



Civil Aviation Safety Amendment (Part 138) Regulations 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

Michael McCormack
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional
Development

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
	Schedule 1—Amendments	2
	<i>Civil Aviation Safety Regulations 1998</i>	2

1 Name

This instrument is the *Civil Aviation Safety Amendment (Part 138) 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	25 March 2021.	25 March 2021

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Civil Aviation Safety Regulations 1998

1 Part 138 (heading)

Repeal the heading, substitute:

Part 138—Aerial work operations

Table of contents

Subpart 138.A—Preliminary

- 138.005 Application of Part 138
- 138.010 Definition of *aerial work operation* etc.
- 138.015 Definition of *aerial work specialist*
- 138.020 Issue of Manual of Standards for Part 138
- 138.025 Approvals by CASA for Part 138

Subpart 138.B—Certification

Division 138.B.1—Requirement for certification for certain operations

- 138.030 Requirement to hold aerial work certificate

Division 138.B.2—Aerial work certificates

- 138.035 Application for aerial work certificate
- 138.040 Issue of aerial work certificate
- 138.045 Approval of manuals
- 138.050 Conditions of aerial work certificates
- 138.055 Compliance with conditions of aerial work certificates

Division 138.B.3—Changes relating to aerial work operators

- 138.060 Operator must keep operations manual up-to-date
- 138.065 CASA directions relating to operations manual or key personnel

Division 138.B.4—Organisation and personnel

- 138.070 Organisation and personnel
- 138.075 Key personnel cannot carry out responsibilities
- 138.080 Familiarisation training for key personnel
- 138.085 Responsibilities and accountabilities of chief executive officer
- 138.090 Qualifications and experience of head of operations
- 138.095 Responsibilities of head of operations
- 138.100 Qualifications and experience of head of training and checking
- 138.105 Responsibilities of head of training and checking
- 138.110 Experience of safety manager
- 138.115 Responsibilities of safety manager
- 138.120 Additional qualification and experience requirements for key personnel

Division 138.B.5—Training and checking

- 138.125 Operators who are required to have a training and checking system
- 138.130 Requirements for flight crew

138.135 Requirements for other operational safety-critical personnel

Division 138.B.6—Safety management system

138.140 Operators who are required to have a safety management system
138.145 Safety management system requirements

Division 138.B.7—Personnel fatigue management

138.150 Operators who are required to have a crew fatigue management system

Division 138.B.8—Operations manuals

138.155 Content of operations manual
138.160 Compliance with operations manual by personnel
138.165 Providing personnel with operations manual

Division 138.B.9—Records and documents

138.170 Personnel training and checking records
138.175 Availability of records
138.180 Copies of flight crew licences and medical certificates
138.185 Retention periods for personnel records

Division 138.B.10—Miscellaneous

138.190 Pilot in command to be authorised under Part 61
138.195 Reference library
138.200 Maximum period for use of foreign registered aircraft in Australian territory

Subpart 138.C—General

Division 138.C.1—General flight limitations

138.205 Permitted categories of aircraft for aerial work operations

Division 138.C.2—Operational documents

138.210 Compliance with flight manual
138.215 Availability of checklists

Division 138.C.3—Flight related documents

138.220 Electronic documents
138.225 Availability of parts of operations manual

Division 138.C.4—Reporting and recording defects and incidents etc.

138.230 Procedures for reporting and recording defects etc.
138.235 Reporting and recording incidents

Division 138.C.5—Search and rescue services and emergency and survival equipment

Division 138.C.6—Miscellaneous requirements

Subpart 138.D—Operational procedures

Division 138.D.1—Operational control

Division 138.D.2—Flight preparation

138.265 Flight preparation requirements

Division 138.D.3—Flight planning

138.270 Availability of flight planning information

Division 138.D.4—Flight rules

138.275 Minimum height rules

Division 138.D.5—Take-offs and landings

138.280 Procedures for safety at aerodromes

Division 138.D.6—Fuel requirements

138.285 Fuel procedures

138.290 Oil requirements

138.295 Fuel requirements

138.300 Hot fuelling

Division 138.D.7—Carriage of aerial work passengers or cargo

138.305 Carriage of aerial work passengers—general

138.310 Carriage of aerial work passengers—IFR flights and VFR flights at night

138.315 Limit of 9 aerial work passengers

138.320 Procedures for carriage of restricted persons

138.325 Procedures about equipment and personal items

138.330 Procedures relating to carriage of animals

Division 138.D.8—Instruments, indicators, equipment and systems

138.335 Airborne weather radar equipment

138.340 Head-up displays, enhanced vision systems and synthetic vision systems

138.345 Survival equipment procedures

138.350 NVIS flights

138.355 Securing moveable equipment

138.360 Supplemental oxygen equipment

Division 138.D.9—Miscellaneous

138.370 Operator must conduct risk assessments

138.375 Wearing of seatbelts and other restraint devices

138.380 Procedures in relation to frost etc.

138.385 Procedures in relation to polar operations

Division 138.D.10—Additional rules for external load operations

138.390 Requirements if persons carried as external loads

138.395 Certain loads must be able to be jettisoned

138.400 Certain night operations prohibited unless operation is an emergency service operation or approved by CASA

138.405 Night operations over land must have adequately illuminated external objects etc.

138.410 Manual of Standards may prescribe additional requirements for external load operations

Division 138.D.11—Additional rules for dispensing operations

138.415 Dispensing operations—VMC required

138.420 Possessing and discharging firearms

138.425 Manual of Standards may prescribe additional requirements for dispensing operations

Division 138.D.12—Additional rules for task specialist operations

138.430 Manual of Standards may prescribe additional requirements for task specialist operations

Subpart 138.F—Performance

- 138.435 Take-off weights
- 138.440 Landing weights
- 138.445 Flight in a performance class

Subpart 138.J—Weight and balance

- 138.450 Loading of aircraft
- 138.455 Procedures for loading aircraft etc.
- 138.460 Weight and balance documents

Subpart 138.K—Instruments, indicators, equipment and systems

- 138.465 Instruments, indicators, equipment and systems—requirements
- 138.470 When aircraft may be flown with inoperative instruments, indicators, equipment or systems

Subpart 138.N—Flight crew**Division 138.N.1—General requirements**

- 138.475 Composition, number, qualifications and training
- 138.480 Training for new or inexperienced flight crew members
- 138.485 Competence
- 138.490 Assignment to duty of pilot in command
- 138.495 Pilot in command
- 138.500 Qualification as pilot in command

Division 138.N.2—Additional requirements for certain operators

- 138.505 Application of Division 138.N.2
- 138.510 Qualifications and training
- 138.515 Training and checking to be conducted by certain persons
- 138.520 Meeting initial training requirements
- 138.525 Meeting conversion training requirements
- 138.530 Meeting differences training requirements

Subpart 138.P—Air crew members and aerial work specialists**Division 138.P.1—Air crew members**

- 138.535 Application of Division 138.P.1
- 138.540 Composition, number, qualifications and training
- 138.545 Training for new or inexperienced air crew members
- 138.550 Training and checking to be conducted by certain persons
- 138.555 Proficiency checks
- 138.560 Meeting initial training requirements
- 138.565 Meeting conversion training requirements
- 138.570 Meeting differences training requirements

Division 138.P.2—Aerial work specialists

- 138.575 Application of Division 138.P.2
- 138.580 Qualifications and training
- 138.585 Competence
- 138.590 Training and checking to be conducted by certain persons
- 138.595 Competency check
- 138.600 Meeting initial training requirements

Subpart 138.A—Preliminary

138.005 Application of Part 138

- (1) This Part applies in relation to the operation of an aircraft for an aerial work operation if:
 - (a) the aircraft is an aeroplane or rotorcraft; and
 - (b) Part 101 does not apply to the operation of the aircraft.
- (2) Despite subregulation (1), a provision of this Part does not apply in relation to the operation of an aircraft if:
 - (a) the aircraft is engaged in any of the following:
 - (i) a police, national security or customs operation;
 - (ii) a search and rescue operation conducted by, or at the request of, a search and rescue body; and
 - (b) in the circumstances, it is reasonable that the provision not apply to the operation.
- (3) Despite subregulation (1), a provision of this Part or the Part 138 Manual of Standards applies in relation to an operator of an aircraft for an aerial work operation only if the operator holds an aerial work certificate.
- (4) Despite subregulation (3), a provision of this Part or the Part 138 Manual of Standards applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate if the provision is expressed to so apply.

Note: See Part 137 for matters relating to aerial application operations.

138.010 Definition of *aerial work operation* etc.

- (1) An ***aerial work operation*** means one or more of the following (and each of the following is a kind of aerial work operation):
 - (a) an external load operation;
 - (b) a dispensing operation;
 - (c) a task specialist operation.
- (2) An ***external load operation*** means carrying or towing a load outside an aircraft in flight and includes training for such an operation.
- (3) A ***dispensing operation*** means dropping or releasing any substance or object from an aircraft in flight and includes training for such an operation.
- (4) A ***task specialist operation*** means carrying out a specialised activity using an aircraft in flight and includes training for such an activity.
- (5) Despite subregulation (1), an ***aerial work operation*** does not include the following:
 - (a) a medical transport operation;
 - (b) an external load operation involving winching a person, if the operation is conducted as part of an air transport operation;
 - (c) glider towing;
 - (d) a person undertaking a parachute descent;

-
- (e) an aerial application operation (including any external load operation undertaken as part of that operation) to apply fire retardants (including water), or oil or chemical dispersants, if the operation is conducted by a person holding a civil aviation authorisation under Part 137 to undertake the operation;
 - (f) any other aerial application operation;
 - (g) any other operation of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.

138.015 Definition of *aerial work specialist*

- (1) An *aerial work specialist*, for an aerial work operation, means a crew member for a flight:
 - (a) who carries out a function for the flight relating to the aerial work operation; and
 - (b) who is not a flight crew member or an air crew member for the flight.
- (2) Despite subregulation (1), an *aerial work specialist*:
 - (a) includes a crew member of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph; and
 - (b) does not include a crew member of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.

138.020 Issue of Manual of Standards for Part 138

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

- (a) required or permitted by these Regulations to be prescribed by the Part 138 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Note: A Manual of Standards is a legislative instrument: see subsection 98(5AA) of the Act.

138.025 Approvals by CASA for Part 138

- (1) If a provision of this Part refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for either of the following provisions:
 - (a) paragraph 138.090(2)(a);
 - (b) paragraph 138.100(3)(a).

Subpart 138.B—Certification

Division 138.B.1—Requirement for certification for certain operations

138.030 Requirement to hold aerial work certificate

- (1) A person contravenes this subregulation if:
 - (a) the person conducts an aerial work operation (other than an aerial work operation covered by subregulation (2)); and
 - (b) the person does not hold an aerial work certificate that authorises the person to conduct the operation.
- (2) An aerial work operation in an aircraft is covered by this subregulation if either or both of the following apply:
 - (a) the operation is spotting or photography and no remuneration is received by any of the following for the operation:
 - (i) the pilot;
 - (ii) the person mentioned in subregulation (3);
 - (iii) a person or organisation on whose behalf the operation is conducted;
 - (b) the operation:
 - (i) is conducted over land owned or occupied by the person mentioned in subregulation (3); and
 - (ii) is not conducted over a populous area or public gathering; and
 - (iii) is not an external load operation involving the carriage of a person as an external load.
- (3) The person is:
 - (a) if the aircraft is required to be registered—the registered operator of the aircraft; or
 - (b) otherwise—the owner of the aircraft.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.2—Aerial work certificates

138.035 Application for aerial work certificate

- (1) A person may apply to CASA, in writing, for an aerial work certificate.
- (2) The application must include the following:
 - (a) the applicant's name (including any operating or trading name), contact details and ABN (if any);
 - (b) if the address of the applicant's operational headquarters is different from its mailing address—the address of its operational headquarters;
 - (c) if the applicant is a corporation registered in Australia that has an ACN—its ACN and the address of its registered office;

-
- (d) if the applicant is a corporation not registered in Australia—the place it was incorporated or formed;
 - (e) the aerial work operations that the applicant proposes to conduct;
 - (f) a written undertaking that, if CASA issues the certificate, the organisation established by the applicant to conduct the applicant's proposed aerial work operations (the *applicant's organisation*) will:
 - (i) be capable of operating in accordance with the applicant's proposed operations manual and the civil aviation legislation; and
 - (ii) operate in accordance with the applicant's proposed operations manual and the civil aviation legislation.
- (3) The application must be accompanied by:
- (a) a copy of the applicant's proposed operations manual; and
 - (b) if the applicant proposes to conduct operations mentioned in regulation 138.125—a copy of the applicant's proposed training and checking manual; and
 - (c) if the applicant proposes to conduct operations mentioned in regulation 138.140—a copy of the applicant's proposed safety management system manual.
- (4) The application must be signed by the person appointed, or proposed to be appointed, as the chief executive officer of the applicant's organisation.

138.040 Issue of aerial work certificate

- (1) Subject to regulation 11.055, CASA must issue the certificate if satisfied of each of the following:
- (a) the applicant's proposed operations manual complies with regulation 138.155;
 - (b) the applicant can conduct the proposed aerial work operations safely and in accordance with its operations manual and the civil aviation legislation;
 - (c) the organisation established, or proposed to be established, by the applicant to conduct the applicant's proposed aerial work operations (the *applicant's organisation*) is suitable to ensure that the operations can be conducted safely, having regard to the nature of the operations;
 - (d) the chain of command of the applicant's organisation is appropriate to ensure that the operations can be conducted safely;
 - (e) the applicant's organisation has a sufficient number of suitably qualified and competent personnel to conduct the operations safely;
 - (f) the facilities of the applicant's organisation are sufficient to enable the operations to be conducted safely;
 - (g) the applicant's organisation has suitable procedures and practices to control the organisation and ensure the operations can be conducted safely;
 - (h) each of the key personnel appointed, or proposed to be appointed, to a position in the applicant's organisation:
 - (i) is a fit and proper person to be appointed to the position; and
 - (ii) has the qualifications and experience required by Division 138.B.4 for the position; and
 - (iii) has the qualifications and experience for the position (if any) required by the applicant's operations manual; and

- (iv) has the additional qualifications and experience (if any) required by CASA under regulation 138.120 for the position.
- (2) For paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:
 - (a) the applicant's proposed:
 - (i) operations manual; and
 - (ii) training and checking manual (if any); and
 - (iii) safety management system manual (if any);
 - (b) whether the applicant can comply with the proposed operations manual, training and checking manual and safety management system manual;
 - (c) the content of the undertaking mentioned in paragraph 138.035(2)(f);
 - (d) details of, and reasons for, any suspension or cancellation of:
 - (i) a civil aviation authorisation issued to the applicant; or
 - (ii) an equivalent authorisation issued to the applicant under the law of a foreign country; or
 - (iii) an equivalent authorisation issued to the applicant by a multinational aviation authority;
 - (e) the suitability of the applicant's corporate and organisational structures for the proposed operations;
 - (f) any other information:
 - (i) accompanying the application; or
 - (ii) in any other document given to CASA by the applicant for the application, including any document requested by CASA in relation to the application.
- (3) For subparagraph (1)(h)(i), the matters CASA may consider in deciding whether a person is a fit and proper person include the matters mentioned in subregulation 11.055(4).
- (4) If CASA decides to issue the certificate, CASA must determine the aerial work operations the applicant is authorised to conduct, including any limitations or conditions in relation to the aerial work operations.
- (5) The certificate must include:
 - (a) the matters mentioned in subregulation (4); and
 - (b) a certificate reference number determined by CASA.

138.045 Approval of manuals

If CASA issues the certificate to the applicant, CASA is taken to have also approved the applicant's proposed:

- (a) operations manual; and
- (b) training and checking manual (if any); and
- (c) safety management system manual (if any).

138.050 Conditions of aerial work certificates

- (1) Each of the following is a condition of an aerial work certificate issued to an aerial work operator:
 - (a) the operator must comply with:

-
- (i) each provision of this Part that applies to the operator; and
 - (ii) each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations; and
 - (iii) each other provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
- (b) each of the operator's key personnel must comply with:
- (i) each provision of this Part that applies to the person; and
 - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
 - (iii) each other provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
- (c) each vacancy in the operator's key personnel must be:
- (i) notified to CASA within the period specified in the operator's operations manual; and
 - (ii) filled within the period specified in the operator's operations manual;
- (d) each of the operator's personnel must comply with each provision of the civil aviation legislation that applies to the operator's aerial work operations mentioned in the certificate;
- (e) if the operator is an individual—the individual must be the chief executive officer of the operator's organisation;
- (f) if the operator is required by regulation 138.125 to have a training and checking system:
- (i) the positions of chief executive officer and head of training and checking may be occupied by the same person only if the operator holds an approval under regulation 138.025 for this subparagraph; and
 - (ii) the positions of head of operations and head of training and checking may be occupied by the same person only if the operator holds an approval under regulation 138.025 for this subparagraph;
- (g) if the operator is required by regulation 138.140 to have a safety management system:
- (i) the positions of chief executive officer and safety manager may be occupied by the same person only in an unforeseen circumstance, and only for the period mentioned in subregulation (2); and
 - (ii) the positions of head of operations and safety manager may be occupied by the same person only in an unforeseen circumstance, and only for the period mentioned in subregulation (2);
- (h) for each registered aeroplane or rotorcraft operated by the operator for the aerial work operations, the operator must:
- (i) be the registered operator of the aeroplane or rotorcraft; or
 - (ii) hold an approval under regulation 138.025 for this subparagraph for the aeroplane or rotorcraft.
- (2) For subparagraphs (1)(g)(i) and (ii), the period is:
- (a) no more than 7 consecutive days for each unforeseen circumstance; or
 - (b) if the operator holds an approval under regulation 138.025 for this paragraph in relation to an unforeseen circumstance—the period mentioned in the approval for the unforeseen circumstance.

138.055 Compliance with conditions of aerial work certificates

- (1) An aerial work operator contravenes this subregulation if the operator contravenes a condition of its aerial work certificate.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.3—Changes relating to aerial work operators

138.060 Operator must keep operations manual up-to-date

- (1) An aerial work operator contravenes this subregulation if the operator does not keep the operator's operations manual up-to-date.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.065 CASA directions relating to operations manual or key personnel

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may direct an aerial work operator to change its operations manual:
 - (a) to remove particular information, procedures or instructions from the operations manual; or
 - (b) to include particular information, procedures or instructions in the operations manual; or
 - (c) to revise or vary the information, procedures or instructions in the operations manual.
- (2) CASA may direct an aerial work operator to remove any of the operator's key personnel from the person's position if satisfied that the person is not:
 - (a) carrying out the responsibilities of the position; or
 - (b) if the person is the chief executive officer—properly managing matters for which the person is accountable.
- (3) A direction under this regulation must:
 - (a) be in writing; and
 - (b) state the time within which the direction must be complied with.
- (4) An aerial work operator contravenes this subregulation if:
 - (a) CASA gives the operator a direction under this regulation; and
 - (b) the operator does not comply with the direction within the time stated in the direction.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

Division 138.B.4—Organisation and personnel

138.070 Organisation and personnel

- (1) An aerial work operator must maintain an organisational structure that effectively manages the operator's aerial work operations, taking into account the size, nature and complexity of the operations.
- (2) An aerial work operator contravenes this subregulation if any of the operator's key personnel carries out a responsibility of the person's position in a way that contravenes the operator's operations manual or this Subpart.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.075 Key personnel cannot carry out responsibilities

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator becomes aware that any of its key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 30 days; and
 - (b) the operator does not tell CASA of the matter mentioned in paragraph (a) within the time mentioned in subregulation (2).
- (2) For paragraph (1)(b), the time is:
 - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—24 hours after the operator becomes aware of the matter; or
 - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—3 days after the operator becomes aware of the matter.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.080 Familiarisation training for key personnel

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

138.085 Responsibilities and accountabilities of chief executive officer

- (1) The chief executive officer of an aerial work operator's organisation is responsible for the following:
 - (a) ensuring that, for the safe conduct of the operator's aerial work operations in accordance with the operator's aerial work certificate and operations manual, and the civil aviation legislation, the operator:
 - (i) has sufficient suitably experienced, qualified and competent personnel; and

- (ii) has a suitable management structure; and
 - (iii) is adequately financed and resourced;
 - (b) ensuring that the operator:
 - (i) sets and maintains standards for the operations in accordance with the operator's operations manual; and
 - (ii) complies with the civil aviation legislation; and
 - (iii) for each foreign registered aircraft (if any) used in the operations—maintains the aircraft in accordance with the law of the country in which the aircraft is registered; and
 - (iv) has procedures that ensure that all of the operator's personnel understand the operator's safety policy; and
 - (v) has processes for identifying and addressing deficiencies in the operator's aerial work operations;
 - (c) if the operator is required to have a safety management system—ensuring that the operator:
 - (i) implements and manages the operator's safety management system; and
 - (ii) has an organisational structure that ensures that the safety manager is independent and not subject to undue influence;
 - (d) establishing and regularly reviewing the operator's safety performance indicators and targets;
 - (e) ensuring that the operator's operations manual is monitored and managed for continuous improvement;
 - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with:
 - (i) the operator's operations manual; and
 - (ii) the civil aviation legislation.
- (2) The chief executive officer of an aerial work operator's organisation is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

138.090 Qualifications and experience of head of operations

- (1) The head of operations of an aerial work operator must:
- (a) be qualified to pilot an aircraft in each kind of aerial work operation that the operator conducts; and
 - (b) hold the pilot type rating or class rating (within the meaning of Part 61) for the type or class of aircraft that is used to conduct the greatest proportion of the operator's aerial work operations; and
 - (c) have the experience required under subregulation (2); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.
- (2) For paragraph (1)(c), the experience required is:
- (a) if the operator holds an approval under regulation 138.025 for this paragraph—the experience mentioned in paragraph (3)(a) or (b); or

-
- (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
 - (3) For subregulation (2), the experience is the following:
 - (a) at least 300 hours flight time on an aircraft of the category used to conduct the greatest proportion of the operator’s aerial work operations;
 - (b) at least 6 months experience in the conduct or management of air operations.
 - (4) CASA may, by written notice given to a head of operations, or a proposed head of operations, of an aerial work operator, direct the person to undertake an assessment mentioned in subregulation (5).
 - (5) For subregulation (4), the assessment:
 - (a) is an assessment conducted by CASA or a person nominated by CASA to demonstrate a person’s suitability as head of operations for the operator; and
 - (b) may include assessment in an aircraft or flight simulation training device.
 - (6) In this regulation:
category has the meaning given by regulation 61.015.

138.095 Responsibilities of head of operations

- (1) The head of operations of an aerial work operator must safely manage the operator’s aerial work operations.
- (2) Without limiting subregulation (1), the responsibilities of the head of operations include the following:
 - (a) monitoring and maintaining, and reporting to the chief executive officer on, the operator’s compliance with the provisions of the civil aviation legislation and the operator’s operations manual that apply to the operations;
 - (b) setting and maintaining the operator’s standards for the operations in accordance with the operator’s operations manual;
 - (c) developing, managing and maintaining the operator’s dangerous goods manual (if any);
 - (d) ensuring the proper allocation and deployment of aircraft and personnel for use in the operations;
 - (e) ensuring that the operator’s personnel are provided with the information and documentation necessary to properly carry out their responsibilities;
 - (f) managing the maintenance and continuous improvement of the operator’s fatigue risk management system (if any);
 - (g) ensuring the operator’s personnel understand the operator’s safety policy;
 - (h) if the operator is required to have a training and checking system—ensuring that training and checking of the operator’s operational safety critical personnel (other than flight crew) conducted by or for the operator is conducted in accordance with the operator’s operations manual.

138.100 Qualifications and experience of head of training and checking

- (1) This regulation applies to an aerial work operator that is required by regulation 138.125 to have a training and checking system.
- (2) The head of training and checking must:
 - (a) be qualified to fly each kind of aerial work operation that the operator conducts; and
 - (b) hold the pilot type or class rating (within the meaning of Part 61) for the type or class of aircraft used to conduct the greatest proportion of the operator's aerial work operations; and
 - (c) have the experience required under subregulation (3); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.
- (3) For paragraph (2)(c), the experience required is:
 - (a) if the operator holds an approval under regulation 138.025 for this paragraph—the experience mentioned in paragraph (4)(a) or (b); or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) For subregulation (3), the experience is the following:
 - (a) at least 300 hours flight time conducting training in an aircraft of the category used to conduct the greatest proportion of the operator's aerial work operations;
 - (b) at least 6 months experience in the conduct or management of air operations.
- (5) CASA may, by written notice given to a head of training and checking, or proposed head of training and checking, of an aerial work operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) For subregulation (5), the assessment:
 - (a) is an assessment conducted by CASA or a person nominated by CASA to demonstrate suitability as head of training and checking for the operator; and
 - (b) may include assessment in an aircraft or flight simulation training device.
- (7) In this regulation:

category has the meaning given by regulation 61.015.

138.105 Responsibilities of head of training and checking

- (1) This regulation applies to an aerial work operator that is required by regulation 138.125 to have a training and checking system.
 - (2) The head of training and checking must safely manage the recurrent training and checking activities of the operator for the operator's flight crew.
 - (3) Without limiting subregulation (2), the responsibilities of the head of training and checking include the following:
-

-
- (a) ensuring that the operator complies with each provision of the civil aviation legislation that relates to the qualifications, recurrent training or checking of the operator's flight crew;
 - (b) reporting to the head of operations on the operator's compliance with the provisions mentioned in paragraph (a);
 - (c) ensuring that recurrent training and checking of flight crew conducted by the operator is conducted in accordance with the operator's training and checking manual;
 - (d) if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct recurrent training or checking for the operator's flight crew:
 - (i) ensuring that each person who conducts the recurrent training or checking for the Part 142 operator is authorised under Part 61 to conduct the recurrent training or checking; and
 - (ii) ensuring that the recurrent training or checking is conducted in accordance with the aerial work operator's training and checking manual; and
 - (iii) telling the Part 142 operator, in writing, of any change in the aerial work operator's training and checking manual.

138.110 Experience of safety manager

- (1) This regulation applies to an aerial work operator that is required by regulation 138.140 to have a safety management system.
- (2) The operator's safety manager must have:
 - (a) sufficient relevant experience in carrying out, or managing other persons in carrying out, air operations; and
 - (b) sufficient relevant safety management experience to capably lead, manage and set standards to enable the operator to safely implement its safety management system in accordance with its operations manual; and
 - (c) a satisfactory record in the conduct or management of air operations; and
 - (d) sufficient safety and regulatory knowledge to enable the operator to conduct the operator's aerial work operations safely and in accordance with its operations manual and the civil aviation legislation.

138.115 Responsibilities of safety manager

- (1) This regulation applies to an aerial work operator that is required by regulation 138.140 to have a safety management system.
- (2) The operator's safety manager must manage the operator's safety management system.
- (3) Without limiting subregulation (2), the responsibilities of the safety manager include:
 - (a) managing the operation of the safety management system including managing corrective, remedial and preventative action in relation to the system; and
 - (b) regularly reporting to the chief executive officer on the effectiveness of the safety management system; and

- (c) managing the maintenance and continuous improvement of the safety management system.

138.120 Additional qualification and experience requirements for key personnel

- (1) This regulation applies to:
 - (a) an applicant for an aerial work certificate; or
 - (b) an aerial work operator.
- (2) CASA may, by written notice given to the applicant or operator, direct that any of the key personnel of the applicant or operator must have stated additional qualifications or experience to those otherwise required under this Subpart.
- (3) If satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to a person who is, or is proposed to be, any of the key personnel of the applicant or operator, direct the person:
 - (a) to undertake a stated examination; or
 - (b) to be interviewed by CASA; or
 - (c) to complete a stated training course.
- (4) In deciding whether to give a direction under this regulation, CASA must have regard to, but is not limited to considering, the following:
 - (a) the need to ensure that the applicant or operator can conduct safe aerial work operations in accordance with its operations manual and the civil aviation legislation;
 - (b) the nature and complexity of the operations;
 - (c) the leadership, management and standards-setting skills required by the person for the operations;
 - (d) how recently the person has used the person's aviation skills;
 - (e) whether the person is able to exercise the privileges of each civil aviation authorisation held by the person.

Division 138.B.5—Training and checking

138.125 Operators who are required to have a training and checking system

- (1) An aerial work operator who conducts one or more of the following must have a training and checking system:
 - (a) operations transporting marine pilots;
 - (b) operations in:
 - (i) multi-engine transport category rotorcraft with a maximum take-off weight of more than 3,175 kg; or
 - (ii) multi-engine aeroplanes with a maximum take-off weight of more than 5,700 kg; or
 - (iii) turbine-engine aeroplanes (other than turbine-engine propeller-driven aeroplanes);
 - (c) operations prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.
- (2) Despite subregulation (1), an aerial work operator is not required to have a training and checking system for an aerial work operation conducted in an

aeroplane or a rotorcraft if circumstances prescribed by the Part 138 Manual of Standards apply to the aeroplane or rotorcraft and the operation.

- (3) The training and checking system must meet the requirements of regulations 138.130 and 138.135.

138.130 Requirements for flight crew

- (1) This regulation applies to an operator of an aeroplane or a rotorcraft if the operator is required, under regulation 138.125, to have a training and checking system.
- (2) Despite subregulation (1), this regulation does not apply in relation to the following:
- (a) for an operator that is also a Part 141 operator—training that is authorised Part 141 flight training for the operator;
 - (b) for an operator that is also a Part 142 operator—training or checking that is an authorised Part 142 activity for the operator.
- (3) The operator's training and checking for flight crew, including recurrent training and line checking, must include the matters mentioned in subregulation (4).
- (4) The training and checking system must include the following:
- (a) a description of how the training and checking is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of the training and checking;
 - (c) procedures that ensure that each of the operator's flight crew:
 - (i) completes training and checking in accordance with the training and checking system; and
 - (ii) is supervised effectively during training and checking;
 - (d) a description of:
 - (i) the operator's requirement for conversion training for flight crew; and
 - (ii) how the operator manages conversion training for flight crew;
 - (e) a description of the operator's requirement for differences training for flight crew;
 - (f) any additional training required to familiarise a flight crew member with their duties;
 - (g) a description of how the operator assesses the competence of a flight crew member to perform the duties assigned to the member for a flight;
 - (h) the remedial training requirements for flight crew;
 - (i) if the operator has a contract with a person for the person to conduct training or checking of flight crew for the operator:
 - (i) details of the person; and
 - (ii) details of the training or checking covered by the contract; and
 - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system;
 - (j) for each kind of aeroplane or rotorcraft operated by the operator:
 - (i) the number of flight hours of supervised line flying as pilot in command a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as pilot in command for the aeroplane or rotorcraft; and

- (ii) the number of flight hours of supervised line flying as co-pilot a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as a co-pilot for the aeroplane or rotorcraft.
- (5) Without limiting paragraph (4)(a), the description must include the following:
 - (a) details of the training resources used in the training and checking;
 - (b) details of the persons conducting the training and checking;
 - (c) for each position in the operator's organisation the holder of which has managerial or operational responsibilities under the system:
 - (i) selection criteria for the position; and
 - (ii) the responsibilities of the position; and
 - (iii) details of the training, assessment and certification of competence that must be completed before the position-holder begins carrying out the position-holder's responsibilities;
 - (d) for each kind of training conducted by or for the operator—the minimum number of check pilots and the minimum crew qualifications required by the operator for the training (if any);
 - (e) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (f) the requirements that a person conducting conversion training, other than flying training and training conducted in a flight simulator, must meet;
 - (g) training checklists (if any) and the circumstances when use of a training checklist is permitted;
 - (h) a description of the normal line operation covered by a line check;
 - (i) command responsibility during flights for training and checking;
 - (j) any general restrictions, specifications or safety precautions for training and checking (including in relation to fuel load, ballast and minimum weather conditions);
 - (k) methods of conducting training and checking sequences including the following:
 - (i) the standards to be achieved;
 - (ii) training sequences for common faults;
 - (iii) the method of simulating emergencies or malfunctions;
 - (l) the procedure to be followed when a standard is not met;
 - (m) details of how the operator will address matters of high risk that are identified by the operator's safety management system.

138.135 Requirements for other operational safety-critical personnel

- (1) The training and checking system must include the following in relation to operational safety-critical personnel who are not flight crew:
 - (a) a description of how training and checking, including recurrent training, for the personnel is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of the training and checking;
 - (c) the circumstances in which training is required to familiarise a member of the personnel with their duties;
 - (d) the remedial training requirements for the personnel;
 - (e) if the operator has a contract with a person for the person to conduct the training or checking for the operator:

-
- (i) details of the person; and
 - (ii) details of the training or checking covered by the contract; and
 - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system;
 - (f) if any of the training or checking is conducted by a member of the personnel—a description of the operator's system for training and assessing such personnel.
- (2) Without limiting paragraph (1)(a), the description must include the following:
- (a) any general restrictions, specifications or safety precautions for the training and checking;
 - (b) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (c) the procedure to be followed when a standard is not met.

Division 138.B.6—Safety management system

138.140 Operators who are required to have a safety management system

- (1) An aerial work operator who conducts one or more of the following must have a safety management system:
- (a) aerial work operations transporting marine pilots;
 - (b) operations in:
 - (i) multi-engine transport category rotorcraft with a maximum take-off weight of more than 3,175 kg; or
 - (ii) multi-engine aeroplanes with a maximum take-off weight of more than 5,700 kg; or
 - (iii) turbine-engine aeroplanes (other than turbine-engine propeller-driven aeroplanes);
 - (c) operations prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.
- (2) Despite subregulation (1), an aerial work operator is not required to have a safety management system for an aerial work operation conducted in an aeroplane or a rotorcraft if circumstances prescribed by the Part 138 Manual of Standards apply to the aeroplane or rotorcraft and the operation.
- (3) The safety management system must meet the requirements of regulation 138.145.

138.145 Safety management system requirements

The safety management system must include the following matters:

- (a) a statement of the operator's safety policy and objectives, including details of the following:
 - (i) the management commitment to, and responsibility for, safety;
 - (ii) the safety accountabilities of managers (including key personnel);
 - (iii) the appointment of safety management personnel;
 - (iv) coordination of an emergency response plan;
 - (v) safety management system documentation;
- (b) a safety risk management process, including:

- (i) hazard identification processes; and
- (ii) safety risk assessment and mitigation processes;
- (c) a safety assurance system, including details of processes for:
 - (i) safety performance monitoring and measurement; and
 - (ii) management of change; and
 - (iii) continuous improvement of the safety management system;
- (d) a safety training and promotion system, including details of the following:
 - (i) safety management system training and education;
 - (ii) safety management system safety communication.

Division 138.B.7—Personnel fatigue management

138.150 Operators who are required to have a crew fatigue management system

- (1) This regulation applies to an aerial work operator that conducts aerial work operations of a kind prescribed by the Part 138 Manual of Standards for this subregulation.
- (2) The aerial work operator must have a system for managing crew fatigue that meets the requirements prescribed by the Part 138 Manual of Standards for the purposes of this subregulation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Division 138.B.8—Operations manuals

138.155 Content of operations manual

- (1) An operations manual for an aerial work operator must include any matter:
 - (a) prescribed by the Part 138 Manual of Standards for the purposes of this paragraph; or
 - (b) required to be included in the operations manual under these Regulations.
- (2) An aerial work operator contravenes this subregulation if the operator's operations manual does not comply with subregulation (1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.160 Compliance with operations manual by personnel

- (1) A member of an aerial work operator's personnel contravenes this subregulation if:
 - (a) the member is subject to a requirement in relation to an aircraft under the operator's operations manual; and
 - (b) the requirement relates to:
 - (i) the operation of the aircraft; or

-
- (ii) the safety of the aircraft, or of a person on board the aircraft or in the vicinity of the aircraft; and
 - (c) the member does not meet the requirement.
 - (2) An aerial work operator contravenes this subregulation if:
 - (a) a member of the aerial work operator's personnel is subject to a requirement in relation to an aircraft under the operator's operations manual; and
 - (b) the requirement relates to:
 - (i) the operation of the aircraft; or
 - (ii) the safety of the aircraft, or of a person on board the aircraft or in the vicinity of the aircraft; and
 - (c) the member does not meet the requirement.
 - (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.165 Providing personnel with operations manual

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator's operations manual relates to a duty or responsibility of a person who is a member of the operator's personnel; and
 - (b) the operator does not make the part of the operations manual that relates to the duty or responsibility available to the person before the person first begins carrying out the duty or responsibility.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.B.9—Records and documents

138.170 Personnel training and checking records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) a person who is a member of the operator's personnel undertakes a training activity, obtains a qualification or certificate relating to aerial work operations or gains flying experience; and
 - (b) the following records are not made within 21 days after the person undertakes the activity, obtains the qualification or certificate or gains the flying experience:
 - (i) the date the activity was undertaken, the qualification or certificate obtained or the flying experience gained;
 - (ii) if the activity was training or a check, flight test, flight review or assessment of competency—whether the training, check, flight test, flight review or assessment was successfully completed.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.175 Availability of records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator makes a record about a person under regulation 138.170; and
 - (b) the person requests that the record be made available to the person; and
 - (c) the operator does not make the record available to the person within 7 days after receiving the request.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) a record is made under regulation 138.170; and
 - (b) the operator receives a request from another aerial work operator for a copy of the record; and
 - (c) the operator holds a written authority from the person to whom the record relates to provide a copy of the person's records to another aerial work operator if requested; and
 - (d) the operator does not give a copy of the record to the other aerial work operator within 7 days after receiving the request.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.180 Copies of flight crew licences and medical certificates

- (1) An aerial work operator contravenes this subregulation if:
 - (a) a person who is a flight crew member of the operator's personnel exercises a privilege of the person's flight crew licence for the operator; and
 - (b) the operator does not have the following:
 - (i) a copy of the person's flight crew licence;
 - (ii) a copy of the person's medical certificate.

Note: A reference to a flight crew licence or medical certificate includes a certificate of validation of an overseas flight crew licence or overseas medical certificate: see the definitions of *flight crew licence* and *medical certificate* in Part 1 of the Dictionary.

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

Penalty: 50 penalty units.

138.185 Retention periods for personnel records

- (1) An aerial work operator contravenes this subregulation if:
 - (a) the operator is required under regulation 138.170 to make a record about a member of the operator's personnel, other than a member mentioned in subregulation (2) of this regulation; and
 - (b) the operator does not keep the record for the period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel.
- (2) An aerial work operator contravenes this subregulation if:

-
- (a) the operator is required under regulation 138.170 to make a record about a member of the operator's personnel who carries out ground support duties; and
 - (b) the operator does not keep the record for the period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Division 138.B.10—Miscellaneous

138.190 Pilot in command to be authorised under Part 61

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) a person flies the aircraft as pilot in command; and
 - (b) the person is not authorised under Part 61 to fly the aircraft as pilot in command in the operation.

Note: See also subsection 20AB(1) of the Act.

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

Penalty: 50 penalty units.

138.195 Reference library

- (1) An aerial work operator contravenes this subregulation if the operator does not maintain a reference library that complies with subregulation (2).
- (2) For subregulation (1), the reference library must:
 - (a) include the following documents:
 - (i) all operational documents and material;
 - (ii) the civil aviation legislation that is relevant to the operator's aerial work operations;
 - (iii) the parts of the AIP that are relevant to the operations;
 - (iv) documents that include information about each kind of aircraft operated, and each kind of aerial work operation conducted, by the operator;
 - (v) any other material required for the reference library by the operator's operations manual; and
 - (b) be readily available to all members of the operator's personnel; and
 - (c) be up-to-date and in a readily accessible form; and
 - (d) include a system for notifying the operator's personnel of any updates to the documents mentioned in paragraph (a).

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

Penalty: 50 penalty units.

138.200 Maximum period for use of foreign registered aircraft in Australian territory

- (1) An aerial work operator contravenes this subregulation if, in a period mentioned in subregulation (2), the operator uses a particular foreign registered aircraft to conduct aerial work operations in Australian territory on a consecutive number of days during that period that is more than:
- (a) 90; or
 - (b) if the operator holds an approval under regulation 138.025 in relation to the aircraft—the number mentioned in the approval for the aircraft.
- (2) The periods are:
- (a) the 12 month period from the day the foreign registered aircraft first becomes available to conduct the aerial work operations in Australian territory; and
 - (b) each subsequent 12 month period.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 138.C—General

Division 138.C.1—General flight limitations

138.205 Permitted categories of aircraft for aerial work operations

- (1) The operator of an aircraft contravenes this subregulation if:
- (a) the aircraft is operated for a flight involving an aerial work operation; and
 - (b) if the operation is covered by subregulation (2)—the aircraft is not type certificated in the normal, commuter or transport category; and
 - (c) if the operation is not covered by subregulation (2)—the aircraft is not type certificated in the normal, commuter, transport or restricted category.
- (2) An operation is covered by this subregulation if the operation is one in which the aircraft carries an aerial work passenger.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.2—Operational documents

138.210 Compliance with flight manual

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.

-
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if the aircraft is operated in a way during the flight that does not meet a requirement or limitation that:
 - (a) is set out in the aircraft flight manual instructions for the aircraft; and
 - (b) relates to the operation of the aircraft.
 - (3) Subregulation (2) does not apply to a limitation or requirement if circumstances prescribed by the Part 138 Manual of Standards apply to the aircraft for the flight.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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

138.215 Availability of checklists

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that, before a crew member for the aircraft begins to carry out a duty of the crew member's position, the operator must make each checklist of normal, abnormal and emergency procedures for the aircraft that is relevant to the duty available to the crew member.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.3—Flight related documents

138.220 Electronic documents

To avoid doubt, if a document is required to be carried on a flight of an aircraft under this Division, that requirement is taken to be satisfied if an electronic copy of the document is carried on the flight.

Note: Electronic copies may not satisfy the requirements of the law of a foreign country for flights that begin or end at an aerodrome outside Australian territory.

138.225 Availability of parts of operations manual

- (1) The operator of an aircraft for a flight contravenes this subregulation if the following parts of the aircraft operator's operations manual are not available to a crew member for the flight before the flight begins:
 - (a) a part that is relevant to the duties of the crew member for the flight;
 - (b) a part that is required for the conduct of the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.C.4—Reporting and recording defects and incidents etc.

138.230 Procedures for reporting and recording defects etc.

An aerial work operator's operations manual must include procedures for the reporting and recording by a flight crew member for a flight of the aircraft of any of the following that occur during the flight:

- (a) an abnormal instrument indication;
- (b) abnormal behaviour by the aircraft;
- (c) exceedence of an operating limit specified in the aircraft flight manual instructions for the aircraft;
- (d) a defect in the aircraft.

Note: For other provisions dealing with aircraft defects, see Part 42 and regulation 37 of CAR.

138.235 Reporting and recording incidents

An aerial work operator's operations manual must include procedures for the reporting and recording by crew members of incidents relating to a flight of an aircraft for an aerial work operation that endanger, or could endanger, the safe operation of the aircraft.

Division 138.C.5—Search and rescue services and emergency and survival equipment

Note: This Division is reserved for future use.

Division 138.C.6—Miscellaneous requirements

Note: This Division is reserved for future use.

Subpart 138.D—Operational procedures

Division 138.D.1—Operational control

Note: This Division is reserved for future use.

Division 138.D.2—Flight preparation

138.265 Flight preparation requirements

An aerial work operator's operations manual must include procedures for complying with the following for a flight of an aircraft involving an aerial work operation:

- (a) the flight preparation (weather assessments) requirements;
- (b) the flight preparation (alternate aerodromes) requirements.

Division 138.D.3—Flight planning

138.270 Availability of flight planning information

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are the following:
 - (a) the pilot in command of the aircraft must have access to the information mentioned in subregulation (3) before and during the flight;
 - (b) each person in the operator's organisation who is responsible for flight planning for the flight must have access to the information mentioned in subregulation (3) before the flight;
 - (c) each person in the operator's organisation who is responsible for flight replanning for the flight must have access to the information mentioned in subregulation (3) during the flight;
 - (d) each person in the operator's organisation who exercises operational control for the flight must have access to the information mentioned in subregulation (3) before and during the flight.
- (3) The information is the following:
 - (a) authorised weather forecasts and authorised weather reports:
 - (i) in relation to the flight; and
 - (ii) if a destination alternate aerodrome is required for the flight by the flight planning (alternate aerodromes) requirements—in relation to the destination alternate aerodrome;
 - (b) NOTAMs for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 138.D.4—Flight rules

138.275 Minimum height rules

Regulation 91.305, 91.310, 91.315 or 91.320 does not apply to a pilot in command of an aircraft for a flight involving an aerial work operation if circumstances prescribed by the Part 138 Manual of Standards apply to the aircraft and the operation.

Division 138.D.5—Take-offs and landings

138.280 Procedures for safety at aerodromes

An aerial work operator's operations manual must include procedures to ensure the safety of persons in the vicinity of an aircraft when any of the following circumstances apply:

- (a) a person is embarking or disembarking the aircraft;
- (b) the aircraft is being loaded or unloaded;

- (c) the aircraft is on the ground with its engine or engines running;
- (d) the aircraft is landing or taking off at an aerodrome that is not a certified aerodrome.

Division 138.D.6—Fuel requirements

138.285 Fuel procedures

An aerial work operator's operations manual must include procedures to ensure that a flight of an aircraft operated by the operator is conducted in accordance with the requirements mentioned in subregulation 138.295(1).

138.290 Oil requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if, when the flight begins, the aircraft is not carrying sufficient oil to complete the flight safely.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.295 Fuel requirements

- (1) The Part 138 Manual of Standards may prescribe requirements relating to fuel for aircraft, including (but not limited to) the following:
 - (a) matters that must be considered when determining whether an aircraft has sufficient fuel to complete a flight safely;
 - (b) the amounts of fuel that must be carried on board an aircraft for a flight;
 - (c) procedures for monitoring amounts of fuel during a flight;
 - (d) procedures to be followed if fuel reaches specified amounts during a flight.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (1) for the flight; and
 - (b) the requirement is not met for the flight.
- (3) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

138.300 Hot fuelling

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is hot fuelled; and

-
- (b) the following are not set out in the aircraft flight manual instructions for the aircraft or the operator's operations manual:
 - (i) procedures for the hot fuelling of the aircraft;
 - (ii) the circumstances in which the aircraft can be hot fuelled;
 - (iii) procedures to be followed if an emergency occurs during hot fuelling;
 - (iv) procedures to ensure a person involved in hot fuelling the aircraft is trained and competent to be involved in hot fuelling the aircraft.
 - (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) a requirement of a procedure mentioned in subparagraph (1)(b)(i), (iii) or (iv) is not met in relation to the hot fuelling of the aircraft for the flight; or
 - (b) the aircraft is hot fuelled in a circumstance that is not mentioned in subparagraph (1)(b)(ii).
 - (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Division 138.D.7—Carriage of aerial work passengers or cargo

138.305 Carriage of aerial work passengers—general

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) a passenger is carried on the aircraft for the flight; and
 - (b) the passenger is not an aerial work passenger.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) a passenger is carried on the flight; and
 - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The requirements are the following:
 - (a) the operator's operations manual must include procedures to ensure the safety of passengers carried on flights involving the aerial work operation;
 - (b) those procedures must be complied with for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.310 Carriage of aerial work passengers—IFR flights and VFR flights at night

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) an aerial work passenger is carried on the flight; and
 - (b) the flight is an IFR flight; and
 - (c) the aircraft is not of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph.

- (2) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) more than 2 aerial work passengers are carried on the flight; and
 - (b) the flight is a VFR flight at night; and
 - (c) a requirement mentioned in subregulation (3) is not met.
- (3) The requirements are the following:
 - (a) the aircraft must be of a kind prescribed by the Part 138 Manual of Standards for the purposes of this paragraph;
 - (b) for an aircraft other than an aircraft to which paragraph (c) applies—at least one pilot for the flight must be authorised under Part 61 to conduct an IFR flight;
 - (c) for an aircraft that is an aeroplane with a maximum take-off weight that is more than 5,700 kg—each pilot required for the flight under these Regulations must be authorised under Part 61 to conduct an IFR flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.315 Limit of 9 aerial work passengers

- (1) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, during the flight, the aircraft carries more than 9 aerial work passengers.
- (2) Subregulation (1) does not apply if circumstances prescribed by the Part 138 Manual of Standards for the purposes of this subregulation apply to the aircraft and the operation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

138.320 Procedures for carriage of restricted persons

- (1) An aerial work operator's operations manual must state whether the operator will carry restricted persons as part of aerial work operations.
- (2) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the operator's operations manual states that the operator will not carry a restricted person on the flight; and
 - (b) a restricted person is carried on the flight.
- (3) If an aerial work operator's operations manual states that the operator will carry a restricted person on a flight of the aircraft, the operations manual must include the following:
 - (a) procedures for carrying a restricted person on the aircraft;

-
- (b) procedures to inform each crew member of the aircraft about the carriage of a restricted person.

Note: For other requirements for restricted persons who are deportees, removees and other persons in custody, see Division 4.5 of the *Aviation Transport Security Regulations 2005*.

- (4) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) a restricted person is carried on the flight; and
 - (b) a procedure mentioned in subregulation (3) is not complied with.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2) or (4).

Penalty: 50 penalty units.

138.325 Procedures about equipment and personal items

An aerial work operator that conducts operations involving the carriage of aerial work passengers must include procedures in the operator's operations manual for the safe and secure stowage of equipment and personal items.

138.330 Procedures relating to carriage of animals

An aerial work operator's operations manual must include procedures for the carriage of animals for a flight of an aircraft operated by the operator.

Division 138.D.8—Instruments, indicators, equipment and systems

138.335 Airborne weather radar equipment

- (1) This regulation applies to an aircraft if it is, or will be, used to conduct a flight involving an aerial work operation for which airborne weather radar equipment is required, under Subpart 138.K or by the aircraft flight manual instructions for the aircraft, to be fitted to the aircraft.
- (2) An aerial work operator's operations manual must include the following:
 - (a) procedures for using the equipment during a flight of an aircraft mentioned in subregulation (1);
 - (b) procedures for conducting a flight of an aircraft mentioned in subregulation (1) without the equipment, for use if the equipment is inoperative.

138.340 Head-up displays, enhanced vision systems and synthetic vision systems

- (1) This regulation applies to an aircraft for a flight involving an aerial work operation if:
 - (a) the aircraft is fitted with any of the following systems:
 - (i) a head-up display;
 - (ii) an enhanced vision system;
 - (iii) a synthetic vision system; and
 - (b) the flight is:
 - (i) an IFR flight; or

(ii) a VFR flight at night.

- (2) An aerial work operator's operations manual must include the following:
- (a) procedures for using each system mentioned in paragraph (1)(a) that is fitted to an aircraft for a flight mentioned in paragraph (1)(b);
 - (b) procedures for conducting such a flight without an element of the system, for use if the element is inoperative.

138.345 Survival equipment procedures

- (1) This regulation applies to a flight of an aircraft if:
- (a) the flight is in or through an area prescribed as a remote area by the Part 91 Manual of Standards; or
 - (b) the aircraft is required, under Subpart 138.K, to carry a life raft for the flight.
- (2) If an aircraft is, or will be, used to conduct a flight to which this regulation applies, an aerial work operator's operations manual must include the following:
- (a) procedures for determining the survival equipment required for the area in or through which the flight will be conducted;
 - (b) for a flight mentioned in paragraph (1)(b)—procedures for determining the pyrotechnic signalling devices required to ensure the distress signals, set out in Appendix 1 to Annex 2, *Rules of the Air*, to the Chicago Convention, can be made.

138.350 NVIS flights

- (1) This regulation applies to a flight of an aircraft if:
- (a) the flight involves use of a night vision imaging system; and
 - (b) the flight is:
 - (i) an IFR flight; or
 - (ii) a VFR flight at night.
- (2) An aerial work operator's operations manual must include the following:
- (a) procedures for using a night vision imaging system during a flight to which subregulation (1) applies;
 - (b) procedures for conducting such a flight without an element of a night vision imaging system, for use if the element is inoperative.
- (3) The Part 138 Manual of Standards may prescribe requirements for the use of a night vision imaging system for a flight of an aircraft.
- (4) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
- (a) a night vision imaging system is used during the flight; and
 - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

138.355 Securing moveable equipment

An aerial work operator's operations manual must include the following:

- (a) procedures for identifying items of moveable equipment that must be stowed securely on board an aircraft at the following times during a flight:
 - (i) while the aircraft is taking off;
 - (ii) while the aircraft is landing;
 - (iii) any other time that the pilot in command directs;
- (b) procedures for stowing the items.

138.360 Supplemental oxygen equipment

- (1) The Part 138 Manual of Standards may prescribe requirements relating to the carriage and use of equipment to supply supplemental oxygen during a flight of an aircraft involving an aerial work operation.
- (2) If requirements are prescribed under subregulation (1), an aerial work operator's operations manual must include procedures relating to the carriage and use of supplemental oxygen during a flight of an aircraft involving an aerial work operation.
- (3) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if a requirement mentioned in subregulation (1) is not complied with for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

Division 138.D.9—Miscellaneous**138.370 Operator must conduct risk assessments**

- (1) The Part 138 Manual of Standards may prescribe requirements relating to:
 - (a) risk criteria that must be met to conduct an aerial work operation; and
 - (b) risk assessment and mitigation processes to be undertaken before conducting an aerial work operation.
- (2) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) a requirement mentioned in subregulation (1) applies for the flight; and
 - (b) the requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.375 Wearing of seatbelts and other restraint devices

- (1) The Part 138 Manual of Standards may prescribe requirements relating to the wearing of seatbelts or other restraint devices during aerial work operations.
- (2) A person contravenes this subregulation if:

- (a) the person is subject to a requirement mentioned in subregulation (1); and
 - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.380 Procedures in relation to frost etc.

An aerial work operator's operations manual must include the following:

- (a) procedures for the inspection of the aircraft by the pilot in command before a flight for which frost or freezing conditions exist or are forecast;
- (b) procedures for carrying out de-icing and anti-icing measures before a flight for which these measures are necessary;
- (c) procedures for using de-icing and anti-icing equipment during a flight.

138.385 Procedures in relation to polar operations

- (1) This regulation applies to an aircraft if it is used to conduct a flight to or from an aerodrome in a polar region.
- (2) The aerial work operator's operations manual must include procedures for the following:
 - (a) monitoring and dealing with fuel freezing;
 - (b) ensuring communication capability for the duration of an operation that includes a flight mentioned in subregulation (1);
 - (c) training the aircraft's flight crew in polar operations;
 - (d) ensuring that maintenance personnel who will carry out maintenance on the aircraft in a polar region are appropriately trained;
 - (e) mitigating crew member and aerial work passenger exposure to cosmic radiation during solar flare activity;
 - (f) if the aircraft will not be flown over water during a flight mentioned in subregulation (1) and it is reasonably likely a normal or emergency landing will expose persons on the aircraft to the polar environment in a location without support personnel immediately available—ensuring that each person on the aircraft will wear a serviceable, cold-weather, anti-exposure suit;
 - (g) if the aircraft will be flown over water during a flight mentioned in subregulation (1) and it is reasonably likely that an emergency landing will expose the persons on the aircraft to a landing on or in water—ensuring that each person on the aircraft will wear an immersion suit that is appropriate for the temperatures in which the flight will be conducted;
 - (h) dealing with emergency landings, or instruments, indicators, equipment or systems becoming inoperative, while the aircraft is away from the base for an operation that includes a flight mentioned in subregulation (1).

Division 138.D.10—Additional rules for external load operations**138.390 Requirements if persons carried as external loads**

- (1) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) a person:
 - (i) is carried on or in a part of the aircraft that is not designed to carry crew members or passengers; or
 - (ii) is carried on or in a thing attached to the aircraft; or
 - (iii) is picked up or set down by the aircraft during the flight; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the person must be included in a class of persons prescribed by the Part 138 Manual of Standards;
 - (b) the person is carried outside the aircraft for the minimum time necessary to achieve the objective of the operation;
 - (c) the aerial work operator must have procedures in the operator's operations manual to ensure the safe conduct of the aerial work operation;
 - (d) the procedures must be complied with for the flight;
 - (e) the aerial work operation must be conducted in accordance with the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.395 Certain loads must be able to be jettisoned

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator and the pilot in command of an aeroplane for a flight involving an aerial work operation each contravene this subregulation if, during the flight:
 - (a) the aeroplane is towing a load outside the aeroplane; and
 - (b) the load is not able to be jettisoned.
- (3) The operator and the pilot in command of a rotorcraft for a flight involving an aerial work operation each contravene this subregulation if, during the flight:
 - (a) the rotorcraft carries an external load that extends below the landing gear of the rotorcraft; and
 - (b) the load is not able to be jettisoned.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

138.400 Certain night operations prohibited unless operation is an emergency service operation or approved by CASA

- (1) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) the operation is an external load operation at night; and
 - (b) the operation is not conducted as part of an emergency service operation; and
 - (c) the requirement in subregulation (2) is not met.
- (2) The requirement is that the operator must hold an approval under regulation 138.025 to conduct the operation at night.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.405 Night operations over land must have adequately illuminated external objects etc.

- (1) The operator and the pilot in command of a rotorcraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) the operation is an external load operation at night over land; and
 - (b) the position of the rotorcraft cannot be maintained by reference to adequately illuminated external objects.
- (2) The operator and the pilot in command of a rotorcraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) the operation is an external load operation at night over water; and
 - (b) a requirement prescribed by the Part 138 Manual of Standards is not complied with for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

138.410 Manual of Standards may prescribe additional requirements for external load operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The Part 138 Manual of Standards may prescribe additional requirements relating to flights of aircraft involving external load operations.
- (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe classes of external loads.
- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.

-
- (5) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
 - (6) A person commits an offence of strict liability if the person contravenes subregulation (4) or (5).

Penalty: 50 penalty units.

Division 138.D.11—Additional rules for dispensing operations

138.415 Dispensing operations—VMC required

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) the operation is a dispensing operation; and
 - (b) the operation does not occur in VMC.
- (3) Subregulation (2) does not apply if the dispensing operation is of a kind prescribed by the Part 138 Manual of Standards.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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

138.420 Possessing and discharging firearms

- (1) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if:
 - (a) either or both of the following apply for the flight:
 - (i) a person carries or otherwise possesses a firearm on an aircraft;
 - (ii) a person discharges a firearm while on an aircraft; and
 - (b) a requirement prescribed by the Part 138 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

- (3) This regulation applies despite regulations 91.160, 91.165 and 91.190.

138.425 Manual of Standards may prescribe additional requirements for dispensing operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.

- (2) The Part 138 Manual of Standards may prescribe additional requirements relating to dispensing operations.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

Division 138.D.12—Additional rules for task specialist operations

138.430 Manual of Standards may prescribe additional requirements for task specialist operations

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The Part 138 Manual of Standards may prescribe additional requirements relating to flights of aircraft involving task specialist operations.
- (3) The pilot in command of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (4) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (2) for the flight; and
 - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

Subpart 138.F—Performance

138.435 Take-off weights

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if the aircraft's take-off weight for the flight is greater than:
 - (a) the maximum take-off weight for the aircraft; or

-
- (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 138 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for an aircraft for a flight must be calculated under this subregulation; and
 - (b) methods for calculating that weight.
 - (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe circumstances and methods that relate to one or more of the following:
 - (a) the aircraft type;
 - (b) the kind of operations to be carried out during the flight;
 - (c) the aircraft's configuration and the operation of any systems for the flight that may have an adverse effect on the aircraft's performance;
 - (d) characteristics of, and conditions at, the aerodrome at which the aircraft takes off;
 - (e) characteristics of the route flown by the aircraft, including (but not limited to) the following:
 - (i) the presence of obstacles in the vicinity of that route;
 - (ii) the meteorological conditions over that route and over any divergences from that route;
 - (iii) the height of the terrain over that route and on either side of that route;
 - (iv) the minimum altitude, established under regulation 91.305, 91.310, 91.315 or 91.320 (as the case requires), for the route or a segment of the route;
 - (f) characteristics of, and conditions at, the aerodrome at which the aircraft lands.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.440 Landing weights

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if the aircraft's landing weight for the flight is greater than:
 - (a) the maximum landing weight for the aircraft; or
 - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 138 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for an aircraft for a flight must be calculated under this subregulation; and
 - (b) methods for calculating that weight.
- (3) Without limiting subregulation (2), the Part 138 Manual of Standards may prescribe circumstances and methods that relate to one or more of the following:
 - (a) the aircraft type;
 - (b) the kind of operations to be carried out during the flight;

- (c) the aircraft's configuration and the operation of any systems for the flight that may have an adverse effect on the aircraft's performance;
 - (d) characteristics of the route flown by the aircraft, including (but not limited to) the following:
 - (i) the presence of obstacles in the vicinity of that route;
 - (ii) the meteorological conditions over that route and over any divergences from that route;
 - (iii) the height of the terrain over that route and on either side of that route;
 - (iv) the minimum altitude, established under regulation 91.305, 91.310, 91.315 or 91.320 (as the case requires), for the route or a segment of the route;
 - (e) characteristics of, and conditions at, the aerodrome at which the aircraft lands;
 - (f) the consumption of fuel for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.445 Flight in a performance class

- (1) The operator and the pilot in command of a rotorcraft for a flight each contravene this subregulation if, during any stage of the flight:
 - (a) the rotorcraft is flown in a performance class; and
 - (b) a requirement mentioned in subregulation (2) for that performance class is not met.
- (2) The Part 138 Manual of Standards may prescribe requirements for a performance class for a flight of a rotorcraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 138.J—Weight and balance

138.450 Loading of aircraft

- (1) This regulation applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, when the flight begins, the aircraft is loaded in a way that contravenes the aircraft's weight and balance limits.
- (3) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, during the flight, the aircraft ceases to be loaded in accordance with the aircraft's weight and balance limits.

-
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

138.455 Procedures for loading aircraft etc.

An aerial work operator's operations manual must include the following:

- (a) procedures for loading aircraft to comply with regulation 138.450;
- (b) if required by the Part 138 Manual of Standards—procedures in relation to the carriage, or availability, of weight and balance documents for flights.

138.460 Weight and balance documents

- (1) The Part 138 Manual of Standards may prescribe the weight and balance documents that are required for flights involving aerial work operations, and requirements in relation to those documents.
- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, when the flight begins:
 - (a) weight and balance documents for the flight are required by the Part 138 Manual of Standards; and
 - (b) either:
 - (i) there are no weight and balance documents for the flight; or
 - (ii) the weight and balance documents for the flight do not comply with the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Subpart 138.K—Instruments, indicators, equipment and systems

138.465 Instruments, indicators, equipment and systems—requirements

- (1) The Part 138 Manual of Standards may prescribe the following:
 - (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, an aircraft for a flight involving an aerial work operation in circumstances prescribed by the Part 138 Manual of Standards;
 - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, an aircraft for a flight involving an aerial work operation in circumstances prescribed by the Part 138 Manual of Standards;
 - (c) requirements in relation to an instrument, indicator, item of equipment or system that is fitted to, or carried on, an aircraft for a flight involving an aerial work operation in circumstances prescribed by the Part 138 Manual of Standards (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).

- (2) The operator and the pilot in command of an aircraft for a flight involving an aerial work operation each contravene this subregulation if, when the flight begins:
 - (a) an instrument, indicator, item of equipment or system required to be fitted to, or carried on, the aircraft under paragraph (1)(a), is not fitted to, or carried on, the aircraft (as the case requires); or
 - (b) an instrument, indicator, item of equipment or system that must not be fitted to, or carried on, the aircraft under paragraph (1)(b), is fitted to, or carried on, the aircraft (as the case requires).
- (3) A crew member of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the crew member is subject to a requirement mentioned in paragraph (1)(c); and
 - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

138.470 When aircraft may be flown with inoperative instruments, indicators, equipment or systems

If an instrument, indicator, item of equipment or system is required under regulation 138.465 to be fitted to, or carried on, an aircraft for a flight involving an aerial work operation, the aircraft may begin the flight with the instrument, indicator, item of equipment or system inoperative if circumstances prescribed by the Part 138 Manual of Standards for the purposes of this regulation apply to the flight.

Subpart 138.N—Flight crew

Division 138.N.1—General requirements

138.475 Composition, number, qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
 - (a) the composition of the aircraft's flight crew for the flight must comply with the aircraft flight manual instructions for the aircraft;
 - (b) if the aerial work operation is one for which the operator's operations manual requires the carriage of additional flight crew members—the flight crew must include the additional flight crew members;
 - (c) each flight crew member must hold, and be authorised under Part 61 to exercise the privileges of, a commercial pilot licence or an air transport pilot licence for the flight;
 - (d) if life rafts are required, under Subpart 138.K, to be carried on the flight—each flight crew member must have successfully completed training in the following within the previous 3 years:

-
- (i) for an aeroplane—ditching procedures and the use of life rafts in water;
 - (ii) for a rotorcraft—ditching procedures, underwater escape procedures in water and the use of life rafts in water;
 - (e) if paragraph (d) does not apply, and life jackets are required, under Subpart 138.K, to be worn on the flight—each flight crew member must have successfully completed training in the following within the previous 3 years:
 - (i) for an aeroplane—ditching procedures and the use of life jackets in water;
 - (ii) for a rotorcraft—ditching procedures, underwater escape procedures in water and the use of life jackets in water;
 - (f) each flight crew member must meet the training and checking requirements for the flight crew member and the flight mentioned in subregulation (3).
- (3) The Part 138 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a flight crew member for a flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.480 Training for new or inexperienced flight crew members

- (1) An aerial work operator's operations manual must include the requirements that must be met for new or inexperienced flight crew members to be assigned to duty on the aircraft for an aerial work operation conducted by the operator.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) the operator assigns a new or inexperienced flight crew member to duty on the aircraft for an aerial work operation conducted by the operator; and
 - (b) a requirement mentioned in subregulation (1) is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.485 Competence

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the operator assigns a person to duty as a flight crew member for the flight; and
 - (b) the person has not been assessed by the operator as competent to perform the duties assigned to the person for the flight in accordance with the operator's operations manual.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.490 Assignment to duty of pilot in command

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, none of the pilots assigned as flight crew members for the flight is assigned to duty as the pilot in command of the aircraft for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.495 Pilot in command

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the operator assigns a pilot to duty as pilot in command of the aircraft for the flight; and
 - (b) the pilot is not qualified under regulation 138.500 as pilot in command for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.500 Qualification as pilot in command

- (1) A pilot is qualified as pilot in command of an aircraft for a flight involving an aerial work operation if:
 - (a) the pilot is authorised under Part 61 to carry out the duties assigned to the pilot by the operator for the flight; and
 - (b) the pilot has the qualifications and experience required by the operator's operations manual for the flight; and
 - (c) the pilot has the qualifications and experience prescribed by the Part 138 Manual of Standards for the flight.
- (2) The pilot in command of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the pilot performs a duty as pilot in command for the flight; and
 - (b) the pilot is not qualified under subregulation (1) as pilot in command for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Division 138.N.2—Additional requirements for certain operators

138.505 Application of Division 138.N.2

This Division applies in relation to an operator of an aircraft if the operator is required, under regulation 138.125, to have a training and checking system.

138.510 Qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are that each flight crew member (other than a flight crew member to whom subregulation (3) applies) must:
 - (a) meet the initial training requirements under regulation 138.520 for the operator and the aerial work operation; and
 - (b) meet the conversion training requirements under regulation 138.525 for the operator, the aircraft and the aerial work operation; and
 - (c) meet the differences training requirements under regulation 138.530 for the operator and the aircraft; and
 - (d) have the qualifications and experience required by the operator's operations manual for the duties assigned to the flight crew member for the flight involving the aerial work operation; and
 - (e) if the flight crew member is required, under the operator's training and checking manual, to undertake training to familiarise the member with the member's duties for the aircraft and the aerial work operation—have successfully completed the training.
- (3) This subregulation applies to a flight crew member if:
 - (a) the flight crew member is on board the aircraft for the purpose of receiving training or checking in relation to the requirements mentioned in subregulation (2); and
 - (b) the flight crew member is being supervised for the flight by another flight crew member who meets those requirements for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.515 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft contravenes this subregulation if:
 - (a) a flight crew member of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by:
 - (a) an individual who:
 - (i) is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
 - (ii) meets the requirements prescribed by the Part 138 Manual of Standards; or
 - (b) a Part 142 operator with which the operator has a contract for the Part 142 operator to conduct the training or check for the operator.

Note: A Part 142 operator can only conduct conversion training to the extent that the training is an authorised Part 142 activity: see regulation 142.050.

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

Penalty: 50 penalty units.

138.520 Meeting initial training requirements

- (1) A flight crew member meets the initial training requirements for an operator of an aircraft and an aerial work operation if:
- (a) the flight crew member has completed the operator's initial training for a flight crew member; and
 - (b) the training includes the matters mentioned in subregulation (2); and
 - (c) the flight crew member has successfully completed an initial training check in accordance with the operator's training and checking manual.
- (2) The training is the following:
- (a) if the aircraft is a rotorcraft and life jackets are required, under Subpart 138.K, to be worn on the flight—underwater escape training;
 - (b) life jacket and water survival training;
 - (c) general emergency and survival training;
 - (d) standard operating procedure training;
 - (e) procedure training for the aerial work operation;
 - (f) risk assessment and management practices and procedure training;
 - (g) position description and responsibilities training.

138.525 Meeting conversion training requirements

- (1) A flight crew member meets the conversion training requirements for an operator, an aircraft and an aerial work operation if:
- (a) the flight crew member has successfully completed the operator's conversion training for an aircraft of that kind; and
 - (b) the conversion training includes the matters mentioned in subregulation (2).
- (2) The matters are the following:
- (a) initial training specific to the aircraft;
 - (b) aircraft procedures when conducting the aerial work operation;
 - (c) evacuation procedures;
 - (d) procedures for dealing with emergency situations;
 - (e) aerial work passenger briefing and safety demonstrations;
 - (f) training in the location, removal and use of the safety equipment on an aircraft of that kind;
 - (g) training in the normal and emergency procedures for an aircraft of that kind.

138.530 Meeting differences training requirements

- (1) A flight crew member meets the differences training requirements for an operator of an aircraft and the aircraft if:
- (a) the flight crew member has successfully completed the operator's differences training for an aircraft of that kind; and

-
- (b) the differences training includes the training mentioned in subregulation (2).
 - (2) The training is the following:
 - (a) if the limitations of, and systems and equipment on, the aircraft is of a kind that the person has not previously received training for—training in the limitations of the aircraft and the location and use of the systems and equipment;
 - (b) if the normal and emergency procedures for the aircraft are of a kind that the person has not previously received training for—training in the normal and emergency procedures.

Subpart 138.P—Air crew members and aerial work specialists

Division 138.P.1—Air crew members

138.535 Application of Division 138.P.1

This Division applies in relation to an operator of an aircraft for a flight involving an aerial work operation if an air crew member is carried on the aircraft for the flight.

138.540 Composition, number, qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:
 - (a) if the aerial work operation is one for which the operator's operations manual requires the carriage of air crew members—those air crew members must be carried on the flight;
 - (b) each air crew member must have been assessed by the operator as competent to perform the duties assigned to the member for the flight in accordance with the operator's operations manual;
 - (c) each air crew member (other than an air crew member to whom subregulation (3) applies) must:
 - (i) hold a valid proficiency check for the operator, the aircraft and the aerial work operation under regulation 138.555; and
 - (ii) meet the initial training requirements under regulation 138.560 for the operator and the aerial work operation; and
 - (iii) meet the conversion training requirements under regulation 138.565 for the operator, the aircraft and the aerial work operation; and
 - (iv) meet the differences training requirements under regulation 138.570 for the operator and the aircraft; and
 - (v) have the qualifications and experience required by the operator's operations manual for the duties assigned to the air crew member for the flight involving the aerial work operation;
 - (d) each air crew member who is required, under the operator's training and checking manual, to undertake training to familiarise the member with the

member's duties for the aircraft and the aerial work operation must have successfully completed the training;

- (e) if life rafts are required, under Subpart 138.K, to be carried on the flight—each air crew member must have successfully completed training in the following within the previous 3 years:
 - (i) for an aeroplane—ditching procedures and the use of life rafts in water;
 - (ii) for a rotorcraft—ditching procedures, underwater escape procedures in water and the use of life rafts in water;
- (f) if paragraph (e) does not apply, and life jackets are required, under Subpart 138.K, to be worn on the flight—each air crew member must have successfully completed the operator's training in ditching procedures using life jackets in water within the previous 3 years.

- (3) This subregulation applies to an air crew member if:
 - (a) the air crew member is on board the aircraft for the purpose of receiving training or checking in relation to the requirements mentioned in paragraph (2)(c); and
 - (b) the air crew member is being supervised for the flight by another air crew member who meets those requirements for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.545 Training for new or inexperienced air crew members

- (1) An aerial work operator's operations manual must include the requirements that must be met for new or inexperienced air crew members to be assigned to duty on an aircraft for an aerial work operation conducted by the operator.
- (2) An aerial work operator contravenes this subregulation if:
 - (a) the operator assigns a new or inexperienced air crew member to duty on an aircraft for an aerial work operation conducted by the operator; and
 - (b) a requirement mentioned in subregulation (1) is not met.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

138.550 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) an air crew member of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by an individual:
 - (a) who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and

(b) who meets the requirements prescribed by the Part 138 Manual of Standards.

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

Penalty: 50 penalty units.

138.555 Proficiency checks

- (1) An operator's proficiency check for an air crew member of the aircraft for a flight involving an aerial work operation must, in accordance with any requirements prescribed by the Part 138 Manual of Standards, check the competence of the air crew member in carrying out normal, abnormal and emergency procedures for that kind of aircraft and aerial work operation.
- (2) Subject to subregulation (3), a proficiency check is valid for the period:
- (a) beginning on the day on which the check is completed; and
 - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (3) If:
- (a) a person's proficiency check (the *existing check*) for an aircraft and an aerial work operation is valid in accordance with subregulation (2); and
 - (b) the person successfully completes another proficiency check (the *new check*) for the aircraft and aerial work operation in accordance with subregulation (1) less than 3 months before the day on which the existing check is due to expire;
- the new check is valid for the period of 12 months beginning at the end of the day on which the existing check expires.

138.560 Meeting initial training requirements

- (1) An air crew member meets the initial training requirements for an operator of an aircraft and an aerial work operation if:
- (a) the air crew member has completed the operator's initial training for an air crew member; and
 - (b) the training includes the matters mentioned in subregulation (2); and
 - (c) the air crew member has successfully completed an initial training check in accordance with the operator's training and checking manual.
- (2) The training is the following:
- (a) if the aircraft is a rotorcraft and life jackets are required, under Subpart 138.K, to be worn on the flight—underwater escape training;
 - (b) life jacket and water survival training;
 - (c) general emergency and survival training;
 - (d) standard operating procedure training;
 - (e) procedure training for the aerial work operation;
 - (f) risk assessment and management practices and procedure training;
 - (g) position description and responsibilities training.

138.565 Meeting conversion training requirements

- (1) An air crew member meets the conversion training requirements for the operator of an aircraft, the aircraft and an aerial work operation if:
 - (a) the air crew member has successfully completed the operator's conversion training for an aircraft of that kind; and
 - (b) the conversion training includes the matters mentioned in subregulation (2).
- (2) The matters are the following:
 - (a) aircraft procedures when conducting the aerial work operation;
 - (b) evacuation procedures;
 - (c) procedures for dealing with emergency situations;
 - (d) aerial work passenger and aerial work specialist briefing and safety demonstrations;
 - (e) training in the location, removal and use of the safety equipment on an aircraft of that kind;
 - (f) training in the normal and emergency procedures for an aircraft of that kind.

138.570 Meeting differences training requirements

- (1) An air crew member meets the differences training requirements for an operator of an aircraft and the aircraft if:
 - (a) the air crew member has successfully completed the operator's differences training for an aircraft of that kind; and
 - (b) the differences training includes the training mentioned in subregulation (2).
- (2) The training is the following:
 - (a) if the limitations of, and systems and equipment on, the aircraft is of a kind that the person has not previously received training for—training in the limitations of the aircraft and the location and use of the systems and equipment;
 - (b) if the normal and emergency procedures for the aircraft are of a kind that the person has not previously received training for—training in the normal and emergency procedures.

Division 138.P.2—Aerial work specialists

138.575 Application of Division 138.P.2

This Division applies in relation to an operator of an aircraft for a flight involving an aerial work operation if an aerial work specialist is carried on the aircraft for the flight.

138.580 Qualifications and training

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are as follows:

-
- (a) if the aerial work operation is one for which the operator's operations manual requires the carriage of aerial work specialists—those aerial work specialists must be carried on the flight;
 - (b) each aerial work specialist must have been assessed by the operator as competent to perform the duties assigned to the member for the flight in accordance with the operator's operations manual;
 - (c) each aerial work specialist (other than an aerial work specialist to whom subregulation (3) applies) must:
 - (i) hold a valid competency check for the operator, the aircraft and the aerial work operation under regulation 138.595; and
 - (ii) meet the initial training requirements under regulation 138.600 for the operator and the aerial work operation; and
 - (iii) have the qualifications and experience required by the operator's operations manual for the duties assigned to the aerial work specialist for the flight;
 - (d) each aerial work specialist who is required, under the operator's training and checking manual, to undertake training to familiarise the aerial work specialist with the aerial work specialist's duties for the aircraft and the aerial work operation must have successfully completed the training;
 - (e) if life rafts are required, under Subpart 138.K, to be carried on the flight—each aerial work specialist must have successfully completed training in the following within the previous 3 years (to the extent the training is relevant to the aerial work specialist's duties for the flight):
 - (i) for an aeroplane—ditching procedures and the use of life rafts in water;
 - (ii) for a rotorcraft—ditching procedures, underwater escape procedures in water and the use of life rafts in water;
 - (f) if paragraph (e) does not apply, and life jackets are required, under Subpart 138.K, to be worn on the flight—each aerial work specialist must have successfully completed the operator's training in ditching procedures using life jackets in water within the previous 3 years (to the extent the training is relevant to the aerial work specialist's duties for the flight).
- (3) This subregulation applies to an aerial work specialist if:
- (a) the aerial work specialist is on board the aircraft for the purpose of receiving training or checking in relation to the requirements mentioned in paragraph (2)(c); and
 - (b) the aerial work specialist is being supervised for the flight by another aerial work specialist who meets those requirements for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.585 Competence

- (1) The operator of an aircraft for a flight involving an aerial work operation contravenes this subregulation if:
 - (a) the operator authorises an aerial work specialist to be carried for the flight; and

(b) the aerial work specialist has not been assessed by the operator as competent to perform the duties assigned to the aerial work specialist for the flight in accordance with the operator's operations manual.

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

Penalty: 50 penalty units.

138.590 Training and checking to be conducted by certain persons

- (1) The operator of an aircraft contravenes this subregulation if:
- (a) an aerial work specialist of the operator's personnel undertakes training or a check mentioned in this Subpart; and
 - (b) the training or check is conducted other than in accordance with subregulation (2).
- (2) The training or check must be conducted by an individual:
- (a) who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check; and
 - (b) who meets the requirements prescribed by the Part 138 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

138.595 Competency check

- (1) An operator's competency check for an aerial work specialist for a flight involving an aerial work operation must:
- (a) check the competence of the aerial work specialist in carrying out normal, abnormal and emergency procedures for that kind of aircraft and aerial work operation (to the extent the procedures are relevant to the aerial work specialist's duties for the flight); and
 - (b) be conducted in accordance with any requirements prescribed by the Part 138 Manual of Standards.
- (2) Subject to subregulation (3), a competency check is valid for the period:
- (a) beginning on the day on which the check is completed; and
 - (b) ending at the end of the 12 month period beginning at the end of the month in which the check is completed.
- (3) If:
- (a) a person's competency check (the **existing check**) for an aircraft and an aerial work operation is valid in accordance with subregulation (2); and
 - (b) the person successfully completes another competency check (the **new check**) for the aircraft and aerial work operation in accordance with paragraphs (1)(a) and (b) less than 3 months before the day on which the existing check is due to expire;

the new check is valid for the period of 12 months beginning at the end of the day on which the existing check expires.

138.600 Meeting initial training requirements

- (1) An aerial work specialist meets the initial training requirements for the operator of an aircraft and an aerial work operation if:
 - (a) the aerial work specialist has completed the operator's initial training for an aerial work specialist; and
 - (b) the training includes the matters mentioned in subregulation (2); and
 - (c) the aerial work specialist has successfully completed an initial training check in accordance with the operator's training and checking manual.
- (2) The training is the following to the extent the training is relevant to the aerial work specialist's duties for the flight:
 - (a) if the aircraft is a rotorcraft and life jackets are required, under Subpart 138.K, to be worn on the flight—underwater escape training;
 - (b) life jacket and water survival training;
 - (c) general emergency and survival training;
 - (d) standard operating procedure training;
 - (e) procedure training for the aerial work operation;
 - (f) risk assessment and management practices and procedure training;
 - (g) position description and responsibilities training.