel of the ASAO must be:
 - (i) notified to CASA within the period specified in the ASAO's exposition; and
 - (ii) filled within the period specified in the ASAO's exposition;
- (e) each of the personnel of the ASAO must comply with each provision of the civil aviation legislation that applies to the ASAO's approved functions;
- (f) the position of safety manager and any other key personnel position in the ASAO's organisation may be occupied by the same person simultaneously only:
 - (i) in an unforeseen circumstance, and for the period specified in the ASAO's exposition; or
 - (ii) in the circumstances, and for the period, for which the ASAO holds an approval under regulation 149.005.

149.090 Form of ASAO certificate

An ASAO certificate must include the following:

- (a) the name of the ASAO;
- (b) the date of issue of the certificate;
- (c) the aviation administration functions of the ASAO determined under paragraph 149.075(2)(a);

- (d) the period determined under paragraph 149.075(2)(b) for which the certificate is in force;
- (e) a certificate reference number determined by CASA.

Subpart 149.C—Changes to exposition or personnel

149.110 Certain changes to exposition must be pre-approved by CASA

- (1) A change to an ASAO's exposition must be approved by CASA under regulation 149.115 before the change is made.
- (2) Subregulation (1) does not apply if the change is of a kind specified in the ASAO's exposition in accordance with paragraph 149.340(h).

Note: Such a change may need to be notified to CASA within a specified period after the change is made: see paragraph 149.340(i).

149.115 Approval of changes to exposition

Application for approval

- (1) An ASAO may apply to CASA for the approval of a change to the ASAO's exposition.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by a copy of the part of the ASAO's exposition affected by the change, clearly identifying the change; and
 - (c) comply with the requirements (if any) prescribed by the Part 149 Manual of Standards.

Decision on application

- (3) CASA must, by written notice given to the applicant, do one of the following within 21 days after receiving the application:
 - (a) if subregulation (4) applies—grant the approval;
 - (b) refuse to grant the approval.
- (4) For the purposes of paragraph (3)(a), this subregulation applies if CASA is satisfied that:
 - (a) the requirements mentioned in subregulation 149.075(1) will continue to be met in relation to the ASAO; and
 - (b) approving the change would not be likely to have an adverse effect on the safety of air navigation.

Request for further information

- (5) CASA may, by written notice, request further information from the applicant about the application.
- (6) If a notice is given under subregulation (5):
 - (a) the 21-day period stops on the day the notice is given; and
 - (b) that period begins again on the day after the information is received by CASA.

- (7) More than one notice may be given under subregulation (5) in relation to an application.

149.120 CASA directions relating to exposition or personnel

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to an ASAO, direct the ASAO to change the ASAO's exposition:
- (a) to remove particular information, procedures or instructions from the exposition; or
 - (b) to include particular information, procedures or instructions in the exposition; or
 - (c) to revise or vary the information, procedures or instructions in the exposition.
- (2) CASA may, by written notice given to an ASAO, direct the ASAO to remove any of the key personnel of the ASAO from the person's position if CASA is satisfied that the person is not:
- (a) carrying out the responsibilities of the position; or
 - (b) if the person is the accountable manager of the ASAO's organisation—properly managing matters for which the person is accountable.
- (3) A notice under this regulation must state the time within which the direction must be complied with.
- (4) If CASA gives an ASAO a direction under this regulation, the ASAO must comply with the direction within the time specified in the notice.
- (5) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (4).

Penalty: 50 penalty units.

Subpart 149.D—Organisation and personnel

149.195 Organisation and personnel

- (1) An ASAO's organisation must maintain a structure that effectively manages the ASAO's approved functions, taking into account the nature and complexity of the functions.
- (2) An ASAO's organisation must have enough suitably competent, qualified and trained personnel to enable the ASAO to perform the ASAO's approved functions in accordance with the ASAO's exposition and the civil aviation legislation.
- (3) An ASAO contravenes this subregulation if any of the ASAO's key personnel carries out a responsibility of the person's position in a way that contravenes the ASAO's exposition or this Subpart.
- (4) An ASAO commits an offence if the ASAO contravenes subregulation (3).

Penalty: 50 penalty units.

149.200 Notifying CASA if key personnel cannot carry out responsibilities

- (1) If an ASAO becomes aware that any of the ASAO's key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 35 days, the ASAO must tell CASA of that fact within:
 - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—5 days after the ASAO becomes aware of that fact; or
 - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—10 days after the ASAO becomes aware of that fact.
- (2) An ASAO commits an offence if the ASAO contravenes subregulation (1).

Penalty: 50 penalty units.

149.205 Familiarisation training for key personnel

An ASAO must ensure that, before a person appointed as any of the ASAO's key personnel begins to carry out the responsibilities of the position, the person has completed any training that is necessary to familiarise the person with the responsibilities.

149.210 Experience etc. of key personnel

- (1) The accountable manager of an ASAO:
 - (a) must have the experience and qualifications required by the ASAO's exposition; and
 - (b) is responsible for managing, and is accountable for, the matters set out in the ASAO's exposition.
- (2) The safety manager of an ASAO:
 - (a) must have the experience and qualifications required by the ASAO's exposition; and
 - (b) is responsible for the matters set out in the ASAO's exposition.
- (3) The key personnel of an ASAO, other than the accountable manager and the safety manager of the ASAO:
 - (a) are responsible for the matters set out in the ASAO's exposition; and
 - (b) must have experience and qualifications that are commensurate with the risk associated with the ASAO's approved functions.

149.215 Reporting interference with decisions of key personnel

- (1) If the accountable manager of an ASAO becomes aware that a person has overridden an aviation safety-related decision of a member of the key personnel of the ASAO, the accountable manager must report the matter to CASA, in writing, as soon as practicable, and in any case not later than 7 days, after becoming aware of the matter.

Note: CASA may direct an ASAO to remove the accountable manager of the ASAO if he or she does not comply with this subregulation: see subregulation 149.120(2).

- (2) If the safety manager of an ASAO becomes aware that a person has overridden an aviation safety-related decision of a member of the key personnel of the ASAO, the safety manager must report the matter to CASA, in writing, as soon

as practicable, and in any case not later than 7 days, after becoming aware of the matter.

Note: CASA may direct an ASAO to remove the safety manager of the ASAO if he or she does not comply with this subregulation: see subregulation 149.120(2).

149.220 Register of key personnel and appointed persons

- (1) An ASAO must maintain a register containing the following information for each of the ASAO's key personnel:
 - (a) the title of the position;
 - (b) the name of the person occupying the position;
 - (c) the date the person began occupying the position;
 - (d) if applicable—the date the person ceased to occupy the position.
- (2) An ASAO must maintain a register containing the following information for each person appointed by the ASAO to perform an approved function on behalf of the ASAO:
 - (a) the name of the person;
 - (b) each approved function of the ASAO that the person performs on behalf of the ASAO;
 - (c) the date the person began performing each function;
 - (d) if applicable—the date the person ceased performing each function.

Subpart 149.E—Systems, facilities, reference materials and rules

149.270 Safety management system

An ASAO must have a safety management system that:

- (a) is appropriate for the ASAO's approved functions, taking into account the nature and complexity of the functions, and the size of the ASAO; and
- (b) complies with the requirements prescribed by the Part 149 Manual of Standards.

149.275 Audit and surveillance system

An ASAO must have an audit and surveillance system that complies with the requirements prescribed by the Part 149 Manual of Standards.

149.280 Facilities and equipment

An ASAO's organisation must have the facilities and equipment that are necessary for performing the ASAO's approved functions, including appropriate equipment to allow the ASAO's personnel to perform their duties.

149.285 Reference materials

- (1) An ASAO must provide access to up-to-date copies of the following reference materials that are relevant to the performance of the ASAO's approved functions:
 - (a) the civil aviation legislation;
 - (b) technical standards and practices;

- (c) technical bulletins and instructions;
 - (d) manuals for equipment used by the ASAO's personnel;
 - (e) any other materials prescribed by the Part 149 Manual of Standards.
- (2) An ASAO must ensure that the following persons have ready access to the reference materials:
- (a) the ASAO's personnel;
 - (b) the holders of authorisations from the ASAO.

149.290 Aviation administration and enforcement rules

- (1) An ASAO must prepare rules (the *aviation administration and enforcement rules*) that provide for the following:
- (a) the process for applying for an authorisation from the ASAO to undertake an activity administered by the ASAO, including the information that must be included in the application;
 - (b) the eligibility criteria for the issuing of an authorisation by the ASAO to undertake an activity administered by the ASAO;
 - (c) conditions that may be attached to an authorisation issued by the ASAO;
 - (d) procedures relating to the variation, suspension and cancellation of authorisations at the authorisation holder's request;
 - (e) procedures relating to the internal review of decisions made by the ASAO;
 - (f) if the ASAO is authorised to exercise ASAO enforcement powers:
 - (i) the circumstances in which those powers may be exercised; and
 - (ii) procedures relating to the exercise of those powers;
 - (g) procedures that require safe conduct by authorisation holders at all times;
 - (h) measures for providing an authorisation holder with preventative, corrective or remedial solutions to identified training or skills deficiencies;
 - (i) any disciplinary action that may be undertaken by the ASAO in relation to authorisation holders;
 - (j) an effective and appropriate review process in relation to any preventative, corrective, remedial or disciplinary action undertaken by the ASAO;
 - (k) any other matter prescribed by the Part 149 Manual of Standards.
- (2) The aviation administration and enforcement rules of an ASAO must have due regard to procedural fairness.

Subpart 149.F—Expositions

149.340 Content of exposition

An exposition for an ASAO must include the following:

- (a) for each of the ASAO's key personnel, the following information:
 - (i) the qualifications and experience (if any) required by the ASAO for the position in addition to the qualifications and experience required under the Part 149 Manual of Standards for the position;
 - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in the Part 149 Manual of Standards for the position;
 - (iii) the name of the person appointed to the position;

- (iv) the name of each person authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities;
- (v) a description of how the ASAO will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
- (b) for each position occupied by a person appointed by the ASAO to perform an approved function on behalf of the ASAO, the following information:
 - (i) the duties and responsibilities of the position;
 - (ii) how a person will be selected, trained and authorised to perform the duties and responsibilities of the position;
 - (iii) the qualifications, knowledge and experience required for the position;
- (c) a description of the approved functions of the ASAO;
- (d) a description of the procedures by which the ASAO ensures that the performance of the ASAO's approved functions comply with:
 - (i) the ASAO's exposition; and
 - (ii) the civil aviation legislation;
- (e) a description of the ASAO's safety management system required by regulation 149.270;
- (f) a description of the ASAO's audit and surveillance system required by regulation 149.275;
- (g) the ASAO's aviation administration and enforcement rules;
- (h) the kinds of changes to the ASAO's exposition that do not require approval by CASA;
- (i) the ASAO's process for managing changes to the ASAO's exposition that do not require approval by CASA, including:
 - (i) procedures for notifying the ASAO's personnel and CASA of such changes; and
 - (ii) the period within which such changes are to be so notified;
- (j) a description of the procedures by which the ASAO will ensure compliance with regulation 149.550, should any of the circumstances specified in that regulation arise;
- (k) any other matter required to be included in the exposition by the Part 149 Manual of Standards or these Regulations.

149.345 Compliance with exposition

- (1) An ASAO must not contravene a provision of the ASAO's exposition.
- (2) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (1).

Penalty: 50 penalty units.

149.350 Access to exposition etc.

- (1) An ASAO contravenes this subregulation if:
 - (a) the ASAO does not keep its exposition in a readily accessible form; or
 - (b) a member of the ASAO's personnel does not have ready access to the exposition; or

- (c) the holder of an authorisation issued by the ASAO does not have ready access to the exposition; or
 - (d) CASA does not have ready access to the exposition; or
 - (e) the ASAO does not keep the exposition up-to-date.
- (2) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 149.G—Authorisations

149.400 Grounds for refusal of application for authorisation

- (1) An ASAO must not reject an application by a person for an authorisation to undertake an activity administered by the ASAO on grounds other than the eligibility criteria set out in the ASAO's aviation administration and enforcement rules.

Note: For review by CASA of decisions by ASAOs, see Subpart 149.K.

- (2) Subregulation (1) does not apply if the ASAO reasonably believes that acceptance of the application would constitute an offence against the civil aviation legislation.

149.405 Disclosure of information in application for authorisation

- (1) A person contravenes this subregulation if:
- (a) the person applies to an ASAO for an authorisation to undertake an activity; and
 - (b) the person does not disclose, in the application, details of each cancellation, variation or suspension (other than at the person's request) of authorisations:
 - (i) held by the person that are the same in substance as the authorisation applied for; and
 - (ii) issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country;in the period starting 10 years before the making of the application.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

149.410 Authorisation holders must comply with ASAO's exposition

- (1) The holder of an authorisation issued by an ASAO contravenes this subregulation if:
- (a) a provision of the ASAO's exposition applies to the holder; and
 - (b) the holder contravenes the provision.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

149.415 Notice of suspension, variation or cancellation of authorisation

CASA-issued authorisation—cancellation etc. by CASA

- (1) Subregulation (2) applies if:
 - (a) a person holds an authorisation (the **first authorisation**) issued by CASA; and
 - (b) CASA suspends, varies or cancels the first authorisation other than at the person's request; and
 - (c) a person holds an authorisation (the **second authorisation**) issued by an ASAO.
- (2) The person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the ASAO.

ASAO-issued authorisation—cancellation etc. by ASAO or CASA

- (3) Subregulation (4) applies if:
 - (a) a person holds an authorisation (the **first authorisation**) issued by an ASAO to undertake an activity; and
 - (b) CASA or the ASAO suspends, varies or cancels the first authorisation other than at the person's request; and
 - (c) the person holds an authorisation issued by another sport aviation body.
- (4) The person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the other sport aviation body.

ASAO-issued authorisation—cancellation etc. by national aviation authority of a foreign country

- (5) Subregulation (6) applies if:
 - (a) a person holds an authorisation (the **first authorisation**) issued by an ASAO; and
 - (b) the person holds an authorisation (the **other authorisation**) issued by a national aviation authority of a foreign country; and
 - (c) the other authorisation is suspended, varied or cancelled other than at the person's request.
- (6) The person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the sport aviation body and CASA.

Offence

- (7) A person commits an offence of strict liability if the person contravenes subregulation (2), (4) or (6).

Penalty: 50 penalty units.

149.425 Reporting conduct of authorisation holders etc.

- (1) An ASAO must give a report to CASA, in writing, if the ASAO reasonably believes that:
 - (a) both of the following apply:
 - (i) the holder of an authorisation issued by the ASAO has contravened the ASAO's exposition;
 - (ii) despite remedial or disciplinary action taken by the ASAO, the conduct of the holder of the authorisation jeopardises the safety of civil aviation; or
 - (b) both of the following apply:
 - (i) a person is undertaking an activity for which the person is required, under these Regulations, to hold an authorisation issued by an ASAO;
 - (ii) the person does not hold an authorisation issued by the ASAO to undertake the activity; or
 - (c) a person is undertaking an activity for which the person holds an authorisation issued by an ASAO in a way that contravenes the authorisation; or
 - (d) an aircraft that has ceased to be registered under Part 47 or administered by the ASAO is being flown.
- (2) An ASAO must give the report to CASA within the time specified in the ASAO's exposition.
- (3) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (2).

Penalty: 50 penalty units.

149.430 Reporting applications for authorisations in certain circumstances

Reporting of all variations and cancellations

- (1) An ASAO contravenes this subregulation if:
 - (a) a person applies to the ASAO for an authorisation to undertake an activity; and
 - (b) the ASAO knows that the person holds, or has held, an authorisation (the **other authorisation**):
 - (i) that is the same in substance as the authorisation applied for; and
 - (ii) that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country; and
 - (c) the ASAO knows that the other authorisation was varied or cancelled other than at the person's request; and
 - (d) the ASAO does not report details of the application to CASA, in writing, within 7 days after the person makes the application.

Reporting of current suspensions

- (2) An ASAO contravenes this subregulation if:
 - (a) a person applies to the ASAO for an authorisation to undertake an activity; and

- (b) the ASAO knows that the person holds an authorisation (the *other authorisation*):
 - (i) that is the same in substance as the authorisation applied for; and
 - (ii) that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country; and
 - (c) the ASAO knows that, at the time of the application, the other authorisation is suspended other than at the person's request; and
 - (d) the ASAO does not report details of the application to CASA, in writing, within 7 days after the person makes the application.
- (3) An ASAO commits an offence if the ASAO contravenes subregulation (1) or (2).
- Penalty: 50 penalty units.

149.435 ASAO to refuse to issue authorisation if suspended etc.

Other authorisation currently suspended

- (1) An ASAO contravenes this subregulation if:
- (a) a person applies to the ASAO for an authorisation (the *new authorisation*) to undertake an activity; and
 - (b) the ASAO knows that the person holds an authorisation (the *other authorisation*):
 - (i) that is the same in substance as the new authorisation; and
 - (ii) that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country; and
 - (c) the ASAO knows that, at the time of the application, the other authorisation is suspended other than at the person's request; and
 - (d) the ASAO issues the new authorisation to the person.

Other authorisation is or has been varied

- (2) An ASAO contravenes this subregulation if:
- (a) a person applies to the ASAO for an authorisation (the *new authorisation*) to undertake an activity; and
 - (b) the ASAO knows that the person holds, or has held, an authorisation (the *other authorisation*):
 - (i) that is the same in substance as the new authorisation; and
 - (ii) that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country; and
 - (c) the ASAO knows that the other authorisation was varied other than at the person's request; and
 - (d) the ASAO issues the new authorisation to the person.

Other authorisation has been cancelled

- (3) An ASAO contravenes this subregulation if:
- (a) a person applies to the ASAO for an authorisation (the *new authorisation*) to undertake an activity; and
 - (b) the ASAO knows that the person has held an authorisation (the *other authorisation*):
 - (i) that is the same in substance as the new authorisation; and

- (ii) that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country; and
- (c) the ASAO knows that the other authorisation was cancelled other than at the person's request; and
- (d) the ASAO issues the new authorisation to the person.

Exception—CASA approval

- (4) Subregulation (1), (2) or (3) does not apply if, before the new authorisation is issued, CASA has given approval under this subregulation to the ASAO to issue the new authorisation to the person.

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

Offence

- (5) An ASAO commits an offence if the ASAO contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

- (6) Strict liability applies to paragraphs (1)(a) and (d), (2)(a) and (d) and (3)(a) and (d).

149.440 ASAO to refuse to issue authorisation if exclusion period is in force

- (1) An ASAO contravenes this subregulation if:
 - (a) a person applies to the ASAO for an authorisation authorising the person to undertake an activity; and
 - (b) the ASAO knows that an exclusion period is in force under an order under section 30A of the Act in relation to the person and an authorisation that is the same in substance as the authorisation applied for; and
 - (c) the ASAO issues the authorisation.
- (2) Subregulation (1) does not apply if, before the authorisation is issued, CASA has given approval under this subregulation to the ASAO to issue the authorisation to the person.

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

- (3) An ASAO commits an offence if the ASAO contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 149.H—Authorisations and enforcement

149.490 Direction to ASAO to exercise ASAO enforcement powers

- (1) CASA may, if satisfied that it is necessary in the interests of the safety of air navigation, direct an ASAO to exercise an ASAO enforcement power in relation to the holder of an authorisation issued by the ASAO.
- (2) The ASAO must comply with the direction within 20 days.

- (3) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (2).

Penalty: 50 penalty units.

149.495 Variation, suspension and cancellation of authorisations issued by ASAOs

- (1) CASA may exercise the powers in subregulation (2):
- (a) if an ASAO does not comply with a direction under regulation 149.490 within 20 days; or
 - (b) on written request of an ASAO; or
 - (c) on CASA's own initiative;
- if CASA is satisfied that it is necessary in the interests of the safety of air navigation to do so.
- (2) CASA may, by written notice given to the holder of an authorisation issued by an ASAO, vary, suspend or cancel the authorisation.
- (3) Before making a decision under subregulation (2), CASA must:
- (a) give the holder of the authorisation a notice setting out the reasons why CASA is considering making the decision; and
 - (b) allow the holder of the authorisation to show cause, within such reasonable time as CASA specifies in the notice, why CASA should not make the decision.
- (4) A variation or suspension has effect for the period specified in the notice, unless earlier revoked by CASA.
- (5) A cancellation takes effect on the day specified in the notice.
- (6) If CASA varies, suspends or cancels an authorisation issued by an ASAO, CASA must notify the ASAO in writing of the variation, suspension or cancellation as soon as practicable.
- (7) The suspension of an authorisation issued by an ASAO under this regulation does not prevent the revocation of the authorisation by the ASAO or by CASA.

149.500 Effect of suspension or cancellation by CASA of authorisations issued by ASAOs

- (1) If CASA suspends an authorisation issued by an ASAO under regulation 149.495, the authorisation is taken not to be in force during the period of suspension.
- (2) If:
- (a) CASA suspends an authorisation issued by an ASAO under regulation 149.495; and
 - (b) under the civil aviation legislation, a person is required to hold the authorisation to undertake an activity;
- the person to whom the authorisation was issued is taken not to be the holder of the authorisation for the period of the suspension.
- (3) If an authorisation is cancelled by CASA under regulation 149.495, the person to whom the authorisation was issued is not eligible to apply for the grant of, and

must not be granted, another authorisation that is the same in substance as the cancelled authorisation until 3 years after the day the cancellation takes effect.

Subpart 149.J—Information and documents

149.540 Providing information or documents to CASA

- (1) CASA may, by notice given to an ASAO, require the ASAO to:
 - (a) give to CASA information of the kind specified in the notice; or
 - (b) produce to CASA documents of the kind specified in the notice.
- (2) The information or documents must relate to the ASAO's approved functions.
- (3) The notice must:
 - (a) be in writing; and
 - (b) specify the manner and form in which the information or documents must be given.
- (4) If an ASAO is given a notice under this regulation, the ASAO must comply with the notice within the period specified in the notice (which must end at least 7 days after the notice is given).
- (5) An ASAO commits an offence of strict liability if the ASAO contravenes subregulation (4).

Penalty: 50 penalty units.

149.550 Copies of documents to CASA

- (1) An ASAO must provide to CASA copies of all documents used by the ASAO in the performance of its approved functions if any of the following events occur:
 - (a) the ASAO becomes incapable of complying with the ASAO's obligations under the civil aviation legislation;
 - (b) if the ASAO is an individual—the ASAO becomes insolvent under administration;
 - (c) if the ASAO is a body corporate—the ASAO becomes a Chapter 5 body corporate (within the meaning of the *Corporations Act 2001*);
 - (d) CASA cancels the ASAO certificate issued to the ASAO.
- (2) The copies of documents required by subregulation (1) must be provided to CASA within 30 days after the event occurs.

Subpart 149.K—Review of ASAO decisions

149.605 Application for internal review by ASAO

- (1) This regulation applies if a person is dissatisfied with one of the following decisions:
 - (a) a decision of an ASAO to refuse to issue an authorisation to the person;
 - (b) a decision of an ASAO to issue an authorisation to the person in terms different from those applied for;

- (c) a decision of an ASAO to vary, suspend or cancel an authorisation issued to the person other than at the person's request;
 - (d) a decision to attach conditions to an authorisation issued to the person, other than at the person's request;
 - (e) a decision to vary conditions attached to an authorisation issued to the person, other than at the person's request.
- (2) The person may apply to the ASAO for internal review of the decision, in accordance with the procedures specified in the ASAO's aviation administration and enforcement rules.
- (3) The ASAO may:
- (a) affirm, vary or set aside the decision; and
 - (b) if the ASAO sets aside the decision—make such other decision as the ASAO considers appropriate.
- (4) If the ASAO has not made a decision on the application within 21 days after receiving the application, the ASAO is taken to have affirmed the decision on that day.
- (5) A decision made under subregulation (3), or taken to have been made because of the operation of subregulation (4), by an ASAO is an ***internal review decision***.

149.610 Application for review by CASA

- (1) If a person who made an application under subregulation 149.605(2) is dissatisfied with the internal review decision of the ASAO, the person may apply to CASA for a review of the internal review decision.
- (2) The application must be made:
- (a) in the approved form; and
 - (b) within 21 days after the internal review decision, or such longer period as CASA allows.
- (3) An application under this regulation is not taken to have been made unless:
- (a) it is made in the manner approved by CASA for that purpose; and
 - (b) it is made in the approved form; and
 - (c) it includes all of the information required by the form; and
 - (d) the applicant has notified the ASAO of the application in accordance with regulation 149.615; and
 - (e) if a fee is payable for the application—that fee has been paid.
- (4) The making of an application to CASA for review of an internal review decision of an ASAO does not affect the operation of the decision or prevent the taking of action to implement the decision.

149.615 Notifying the ASAO of application

If a person makes an application under regulation 149.610 for review of an internal review decision made by an ASAO, the person must notify the ASAO, in writing, of that fact.

149.620 ASAO to provide information and documents to CASA

- (1) If an ASAO receives a notice under regulation 149.615, the ASAO must, within 28 days after receiving the notice, give the following to CASA:
 - (a) a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the internal review decision of the ASAO;
 - (b) copies of every document that is in the ASAO's possession or under the ASAO's control and is relevant to the review by CASA of the internal review decision.
- (2) An ASAO commits an offence of strict liability if:
 - (a) the ASAO is subject to a requirement under subregulation (1); and
 - (b) the ASAO fails to comply with the requirement.

Penalty: 50 penalty units.

149.625 CASA may request further information etc. from applicant for review

- (1) If CASA reasonably believes that it is necessary to do so for the purposes of conducting the review, CASA may request that the applicant for review of an internal review decision of an ASAO do one or more of the following:
 - (a) provide further information or documents to CASA;
 - (b) submit to an examination or test conducted by CASA;
 - (c) attend an interview with CASA.
- (2) CASA may refuse to make a decision on the application for review until a request under subregulation (1) is complied with.

149.630 Review procedures and review decision

- (1) In conducting a review of an internal review decision of an ASAO:
 - (a) the procedures for conducting the review are within the discretion of CASA; and
 - (b) CASA is not bound by the rules of evidence; and
 - (c) CASA may inform itself in any way it thinks fit; and
 - (d) the review is to be conducted with as little technicality and formality, and as quickly and economically, as a proper consideration of the matters permit.
- (2) On review of an internal review decision of an ASAO, CASA must make a decision:
 - (a) affirming the internal review decision; or
 - (b) varying the internal review decision; or
 - (c) setting the internal review decision aside and substituting a new decision; or
 - (d) setting the internal review decision aside and remitting the matter to the ASAO for reconsideration in accordance with any directions or recommendations of CASA.
- (3) A decision under subregulation (2) comes into effect on the day specified by CASA.

- (4) CASA must, as soon as practicable after making a decision under subregulation (2), give written notice to the applicant and the ASAO of:
- (a) the decision; and
 - (b) the reasons for the decision.

2 Subregulation 201.004(2) (at the end of table 201.004)

Add:

26	under subregulation 149.120(2) giving a direction to an ASAO
27	under regulation 149.490 giving a direction to an ASAO
28	under regulation 149.495 varying, suspending or cancelling an authorisation issued by an ASAO
29	under regulation 149.630 affirming, varying, setting aside or remitting an internal review decision of an ASAO

3 Part 1 of the Dictionary

Insert:

ABN (Australian Business Number) has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

accountable manager, of an ASAO, means the individual appointed by the ASAO who is responsible for:

- (a) ensuring that the ASAO and the ASAO's organisation comply with the ASAO's exposition and the civil aviation legislation; and
- (b) ensuring that the ASAO is able to finance, and has adequate resources to perform, the ASAO's approved functions.

ACN has the same meaning as in the *Corporations Act 2001*.

approved function, of an ASAO, means an aviation administration function mentioned in the ASAO certificate of the ASAO.

ASAO (short for approved self-administering aviation organisation) means a person who holds an ASAO certificate that is in force.

ASAO certificate means a certificate issued by CASA under regulation 149.075.

ASAO enforcement power means the power to vary, suspend or cancel an authorisation issued by an ASAO other than at the request of the authorisation holder.

aviation administration and enforcement rules means the rules required by regulation 149.290.

aviation administration function means:

- (a) exercising ASAO enforcement powers; or
- (b) a function prescribed by the Part 149 Manual of Standards.

corporation, in Part 149, has the same meaning as in regulation 11.015.

exposition, of an ASAO, means:

- (a) the set of documents approved by CASA under regulation 149.080 in relation to the ASAO; or

- (b) if the set of documents is changed under regulation 149.115 or 149.120, or in accordance with the process mentioned in paragraph 149.340(i)—the set of documents as changed.

internal review decision, of an ASAO: see subregulation 149.605(5).

key personnel, of an ASAO, means the people who hold, or carry out the responsibilities of, the following positions in the ASAO's organisation:

- (a) accountable manager;
- (b) safety manager;
- (c) if the ASAO's approved functions include administering aircraft—the manager of the function;
- (d) any other position with the responsibilities prescribed by the Part 149 Manual of Standards.

officer, of a corporation, in Part 149, has the same meaning as in regulation 142.035.

organisation, in relation to an ASAO, means the organisation established by the ASAO to perform the approved functions of the ASAO.

Part 149 Manual of Standards means the Manual of Standards issued by CASA under regulation 149.010.

personnel, of an ASAO, includes any of the following persons who have duties or responsibilities that relate to the safe performance of the ASAO's approved functions:

- (a) an employee of the ASAO;
- (b) a person engaged by the ASAO (whether by contract or other arrangement) to provide services to the ASAO;
- (c) an employee of a person mentioned in paragraph (b);
- (d) a person appointed by the ASAO to perform an approved function on behalf of the ASAO.

safety manager, of an ASAO, means the individual, appointed by the ASAO, who is responsible for the safety management system required by regulation 149.270.

Part 2—Consequential amendments

Civil Aviation Regulations 1988

4 Subregulation 2(1) (definition of *group A ultralight*)

Repeal the definition.

5 Subregulation 2(1) (definition of *gyroplane*)

Repeal the definition.

6 Paragraphs 162(1)(a) and (b)

Before “gliders”, insert “unpowered”.

7 Subregulation 162(7)

Before “gliders”, insert “unpowered”.

8 Subregulation 166(1) (paragraph (e) of the definition of *radiotelephone qualification*)

Omit “Incorporated”, substitute “Limited”.

9 Subregulation 263(1) (at the end of the definition of *certificate*)

Add:

; or (d) an ASAO certificate.

Civil Aviation Safety Regulations 1998

10 Regulation 11.015 (at the end of paragraph (a) of the definition of *authorisation*)

Add:

(iv) an authorisation issued by an ASAO; or

11 Subparagraph 21.325(4)(a)(ii)

Omit “, powered sailplane”.

12 Subregulation 45.015(2)

Omit “or a powered sailplane”.

13 Regulation 61.010 (paragraph (d) of the definition of *flight*)

After “hang glider”, insert “, powered hang glider, paraglider or powered paraglider”.

14 Regulation 61.010 (paragraph (a) of the definition of *recreational aviation administration organisation*)

Omit “Incorporated”, substitute “Limited”.

15 Regulation 61.010 (at the end of the definition of *recreational aviation administration organisation*)

Add:

; or (d) an ASAO.

16 Regulation 61.070 (paragraph (d) of the definition of *flight*)

After “hang glider”, insert “, powered hang glider, paraglider or powered paraglider”.

17 Part 200 (heading)

Repeal the heading, substitute:

Part 200—Modified application of Regulations to certain aircraft

18 Before Subpart 200.B

Insert:

Subpart 200.A—Preliminary

200.001A Definitions

In these Regulations:

excluded provisions means all of the following:

- (a) Part 1;
- (b) Subpart 11.G;
- (c) Part 39;
- (d) Part 99;
- (e) Part 149;
- (f) Part 200.

19 Subpart 200.B (heading)

Repeal the heading, substitute:

Subpart 200.B—Exemption from certain Regulations

20 Regulation 200.001

Repeal the regulation, substitute:

200.001 Hang gliders, powered hang gliders, paragliders and powered paragliders

- (1) A hang glider, powered hang glider, paraglider or powered paraglider used:
 - (a) solely in private operations and only for recreational purposes; or
 - (b) for flying training for the issue of a pilot certificate;is exempt from CASR (other than the excluded provisions) if the conditions specified in section 95.8 of the Civil Aviation Orders, as in force from time to time, are complied with.
- (2) In these Regulations:

empty weight, for a hang glider, powered hang glider, paraglider or powered paraglider, means the weight of the hang glider, powered hang glider, paraglider or powered paraglider in its airborne configuration, including all fittings and equipment but excluding recovery or personnel parachutes.

hang glider means a glider with some rigid structure and an empty weight of 70 kg or less.

paraglider means a glider with an empty weight of 70 kg or less and a wing that is inflated and maintains its profile in flight due to the ram-air pressure of the air through which it moves.

powered hang glider means a hang glider with an engine attached.

powered paraglider means a paraglider with an engine attached.

21 Regulation 200.002

Repeal the regulation, substitute:

200.002 Privately built single-place ultralight aeroplanes

- (1) This regulation applies to a privately built single-place aeroplane if it:
 - (a) is administered by a relevant organisation; and
 - (b) has a take-off weight not over 300 kg; and
 - (c) for an aeroplane that was first administered by a relevant organisation on or after 1 March 1990:
 - (i) has a wing loading not over 30 kg per square metre at maximum all-up weight; and
 - (ii) if it is owned by a person who is not its builder—meets the requirement in subregulation (2).
- (2) The requirement is that the aeroplane has been certificated by the relevant organisation as meeting the requirements set out in the manual prepared by the relevant organisation and approved by CASA, and as in force from time to time, that contains:
 - (a) airworthiness, design and maintenance standards; and
 - (b) aeronautical practices, test procedures and processes.
- (3) The aeroplane is exempt from CASR (other than the excluded provisions) if the conditions in section 95.10 of the Civil Aviation Orders, as in force from time to time, are complied with.
- (4) In this regulation:

relevant organisation means:

- (a) Recreational Aviation Australia Limited; or
- (b) an ASAO whose aviation administration functions include administering aircraft.

take-off weight, for an aeroplane, means the aeroplane's total weight when it starts to taxi before taking off, including the weight of the pilot and of fuel, oil, recovery and personnel parachutes, flotation equipment, items of optional equipment, tools and baggage.

22 Regulations 200.003 and 200.004

After “CASR”, insert “(other than the excluded provisions)”.

23 Regulation 200.005

Repeal the regulation, substitute:

200.005 Parasails

(1) A parasail is exempt from CASR (other than this regulation) if the conditions in section 95.14 of the Civil Aviation Orders, as in force from time to time, are complied with.

(2) In these Regulations:

parasail means a parachute tethered to a point or vehicle on the ground or to a watercraft and deriving lift chiefly from aerodynamic reactions on flexible surfaces remaining fixed under given conditions of flight.

200.006 Gyrogliders

(1) A gyroglider is exempt from CASR (other than the excluded provisions) if the conditions in section 95.14 of the Civil Aviation Orders, as in force from time to time, are complied with.

(2) In these Regulations:

gyroglider means a non-power-driven heavier-than-air aircraft supported in flight by the reaction of the air on 1 or more rotors that rotate freely on substantially vertical axes.

24 Subregulation 200.008(2)

Omit “CASR if the conditions in subsection 95.20(4)”, substitute “CASR (other than this regulation) if the conditions in section 95.20”.

25 Regulations 200.013, 200.014 and 200.020

After “CASR”, insert “(other than the excluded provisions)”.

26 Subpart 202.GI

Repeal the Subpart, substitute:

Subpart 202.GI—Transitional provisions for Part 149 (Approved self-administering aviation organisations)

Division 202.GI.1—Amendments made by the Civil Aviation Legislation Amendment (Part 149) Regulations 2018

202.860 Definition of *commencement day* for Division 202.GI.1

In this Division:

commencement day means the day on which the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* commence.

202.861 Transitional—aviation administration functions performed by certain sport aviation bodies

- (1) Regulation 149.015 does not apply to the following persons:
 - (a) a person who was, immediately before the commencement day, a sport aviation body;
 - (b) the Australian Skydiving Association Incorporated.
- (2) This regulation is repealed at the end of the day that is 3 years after the commencement day.

202.862 Transitional—holders of authorisations from bodies that become ASAOs

- (1) This regulation applies if:
 - (a) a body covered by subregulation (4) is issued with an ASAO certificate on a particular day (the *transition day*) that authorises the body to administer an activity; and
 - (b) immediately before the transition day, a person was the holder of an authorisation (however described) (an *old authorisation*) from the body that authorised the person to undertake the activity.
- (2) The person is taken to be the holder of an authorisation (a *Part 149 authorisation*) in relation to the activity for the purposes of Part 149 during the period:
 - (a) starting on the day the ASAO certificate for the body enters into force; and
 - (b) ending at the earlier of:
 - (i) if the Part 149 authorisation is cancelled—the day the cancellation takes effect; and
 - (ii) the day that is 12 months after the ASAO certificate for the body enters into force.
- (3) The Part 149 authorisation is subject to the same terms and conditions that applied to the old authorisation.
- (4) Each of the following bodies is covered by this subregulation:
 - (a) a sports aviation body (within the meaning of CASR before the commencement day);
 - (b) the Australian Skydiving Association Incorporated.
- (5) This regulation does not, by implication, prevent the Part 149 authorisation from being varied, suspended or revoked after the transition day.

27 Part 1 of the Dictionary

Insert:

empty weight, for a hang glider, powered hang glider, paraglider or powered paraglider: see regulation 200.001.

excluded provisions: see regulation 200.001A.

28 Part 1 of the Dictionary (definition of *glider*)

Repeal the definition, substitute:

glider means:

- (a) an unpowered, heavier-than-air aircraft that derives its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight; or
- (b) a heavier-than-air aircraft that is fitted with one or more engines and that is capable of soaring flight when the engine or engines are inoperative.

29 Part 1 of the Dictionary

Insert:

gyroglider: see subregulation 200.006(2).

gyroplane means a power-driven, heavier than air aircraft supported in flight by the reaction of the air on 1 or more rotors which rotate freely on substantially vertical axes.

30 Part 1 of the Dictionary (definition of *kite*)

Repeal the definition.

31 Part 1 of the Dictionary (paragraph (b) of the definition of *light sport aircraft*)

After “powered aircraft”, insert “that is not a glider”.

32 Part 1 of the Dictionary

Insert:

paraglider: see regulation 200.001.

parasail: see subregulation 200.005(2).

powered hang glider: see regulation 200.001.

powered paraglider: see regulation 200.001.

33 Part 1 of the Dictionary (definition of *sailplane*)

Repeal the definition, substitute:

sailplane means a glider with an empty weight of more than 70 kg.

34 Part 1 of the Dictionary (after paragraph (f) of the definition of *sport aviation body*)

Insert:

- (fa) the Australian Skydiving Association Incorporated; or
- (fb) an ASAO; or