

EXPLANATORY STATEMENT

Issued by the authority of the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Civil Aviation Act 1988

Civil Aviation Legislation Amendment (Flight Operations - Miscellaneous Amendments) Regulations 2020

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

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

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

Parts 91, 119, 121, 133, 135 and 138 of the *Civil Aviation Safety Regulations 1998* (CASR) were made on 6 December 2018. Parts 103, 105 and 131 of CASR were made on 12 December 2019. Related amendments to the CASR Dictionary were made in a separate regulation on 4 April 2019. Collectively these instruments comprise the flight operations regulations (FOR). The FOR regulate the safety of flight operations, including the rules by which all pilots operate aircraft and detailed requirements for the conduct of certain commercial and other operations.

The *Civil Aviation Legislation Amendment (Flight Operations – Miscellaneous Amendments) Regulations 2020* (hereafter called “the Regulations”) make amendments to the FOR ahead of the commencement of the FOR in late 2021. The Regulations:

- simplify elements of Parts 138 and 91
- correct technical issues and errors within the FOR
- make minor policy changes
- enable increased clarity for the subordinate aviation legislation in the form of Manuals of Standards (MOS) for the FOR.

Part 138 of CASR regulates aerial work operations, that includes aerial advertising, aerial mustering, search and rescue, and police operations. The Regulations simplify the Part and its relationship with the Part 138 MOS to enable appropriate regulatory flexibility across the complex and diverse aerial work industry sectors. Some existing requirements for certificated aerial work operators are newly applied to aerial work operations conducted by non-certificated persons. These particular amendments either reflect existing regulatory controls that were omitted in the FOR or extend requirements to non-certificated persons in the interests of safety. They also clarify ambiguities of the regulatory arrangements presently in force. The amendments to Part 138 also move requirements for the management of changes to operations from the MOS to

the Regulations, to ensure CASA policy can be met to provide drafting consistency across the FOR.

Part 91 of CASR provides a general set of rules for the operation of aircraft. It generally applies to all flights of all aircraft, although some rules are not applied to certain kinds of operations that either do not need to comply with a rule or are subject to a different specific rule that is tailored to the operation. Among other things, Part 91 contains the operating rules for flying by visual references (the visual flight rules or VFR) and for flying without visual references using aircraft instruments (the instrument flight rules or IFR). The Regulations reorganise Part 91 so that the VFR and IFR provisions are more accessible to pilots, with the intention of making the Part easier to use and to aid compliance.

The technical corrections and clarifications in the Regulations are intended to ensure that the FOR, related provisions and definitions operate as intended. These matters were identified through continued industry engagement, including multiple public consultations; and ongoing internal CASA activities such as drafting the MOS and preparations for the implementation of the FOR.

Notably, implementation preparations identified that most commercial operators will conduct operations under multiple Parts of the FOR (for example both helicopter passenger transport under Part 133 and aerial work operations under Part 138). Therefore, a number of the changes increase consistency in provisions that are mirrored in more than one Part of the FOR. This supports simpler implementation for industry.

The Regulations also adjust a number of the powers for CASA to make MOS for CASR Parts 91, 103, 121, 131, 133, 135 and 138, which facilitates simpler and clearer MOS drafting.

These changes are a consequence of continued industry engagement since the making of the FOR and the development of the MOS for these Parts.

The FOR were scheduled to commence on 25 March 2021. The Regulations defer the commencement date for the FOR to 2 December 2021. The new commencement date ensures that the relevant MOS, critical guidance materials and training activities are completed and that CASA and industry have sufficient time to prepare for the FOR. The new commencement date, 2 December 2021, aligns with a scheduled republication date for the Australian Aeronautical Information Publication (AIP), to ensure the guidance for domestic and foreign pilot does not contain differing requirements on commencement.

Consultation

The Regulations were not publicly consulted in their entirety, but there has been extensive engagement with industry on most of the proposed changes to Parts 121 and 138, which were informed by public consultations on the respective MOS consultations during 2020. This includes consultation in relation to Parts 121 and 138 through the Aviation Safety Advisory Panel (ASAP) and subordinate Technical Working Groups (TWG), which have been the cornerstone of successful industry engagement on the FOR. Substantive amendments to Part 138 are a direct result of the extensive feedback received during a public consultation. Certain changes to Part 121 are also the result of direct suggestions from the Part 121 TWG and feedback from multiple Part 121 MOS public consultation activities.

The remaining measures in the Regulations that have not been further consulted either give effect to policy that was consulted in 2018 or 2019 for the FOR or make minor corrections or clarifications that would not normally warrant further public consultation.

The Regulations are expected to offer beneficial policy and structural improvements to the aviation community when compared to the FOR as initially made. Noting the ongoing engagement with the ASAP and the public consultation activities on individual MOS, no additional formal public consultation was undertaken on the Regulations.

Regulation Impact Statement

CASA prepared three Regulation Impact Statements for the Flight Operations Regulations implemented in part by the amendment or creation of CASR Parts 91, 103, 105, 119, 121, 131, 133, 135 and 138 (OBPR id: 23625, 24505 and 25643). The amendments correct errors, provide clarification or other machinery changes that do not alter the requirements that were outlined in the three RISs, other than to change the commencement date to December 2021. OBPR has agreed with CASA's assessment that changes to the original RISs or a new RIS is not required.

Incorporation by Reference

In accordance with paragraph 15J(2(c) of the Legislation Act 2003 and subsection 98(5D) of the Act, the legislative instrument applies, adopts or incorporates matters contained in the following instruments:

- MOS for CASR Parts 91, 103, 121, 131, 133, 135 and 138
- exposition or operations manual of an operator

Subsection 98 (5D) of the Act permits a non-legislative instrument to be incorporated as in force or existing at a particular time or from time to time, including a non-legislative instrument that does not exist when the legislative instrument is made.

Each incorporated document is described below, together with the manner of incorporation and how it may be obtained.

MOS:

A Manual of Standards is a legislative instrument that prescribes matters for purposes stated in the Regulations. The Regulations incorporate the MOS as in force from time to time, in accordance with section 10 of the *Acts Interpretation Act 1901* and section 13 of the *Legislation Act 2003*. MOS are freely available on the Federal Register of Legislation.

Exposition or operations manual of an operator:

An exposition or operations manual, of an operator, is a document, or suite of documents, that specifies the scope of the operations and activities conducted by the operator, and sets out the plans, processes, procedures, programs and systems implemented by the operator to comply with the civil aviation legislation.

An "exposition", for an air transport operator under Part 119 of the FOR means the exposition as changed from time to time, in accordance with the definition of "exposition" inserted into CASR Dictionary by the *Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019*. An "operations manual", for an operator certificated under Part 138 of CASR, has been inserted in the CASR Dictionary by the Regulations as the set of documents approved for an aerial work operator, as changed in accordance with Part 138. Accordingly, the term is taken to refer to an operations manual as it exists from time to time.

An exposition or operations manual is not publicly or freely available. They are proprietary to the operator and will generally include commercial in confidence information about the operator's business. The incorporated requirements of an exposition or manual are at the operator-specific level and apply only to the operator and its personnel. Further, the operator is under obligations to make the exposition or manual available to its personnel who have obligations under the document.

Criminal Law Issues

The Regulations provide for 8 new offences of strict liability, which are outlined in the Statement of Compatibility with Human Rights at [Attachment A](#).

Consistent with the principles set out in the Attorney-General's [A Guide to Framing Commonwealth Offices, Infringement Notices and Enforcement Powers](#) (September 2011) (the *AGD Guide*) and the Sixth Report of 2002 of the Senate Standing Committee for the Scrutiny of Bills, [Application of Absolute and Strict Liability Offences in Commonwealth Legislation](#) (26 June 2002), the strict liability offences are considered reasonable, necessary and proportionate to the objective of ensuring aviation safety. In this regard, the offences are regulatory in nature, in other words their aim is to insist on reasonable compliance with regulated safety standards by those conducting activities which are otherwise intrinsically or potentially unsafe unless such high standards of compliance are met. Not having to prove fault in the relevant circumstances aims to provide a strong deterrent. To this extent, and in this context, they are consistent with other safety-focussed regulatory regimes and do not unreasonably or impermissibly limit the presumption of innocence. The offences are designed to achieve the legitimate objective of ensuring the integrity of the overall aviation safety regulatory scheme by promoting compliance and deterring non-compliance.

The rationale is that people who owe general safety duties should be expected to be aware of their duties and obligations. In the context of the general operating rules for pilots and operators, a defendant to a prosecution can reasonably be expected to know what the requirements of the law are, and the mental, or fault, element can justifiably be excluded.

For strict liability offences in the Regulations, the prosecution will have to prove only the conduct of the accused. However, where the accused produces evidence of an honest and reasonable, but mistaken, belief in the existence of certain facts which, if true, would have made that conduct innocent, it will be incumbent on the prosecution to establish, beyond reasonable doubt, that there was not an honest and reasonable mistake of fact.

The Regulations also contain 7 provisions that reverse the evidential burden of proof in relation to prescribed defences to strict liability offences ("offence-specific defences"). Consistent with section 4.3.1 of the *AGD Guide*, the provisions have been included in the Regulations because they relate to matters that are peculiarly within the knowledge of a defendant and/or would be significantly more difficult and more costly for the prosecution to disprove than for the defendant to establish the matter.

Details and justification of the offence-specific defences are provided in the Statement of Compatibility with Human Rights at [Attachment A](#).

In practice, any enforcement action contemplated by CASA is subject to the provisions of CASA's "just culture" policy as set out in CASA's Regulatory Philosophy.

Statement of Compatibility with Human Rights

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

Commencement and making

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Regulations are set out at Attachment B.

The Act specified no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The provisions of the *Civil Aviation Legislation Amendment (Flight Operations - Miscellaneous Amendments) Regulations 2020* commence on the day after registration, in relation to the amendments contained in Schedules 1 and 3 of the Regulations. Amendments contained in Schedule 2 of the Regulations commence on the day that the FOR commence – 2 December 2021.

Authority: Subsection 98(1) of the *Civil Aviation Act 1988*.

Statement of Compatibility with Human Rights

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

**Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments)
Regulations 2020**

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

Overview of the legislative instrument

The purpose of the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* (the **Regulations**) is to effect amendments to Parts 91, 103, 105, 119, 121, 131, 133, 135 and 138 of the *Civil Aviation Safety Regulations 1998* (CASR) (**Flight Operations Regulations**). The amendments simplify elements of Parts 91 and 138, and correct technical issues and errors with the provisions in the above Parts. They include amendments that enable the Civil Aviation Safety Authority (CASA) to more effectively make subordinate legislation in the form of Manuals of Standards (MOS) for some of the above Parts. They also defer the commencement date of the above Parts from 25 March 2021 to 2 December 2021.

Human rights implications

The Regulations engage the following human rights:

- the right to work and rights at work in Article 6(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)
- the right to a fair trial and fair hearing in Article 14 of the *International Covenant on Civil and Political Rights* (ICCPR).

The Right to Work

Article 6(1) provides that Article 6 provides for a right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.

Item 95 in Schedule 1 of the Regulations inserts regulation 119.036 into the *Civil Aviation Safety Amendment (Part 119) Regulations 2018*, to require an Australian air transport operator to have a head of the training and checking part of the organisation. This may promote the right to work as this provision will require the operator to have a key personnel position that must be occupied by a person. That is, by establishing a position that an operator must appoint a person to, this will increase the opportunity for a person to gain his or her living by work.

The right to a fair trial and fair hearing: presumption of innocence

Article 14 of the ICCPR provides that in the determination of a criminal charge, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Further, in criminal proceedings, people are entitled to a range of protections including minimum guarantees as set out in Article 14(3) and following of the ICCPR.

The presumption of innocence in Article 14(2) imposes on the prosecution the burden of proving the charge and guarantees that no guilt can be presumed until the charge has been proven beyond reasonable doubt. For the charge to be proven beyond reasonable doubt, the legal and evidential burden is on the prosecution.

Strict liability offence provisions

Strict liability offences engage the presumption of innocence through the imposition of liability without the need to prove fault. A strict liability offence will not impermissibly limit the right to the presumption of innocence if the offence pursues a legitimate aim and is reasonable, necessary and proportionate to that aim.

The Regulations amend or re-state a number of the *Flight Operations Regulations* offences of strict liability in a minor way, but also insert 8 new offences of strict liability.

Nature of inserted or substituted strict liability provisions

- inserted regulation 131.367 empowers CASA to prescribe requirements in the Part 131 Manual of Standards in relation to the operation of a Part 131 aircraft for a ‘Visual Flight Rules’ (VFR) flight. It would be an offence of strict liability to not comply with such a requirement;
- substituted regulations 91.430(1) and (2) now do not regulate the operation of rotorcraft on the ground for the purposes of maintenance or maintenance training but otherwise has not changed;
- substituted regulation 91.660 changes references from ‘Performance Based Navigation (PBN) flight’ to simply a ‘navigation specification’ but otherwise has not changed;
- substituted regulation 138.305 now also applies an offence relating to the carriage of passengers to non-certificated operators. The provision has otherwise not changed;
- substituted Subdivisions 91.D.4.1 to 91.D.4.3 re-order a limited number of Part 91 regulations to create a division that encompasses the VFR and another division encompassing the ‘Instrument Flight Rules’. The operation and effect of the offence provisions in these Subdivisions have not changed;
- substituted regulations 91.810, 103.090, 121.460, 131.460, 133.360, 135.370, 138.465 deal with the prescription of aircraft equipment requirements in a Manual of Standards. These provisions have been simplified including that the Manual of Standards will express who the requirement is imposed on;
- substituted regulation 131.360 provides for the prescription of requirements in the Part 131 Manual of Standards for operation at non-controlled aerodromes. It would be an offence of strict liability to not comply with such a requirement. The provision has been changed to only remove the prescription of circumstances;
- substituted regulation 131.365 provides for the prescription of requirements in the Part 131 Manual of Standards for flight over water. It would be an offence of strict liability to not comply with such a requirement. The provision has been changed to only remove the prescription of circumstances;
- inserted regulations 138.060, 138.062, 138.066 and 138.068, impose requirements on an aerial work operator in relation to an operator’s change of name, significant changes to their organisation and the ability of CASA to give directions relating to an operator’s operations manual or key personnel. These provisions create related offences;
- inserted regulation 138.157 provides for an offence by an operator, if they do meet a requirement in their operations manual;
- inserted regulation 138.432 provides for an offence by an operator and pilot in command to possess or discharge a firearm from an aircraft unless specified requirements are met,
- inserted regulation 138.505 provides for an offence by an operator to conduct training and checking in the manner specified by the regulation.

Reasonableness, necessity and proportionality

The strict liability offences relate to administrative and safety requirements that must be adhered to by regulated individuals and operators involved in the aviation industry to ensure the integrity of the aviation safety system. The imposition of strict liability offences limits the right to the presumption of innocence. However, the limitation is necessary to ensure that operators and

pilots in command of aircraft, and other listed individuals, are subject to appropriate safety-related obligations in relation to operations under the *Flight Operations Regulations*. The limitations also ensure that CASA retains oversight over such persons as is necessary to ensure the safety of air navigation.

The rationale is that people who perform activities that engage with safety risk should be expected to be aware of their duties and obligations. In the context of the *Flight Operations Regulations*; a defendant can reasonably be expected to know what conduct is required by the law, and the mental, or fault, element can justifiably be excluded.

Further, the defence of honest and reasonable mistake, as set out in section 9.2 of the *Criminal Code Act 1995*, will be available to the defendant in all offence provisions. If relied upon, this is an evidential burden on the defence to prove, on the balance of probabilities, that the accused had an honest and reasonable mistaken belief of fact which, if those facts existed, would have resulted in the conduct not constituting an offence.

The strict liability offences in the Regulations are considered reasonable, necessary and proportionate to the objective of ensuring aviation safety. The offences are regulatory in nature and their aim is to ensure reasonable compliance with regulated safety standards by those conducting activities which are otherwise intrinsically or potentially unsafe unless such high standards of compliance are met. Not having to prove fault in the relevant circumstances aims to provide a strong deterrent. To this extent, and in this context, they are consistent with other safety-focussed regulatory regimes and do not unreasonably or impermissibly limit the presumption of innocence. The offences are designed to achieve the legitimate objective of ensuring the safety and integrity of the aviation industry and the public.

The offences are also proportionate in that they fall at the lower end of the penalty scale, not exceeding 50 penalty units, and are otherwise consistent with the guidance in *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*, September 2011 (AGD Guide).

Reversal of burden of proof provisions

Seven strict liability offence provisions impose a reversed burden of evidential proof on the accused. The nature of this provision can be found in Table 1 below.

The burden of proof has been reversed only to establish a defence to an offence provision, once the prosecution discharges the legal and evidential burden of proof in establishing the offence. The burden of adducing or pointing to evidence must only suggest a reasonable possibility that the matter exists or does not exist. This is in accordance with subsection 13(3)(6) of the Criminal Code.

The aim of CASA and its regulatory framework, including the *Flight Operations Regulations*, is to uphold aviation safety by prescribing the conduct of persons involved in civil aviation operations. The provisions reversing the burden of proof pursue this aim as they are attached to a defence of a strict liability offence in circumstances where the defence relates to a safe aviation practice.

Reasonableness, necessity and proportionality

The AGD Guide states that provisions that reverse the evidential burden of proof are permissible for either or both of the following justifications:

- the relevant information or evidence is peculiarly within the knowledge of the defendant;
- it is significantly more difficult and costly for the prosecution to disprove the matter than for the defendant to establish.

The reversal of onus provision affords a defendant the opportunity to adduce evidence of specific aviation practices, of a kind contemplated by the offence provision, that are safe despite contravening the general rule in the offence provision.

The table below details the defence provision giving rise to a reversal of the evidential burden of proof, describes the factual matter that is the subject of the reversal of the burden, and sets out the justification for the reversal of the burden.

The factual matters may not be the subject of documentary evidence, for example because they relate to matters of judgement by the defendant, or are matters relating to a particular flight that are subject to actions only. Due to the nature of the information, it is significantly easier for the defendant to establish the defence as it relates to information within the control of the defendant, and/or is a matter peculiarly within the knowledge of the defendant.

In addition:

- the offence provision to which a defence with the reversed onus is provided carries a relatively low penalty, not exceeding 50 penalty units
- the proscribed conduct relates to the safe operation of aircraft or the integrity of the regulatory scheme for the safety of air navigation, and therefore relates to matters that potentially pose a danger to public safety
- CASA expects that the facts in relation to a defence can be readily and cheaply provided by the defendant.

Whether or not those circumstances exist in a particular case to justify the action to avoid criminal liability may not be known to, and not readily ascertainable by, CASA, and would not generally be set out in documentation regulated by CASA. In these circumstances it would be relatively impractical for CASA to disprove all such circumstances. Further, it is a matter of judgment for the defendant, and within the knowledge of the defendant in relation to the particular case. Due to the nature of the matter and the knowledge of the defendant, the matter will be difficult and costly for the prosecution to disprove, and significantly cheaper for the defendant to establish.

Exemptions to offences, and justification of the reversed burden of proof		
Item	Provision description	Justification for reversal of evidential burden of proof
Civil Aviation Safety Amendment (Part 121) Regulations 2018 Item 134 of Schedule 1 (regulation 121.755)	Substituted regulation 121.755 empowers CASA to prescribe requirements in the Part 121 Manual of Standards in relation to emergency evacuation procedures. It would be an offence of strict liability to not comply with such a requirement. The provision has been changed to provide for the Manual of Standards to also prescribe requirements for the demonstration by an operator of their emergency evacuation procedures. This will not apply to an operator and a requirement if the operator holds an approval under regulation 121.010 in relation to the requirement.	Whether the operator is reliant on the approval for a particular flight will be peculiarly within the knowledge of the defendant and significantly more difficult and costly for the prosecution to disprove than for the defendant to establish.
Civil Aviation Safety Amendment (Part 133) Regulations 2018 Item 145 of	Subregulation 133.335(4) is repealed and substituted so that subregulation 133.335(2) also will not apply in relation to the take-off and initial climb phase of flight, if it is conducted at a place as part of a medical transport operation, and the	Whether the operator is reliant on the approval for a particular flight will be peculiarly within the knowledge of the defendant and significantly more

Exemptions to offences, and justification of the reversed burden of proof		
Item	Provision description	Justification for reversal of evidential burden of proof
Schedule 1 (subregulation 133.335(4))	operator holds an approval under regulation 133.015 in relation to the place and the rotorcraft.	difficult and costly for the prosecution to disprove than for the defendant to establish.
Civil Aviation Safety Amendment (Part 133) Regulations 2018 Item 138 of Schedule 1 (at the end of Division 133.D.4)	Inserted regulation 133.167 provides regulations 91.265, 91.267, 91.277 or 91.305 (offence provisions relating to minimum height in certain operational circumstances) do not apply, if: (a) circumstances prescribed by the Part 133 Manual of Standards for the purposes of regulation 133.167 apply to the rotorcraft and the operation; or (b) requirements prescribed by the Part 133 Manual of Standards for the purposes of regulation 133.167 are complied with in relation to the flight.	The matters prescribed in the Manual of Standards relevant to the particular operation will be peculiarly within the knowledge of the defendant and significantly more difficult and costly for the prosecution to disprove than for the defendant to establish.
Civil Aviation Safety Amendment (Part 91) Regulations 2018 Item 74 of Schedule 1 (Subdivisions 91.D.4.1 to 91.D.4.3)	Subregulation 91.257(2) provides that subregulation 91.257(1) does not apply if it is not practicable to seek authorisation for the non-compliance before it occurs, the non-compliance is necessary for the safety of the aircraft or the persons on the aircraft, and the pilot in command informs air traffic control about the non-compliance as soon as practicable after the pilot in command is unable to comply with the clearance or instructions.	The matters to be established are peculiarly within the knowledge of the defendant.
Civil Aviation Safety Amendment (Part 91) Regulations 2018 Item 74 of Schedule 1 (Subdivisions 91.D.4.1 to 91.D.4.3)	Subregulation 91.275(2) provides that subregulation 91.275(1) does not apply if the aircraft is in uncontrolled airspace and is below 3,000 ft above mean sea level, is at or above 3,000 ft above mean sea level but below 1,500 ft AGL, or it is not practicable for the pilot in command to fly the aircraft at a specified VFR cruising level for the track. Subregulation 91.275(3) also provides that subregulation 91.275(1) does not apply if the aircraft is in controlled airspace and air traffic control has given the pilot in command clearance to fly the aircraft at that cruising level.	The matters to be established are peculiarly within the knowledge of the defendant and significantly more difficult and costly for the prosecution to disprove than for the defendant to establish.

Exemptions to offences, and justification of the reversed burden of proof		
Item	Provision description	Justification for reversal of evidential burden of proof
Civil Aviation Safety Amendment (Part 91) Regulations 2018 Item 74 of Schedule 1 (Subdivisions 91.D.4.1 to 91.D.4.3)	Subregulation 91.280(2) provides that subregulation 91.280(1) does not apply to a flight of an aircraft if air traffic control has authorised the pilot in command of the aircraft to conduct the flight under the special VFR and the pilot in command complies with the special VFR.	The matter to be established is peculiarly within the knowledge of the defendant and significantly more difficult and costly for the prosecution to disprove than for the defendant to establish.
Civil Aviation Safety Amendment (Part 91) Regulations 2018 Item 74 of Schedule 1 (Subdivisions 91.D.4.1 to 91.D.4.3)	Subregulation 91.290(2) provides that subregulation 91.290(1) does not apply if the aircraft is in uncontrolled airspace and it is not practicable for the pilot in command to fly the aircraft at a specified IFR cruising level for the track. Subregulation 91.290(3) also provides that subregulation 91.290(1) does not apply if air traffic control has given the pilot in command an air traffic control instruction to fly the aircraft at the cruising level, or has given the pilot in command an air traffic control clearance to fly the aircraft at the cruising level.	The matters to be established is peculiarly within the knowledge of the defendant and significantly more difficult and costly for the prosecution to disprove than for the defendant to establish.

Table 1

Implication on right to presumption of innocence

The provisions reversing the evidential burden of proof are permissible limitations on the presumption of innocence, as they are within reasonable limits which take into account the importance of the objective being sought while maintaining the defendant's right to a defence. They do so in the context of defences to strict liability offences in circumstances where the defence relates to a safe aviation practice.

In particular, the burden is only reversed where the matter to be established is peculiarly within the knowledge of the defendant in particular circumstances, and/or the matter is costly for the prosecution to disprove and significantly cheaper for the defendant to establish. In these circumstances, consistent with Attorney-General's Department guidance on the use of provisions of this kind, the provisions are considered a necessary, reasonable and proportionate limitation on the presumption of innocence.

The right to a fair trial and fair hearing: right to an effective remedy

In circumstances where a civil aviation authorisation holder contravenes any of the above provisions where the burden of proof has been reversed, CASA may take administrative action against the authorisation. In such a circumstance, the person affected by such a decisions under

the Regulations has rights of merit review in accordance with section 31 of the Civil Aviation Act 1988 and/or regulation 201.004 of the CASR, in addition to administrative law rights under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) and general principles of Australian administrative law.

Conclusion

The Regulations are compatible with human rights because they promote the protection of human rights, and to the extent that they may limit human rights, those limitations are reasonable, necessary and proportionate.

Details of the proposed *Civil Aviation Legislation Amendment (Flight Operations – Miscellaneous Amendments) Regulations 2020*

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Civil Aviation Safety Amendment (Flight Operations – Miscellaneous Amendments) Regulations 2020*.

Section 2 – Commencement

This section provides that the provisions of the instrument commence as specified in the table following the section. A small number of amendments commence on 2 December 2021 to coincide with the commencement of Parts 91, 103, 105, 119, 121, 131, 133, 135 and 138 of the *Civil Aviation Safety Regulations 1998 (CASR)* to preserve the operation of current arrangements, while the rest of the amendments commence on the day after the instrument is registered.

Section 3 – Authority

This section provides that the *Civil Aviation Safety Amendment (Flight Operations – Miscellaneous Amendments) Regulations 2020* are made under the *Civil Aviation Act 1988*.

Section 4 – Schedules

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

Schedule 1 – Main amendments

Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019

Item 1 Subregulation 103.020(1)

Item 1 provides for the amendment of subregulation 103.020(1) to include a reference to the Part 103 Manual of Standards (MOS). The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 2 Regulation 103.030

Item 2 provides for the repeal and substitution of regulation 103.030 to establish more effective empowerments for the Part 103 MOS. Subregulation (1) provides for the Part 103 MOS to make provision in relation to airworthiness standards for Part 103 aircraft. Subregulation (1) also provides, for Part 103 approved self-administering organisations (Part 103 ASAO) whose approved functions include administering Part 103 aircraft, for the Part 103 MOS to prescribe the kinds of aircraft for which an organisation could set airworthiness standards, the procedures for setting such standards, the procedures for accepting an aircraft that meets any standards specified under this subregulation and the procedures for issuing a statement of acceptance to owners of aircraft that the organisation has accepted meet the standards. Subregulation (2) provides that, for the purposes of paragraph 20AA(3)(b) of the Act, a flight in a Part 103 aircraft is authorised without a certificate of airworthiness if a Part 103 ASAO has issued a statement of acceptance to the owner of the aircraft in accordance with the procedures mentioned in the relevant aspect of this regulation.

Item 3 Subregulation 103.045(1) (note)

Item 3 provides for the omission of the reference to regulation 91.315 in the note in regulation 103.045 and the substitution of a reference to regulation 91.265. This change is consequential on Item 74 of this Schedule that renumbers and restructures provisions of Part 91.

Item 4 Paragraph 103.085(2)(c)

Item 4 provides for the repeal of paragraph 103.085(2)(c). This change is necessary as specifically stating within this paragraph that the Part 103 MOS could prescribe communications monitoring requirements for flights in controlled airspace had the potential to create confusion regarding the application of regulation 91.630 to Part 103.

Item 5 Subpart 103.K (heading)

Item 5 provides for the renaming of Subpart 103.K consequential to Item 6 of this Schedule.

Item 6 Regulations 103.090 and 103.095

Item 6 provides for the repeal of regulations 103.090 and 103.095 and their replacement by a new regulation 103.090. Subregulation (1) provides that the Part 103 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is an offence if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that the offence is one of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 103.

Item 7 Subregulation 131.035(1)

Item 7 provides for the amendment of subregulation 131.035(1) to include a reference to the Part 131 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 8 Paragraph 131.150(2)(d)

Item 8 provides for a grammatical amendment to paragraph 131.150(2)(d).

Item 9 Division 131.D.3 (heading)

Item 9 provides for the omission of the word “planning” from the Division 131.D.3 heading and substitution with the word “notification”. This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this Division. The heading for Division 131.D.3 becomes “Flight notifications and pre-flight checks”.

Item 10 Regulation 131.345 (heading)

Item 10 provides for the omission of the words “planning and” from the heading of regulation 131.345. This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this regulation. The amendments result in the regulation 131.345 being expressed to deal with “flight notifications”.

Item 11 Subregulation 131.345(1)

Item 11 provides for the omission of the words “planning and” from subregulation 131.345(1). This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this subregulation. The amendment results in subregulation 131.345(1) being expressed to deal with “flight notifications”.

Item 12 Subregulation 131.345(1)

Item 12 provides for the omission of the words “plans and” from subregulation 131.345(1) consequential on Item 11 of this Schedule.

Item 13 Subregulation 131.345(2)

Item 13 provides for the omission of the words “planning and” from subregulation 131.345(2) consequential on Item 11 of this Schedule.

Item 14 Before regulation 131.355

Item 14 provides for the insertion, before regulation 131.355, of a new Subdivision 131.D.4.1 and two new regulations. The new Subdivision title is “Subdivision 131.D.4.1 – General”. The addition of this new Subdivision is consequential to Item 16 of this Schedule. The two new regulations (regulations 131.353 and 131.354) are titled “Air traffic services – prescribed requirements” and “Use of radio – broadcasts and reports”. The two new regulations are consequential on the disapplication of the equivalent Part 91 regulations by Item 47 of this Schedule and are legislatively structured equivalent to the disappplied Part 91 provisions but enable the prescription of requirements specific to Part 131 aircraft due to the considerably different operational characteristics of these aircraft.

Regulation 131.353 provides a head of power for the Part 131 MOS to prescribe requirements in relation to the use by a Part 131 aircraft of prescribed classes of airspace, controlled aerodromes, control areas, control zones and other kinds of prescribed areas. It is an offence of strict liability if the pilot in command contravenes a requirement of the MOS.

Regulation 131.354 makes it an offence of strict liability if the pilot in command of a Part 131 aircraft, that is fitted with or carries a radio, does not make a broadcast or report prescribed by the Part 131 MOS.

Item 15 Regulations 131.360 and 131.365

Item 15 provides for the repeal and substitution of regulations 131.360 and 131.365 with two new regulations achieving the same safety outcomes. This change includes the provision of altered

MOS powers that enable simpler and clearer MOS drafting. Persons subject to a requirement of the MOS commit an offence of strict liability if they do not comply with the requirement.

Item 16 At the end of Division 131.D.4

Item 16 provides for the addition of a new Subdivision and a new regulation at the end of Division 131.D.4. The new Subdivision 131.D.4.2 is titled “Visual flight rules” and contains a single new regulation 131.367 titled “VFR flights”. This change is consequential on Items 45 and 47 of this Schedule and is part of a series of changes rearranging the visual and instrument flight rules throughout Parts 91 and 131 to enable easier identification and use by pilots. This change provides for a regulation structurally equivalent to the existing Part 91 regulation but which permits the Part 131 MOS to prescribe requirements relating to the operation of a Part 131 aircraft for a VFR flight.

Item 17 Subpart 131.K (heading)

Item 17 provides for the renaming of Subpart 131.K consequential on Item 18 of this Schedule.

Item 18 Regulations 131.460 and 131.465

Item 18 provides for the repeal of regulations 131.460 and 131.465 and their replacement by a new regulation 131.460. Subregulation (1) provides that the Part 131 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is an offence if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that the offence is one of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 131.

Item 19 Definition of *balloon flight notification requirement*

Item 19 provides for the insertion in the CASR Dictionary of a signpost definition of *balloon flight notification requirement*, which points to the definition in subregulation 131.345(1), consequential on Item 11 of this Schedule.

Item 20 Definition of *balloon flight planning and notification requirements*

Item 20 repeals the signpost definition of *balloon flight planning and notification requirements*, consequential to Item 11 of this Schedule.

Item 21 Definition of *Part 131 Manual of Standards*

Item 21 provides for the insertion of a new definition of *Part 131 Manual of Standards* consequential on the making of Part 131.

Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019

Item 22 Definition of *aerial work passenger*

Item 22 provides for the repeal and substitution of the definition of *aerial work passenger*. The new definition provides that *aerial work passenger* means a person in a class of persons prescribed by the Part 138 Manual of Standards for the purposes of this definition. The change enables the containment of all aspects of persons permitted to be *aerial work passengers* within a singular legislative document (the Part 138 MOS) instead of certain persons being contained within the Dictionary and other persons in the MOS.

Item 23 Definition of *aerial work specialist*

Item 23 provides for the repeal of the definition of *aerial work specialist* in the CASR Dictionary, consequential on Item 163 of this Schedule.

Item 24 Definition of *air crew member*

Item 24 provides for the repeal and substitution of the definition of *air crew member* in the CASR Dictionary. The new definition provides that *air crew member* means a crew member for a flight of an aircraft (other than a flight crew member) who carries out a function during the flight relating to the safety of the operation of the aircraft, or the safety of the use of the aircraft. The new definition does not distinguish between flights involving aerial work operations and flights not involving aerial work operation, as it did previously.

Item 25 Definition of *Class D external load*

Item 25 provides for the insertion of a new definition of *Class D external load* in the CASR Dictionary, by reference to the meaning given by the Part 138 MOS. This is consequential on Item 162 of this Schedule as the definition is necessary to provide for the use of this term within that Item.

Item 26 Paragraph (c) of the definition of *emergency service operation*

Item 26 provides for the repeal and substitution of paragraph (c) of the definition of *emergency service operation*. The new paragraph provides for the widening of the scope of the definition to include the purpose of protecting the environment.

Item 27 Definition of *flight notification requirements*

Item 27 provides for the insertion of a signpost definition for *flight notification requirements* that points to the definition in subregulation 91.240(1), consequential to amendments to regulation 91.240 in this Schedule.

Item 28 Definition of *IFR*

Item 28 provides for the repeal and substitution of the definition of *IFR* (“instrument flight rules”) in the CASR Dictionary. The new definition provides that *IFR* means the rules and procedures in Subdivision 91.D.4.3. The change is consequential to Item 74 of this Schedule and is part of a restructuring of Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 29 Definition of *IMC*

Item 29 provides for the repeal and substitution of the definition of *IMC* (“instrument meteorological conditions”) in the CASR Dictionary. The new definition provides that *IMC* means meteorological conditions other than VMC (“visual meteorological conditions”). The change is one of the measures to ensure the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 30 Definition of *landing minima requirements*

Item 30 provides for the amendment of the definition of *landing minima requirements* by changing a cross reference. This change is consequential on Items 74 and 76 of this Schedule. This change is part of the restructuring of Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 31 Definition of *maximum take-off weight*

Item 31 provides for the amendment of the definition of *maximum take-off weight* in the CASR Dictionary to ensure that the defined term correctly encompasses circumstances relevant to Part 103 aircraft. Such aircraft are often not type certificated under Part 21 and rely on other mechanisms to establish a maximum take-off weight, including a certificate of airworthiness or a statement of acceptance from a Part 103 ASAO.

Item 32 Definition of *medical transport operating site*

Item 32 provides for the repeal and substitution of the definition of *medical transport operating site* in the CASR Dictionary. The new definition provides that *medical transport operating site* has the meaning given by the Part 133 MOS. The change enables the containment of all aspects of the definition within a singular legislative document (the Part 133 MOS) instead of certain definitional elements being contained within the Dictionary and others in the MOS.

Item 33 Definition of *navigation specification*

Item 33 provides for the insertion of a new definition of *navigation specification* in the CASR Dictionary. The definition provides that *navigation specification* has the meaning given by the Part 91 Manual of Standards. The new definition is intended to provide increased legislative responsiveness in relation to the prescription of these specifications due to the rapid technological advances in this area.

Item 34 Definition of *operations manual*

Item 34 provides for the repeal and substitution of the definition of *operations manual* in the CASR Dictionary. The new definition provides for the insertion of a new paragraph (b) encompassing operations manuals for an aerial work operator, consequential on the making of Part 138.

Item 35 Definition of *Part 133 Manual of Standards*

Item 35 provides for the insertion of a new definition of *Part 133 Manual of Standards* consequential on the making of Part 133.

Item 36 Definition of *Part 135 Manual of Standards*

Item 36 provides for the insertion of a new definition of *Part 135 Manual of Standards* consequential on the making of Part 135.

Item 37 Definition of *significant change*

Item 37 provides for the insertion of a new signpost definition of *significant change* for an aerial work operator in the CASR Dictionary. The new definition provides that the reader should refer to regulation 138.012. The definition is consequential on new regulation 138.012 in Item 158 of this Schedule. The definition is part of changes to ensure that the change management scheme for operators under Part 138 is the same as the scheme under other flight operations Parts, given that most operators will operate under more than one such Part after the commencement date. This reduces compliance cost and complexity to industry.

Item 38 Definition of *specified IFR cruising level*

Item 38 provides for the repeal and substitution of the definition of *specified IFR cruising level* consequential on Item 74 of this Schedule. It replaces the former signpost definition with the actual definition contained within regulation 91.280.

Item 39 Definition of *specified VFR cruising level*

Item 39 provides for the repeal and substitution of the definition of *specified VFR cruising level* consequential on Item 74 of this Schedule. It replaces the existing signpost definition with the actual definition contained within regulation 91.280.

Item 40 At the end of the definition of *stage*

Item 40 provides for the addition of a note at the end of the definition of *stage* in the CASR Dictionary. The note provides clarification that the definition is only used in the CASR in the

context of the performance class rules for rotorcraft. The note is intended to reduce any confusion that may arise from the potential use of *stage* in other circumstances.

Item 41 Definition of *take-off minima requirements*

Item 41 provides for the amendment of the definition of *take-off minima requirements* by changing a cross reference. This change is consequential on Items 74 and 76 of this Schedule. This change is part of the restructuring of Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 42 Definition of *task specialist*

Item 42 provides for the insertion of a new definition of *task specialist* in the CASR Dictionary. The new definition provides that *task specialist* is defined by reference to subregulations 138.015(1) and (2). This change is consequential to Items 23 and 163 of this Schedule and is part of the changes designed to ensure consistency of language in Part 138, including by removing references to “aerial work specialist”.

Item 43 Definition of *TAWS-Class A*

Item 43 provides for the repeal and substitution of the definition of *TAWS-Class A*. The definition provides that *TAWS-Class A* has the meaning given by the Part 121 Manual of Standards. The new definition is intended to provide increased legislative responsiveness due to changing advancing technical standards in this area.

Item 44 Definition of *TAWS-Class B*

Item 44 provides for the repeal and substitution of the definition of *TAWS-Class B*. The definition provides that *TAWS-Class B* has the meaning given by the Part 121 Manual of Standards. The new definition is intended to provide increased legislative responsiveness due to changing advancing technical standards in this area.

Item 45 Definition of *VFR*

Item 45 provides for the repeal and substitution of the definition of *VFR* in the CASR Dictionary. The new definition provides that *VFR* means, for Part 131 aircraft, the rules and procedures set out in Subdivision 131.D.4.2 and, for all other aircraft, the rules and procedures set out in Subdivision 91.D.4.2. This change is consequential on Items 16 and 74 of this Schedule. This amendment is part of a series of changes for the rearrangement of the visual and instrument flight rules throughout the CASR so that they can be easily identified and used by pilots.

Civil Aviation Safety Amendment (Part 91) Regulations 2018

Item 46 Paragraphs 91.030(2)(e), (f) and (g)

Item 46 provides for the repeal of paragraphs 91.030(2)(f) and (g), and substitution of paragraph 91.030(2)(e). All three paragraphs disappplied specified provisions of Part 91 in relation to Part 103 aircraft. These three paragraphs disappplied regulations 91.245 (matters to be checked before take-off), 91.250 (VFR flights) and 91.320 (minimum height rules – other areas). On further review, the disapplication of regulations 91.245 and 91.250 was considered unnecessary as the requirements are appropriate for the operation of Part 103 aircraft. The repeal of the disapplication of regulation 91.320 and the insertion of a disapplication of regulation 91.267 is consequential to Item 74 of this Schedule that restructures the regulations setting out the visual and instrument flight rules.

Item 47 Paragraph 91.030(2)(n)

Item 47 provides for the repeal of paragraph 91.030(2)(n), which disapplied regulation 91.635 (listening watch requirements in uncontrolled airspace) for Part 103 aircraft. On further review, the disapplication of this regulation was considered unnecessary as the requirements of the regulation are appropriate for the operation of Part 103 aircraft.

Item 48 Paragraph 91.030(3)(d)

Item 48 provides for the repeal of paragraph 91.030(3)(d) and its substitution by four new paragraphs. Subregulation 91.030(3) specifies provisions of Part 91 disappplied for Part 131 operations. These changes are consequential to Items 16 and 74 of this Schedule. This amendment is part of a series of changes for the rearrangement of the visual and instrument flight rules throughout the CASR so that they can be easily identified and used by pilots.

Item 49 Paragraph 91.030(3)(h)

Item 49 provides for the repeal of paragraph 91.030(3)(h). Subregulation 91.030(3) specifies provisions of Part 91 disappplied for Part 131 operations. These changes are consequential to Items 16 and 74 of this Schedule. This amendment is part of a series of changes for the rearrangement of the visual and instrument flight rules throughout the CASR so that they can be easily identified and used by pilots.

Item 50 After paragraph 91.030(3)(m)

Item 50 provides for the insertion of a new paragraph 91.030(3)(ma). Subregulation 91.030(3) specifies provisions of Part 91 disappplied for Part 131 operations. This change disapplies regulation 91.630 that requires the making of certain broadcasts and reports relating to flights if a radio is fitted to, or carried on, an aircraft. This change is consequential to Item 14 of this Schedule that inserts into Part 131 the new regulation 131.354 to accomplish a similar safety purpose, but with requirements designed for the different character and nature of balloon operations.

Items 51-58 Table items in subregulation 91.035(1) - introduction

Items 51-58 provide for the amendment of the table in subregulation 91.035(1) that disapplies specified provisions of Part 91 when other specified provisions of the flight operations regulations apply to the operation of an aircraft.

Item 51 Subregulation 91.035(1) (table item 2)

Item 51 provides for the amendment of item 2 of the table following subregulation 91.035(1) by omitting the references in Column 2 to Divisions 121.C.2, 133.C.2 and 135.C.2 and replacing them with references to regulations 133.030 and 138.210. These amendments clarify the application of Division 91.C.2, which regulates compliance with aircraft flight manuals. Notably, the previous disapplication of the Part 121 and 135 provisions is not appropriate because these provisions do not contain pilot in command offences. Certain operations within Parts 133 and 138 require the contextual application of compliance with the aircraft flight manual and therefore require the disapplication of Division 91.C.2 to provide for the establishment of appropriate contextual non-compliance with the aircraft flight manual in those Parts. This change therefore retains the Part 133 disapplication but specifies the particular regulation rather than the relevant Division, and additionally disapplies the relevant Part 138 regulation.

Item 52 Subregulation 91.035(1) (cell at table item 4, column 2)

Item 52 provides for the amendment of item 4 of the table by omitting the reference to regulation 138.390 in column 2 and substituting a reference to regulation 138.410. This amendment is consequential to Items 182 and 186 of this Schedule that consolidate the Part 138 external load

requirements into regulation 138.410 and repeal regulation 138.390. Those changes are intended to simplify the Part 138 scheme in response to industry feedback.

Item 53 Subregulation 91.035(1) (cell at table item 7, column 2)

Item 53 provides for the amendment of item 7 of the table by omitting the reference to Division 138.D.6 in column 2, with the effect that the fuel requirements in Part 91 apply to Part 138 operations. This change is consequential on Item 174 of this Schedule and is intended to simplify the Part 138 scheme in response to industry feedback.

Item 54 Subregulation 91.035(1) (table item 8)

Item 54 provides for the repeal and substitution of item 8 of the table to insert a disapplication of regulations 91.495, 91.500 and 91.505 when regulation 138.300 applies to an aircraft operation. The new disapplication arrangement more accurately disapplies the hot fuelling regulations in Part 91 contingent on application of the alternate Part 138 safety controls.

Item 55 Subregulation 91.035(1) (cell at table item 9, column 2)

Item 55 provides for the amendment of item 9 of the table by inserting a new reference to disapply regulation 91.510 when regulation 138.302 applies to an aircraft operation. Regulation 91.510 regulates fuelling of aircraft when persons other than crew are onboard. The table item had no disapplication arrangement for Part 138, and provided less flexibility for Part 138 operators than operators under other Parts. This change is consequential to Item 179 of this Schedule.

Item 56 Subregulation 91.035(1) (table item 10)

Item 56 provides for the repeal and substitution of item 10 of the table to insert a disapplication of regulation 91.555 when regulation 138.375 applies to an aircraft operation. Regulation 91.555 regulates the use of seats and seatbelts but provides insufficient flexibility for Part 138 operations. Regulation 138.275 provides appropriate flexibility for the regulation of this matter. By contrast, the Part 91 provisions formerly disapplied in the table item, relating to communication with passengers (91.540), flight crew seating (91.550), and restraint of infants and children (91.560), do not require specific Part 138 provisions so it is appropriate for the Part 91 provisions to apply for all Part 138 operations.

Item 57 Subregulation 91.035(1) (cell at table item 12, column 2)

Item 57 provides for the omission of the reference to regulation 138.375 in column 2 of item 12 of the table within subregulation 91.035(1). This change simplifies the Part 138 regulatory scheme by requiring aerial work operations to comply with regulation 91.570 that contains requirements related to a pilot giving safety directions.

Item 58 Subregulation 91.035(1) (cell at table item 16, column 2)

Item 58 provides for the omission of the reference to Subpart 138.K in column 2 of item 16 of the table within subregulation 91.035(1). This amendment reapplies Part 91 equipment requirements for aerial work operators in order to reduce regulatory overlaps and the duplication of requirements for aircraft equipment, thereby simplifying the Part 138 regulatory scheme.

Item 59 Subregulation 91.045(1)

Item 59 provides for the amendment of subregulation 91.045(1) to include a reference to the Part 91 Manual of Standards. The amendment clarifies that a person may apply to CASA for an approval contemplated by the Manual of Standards.

Item 60 Subregulation 91.045(4)

Item 60 provides for the amendment of subregulation 91.045(4) by updating a regulatory cross reference and inserting a new regulation subject to subregulation 91.045(4). The first aspect of this change that updates a cross reference is consequential to Item 74 of this Schedule. The second aspect that inserts an additional reference to regulation 91.510, which regulates the persons allowed on board, boarding, or disembarking an aircraft during fuelling with a highly volatile fuel of that aircraft, provides additional flexibility to industry certificate holders as an approval could be taken to be held provided appropriate procedures were contained within their operations manual or exposition (as appropriate to the type of certificate).

Item 61 Regulations 91.065 to 91.080

Item 61 provides for the repeal of regulations 91.065 to 91.080 as part of the restructuring of Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots. These regulations are relocated in Part 91 via Item 74 of this Schedule.

Item 62 Division 91.C.2 (note to the Division heading)

Item 62 provides for the repeal of the existing note following the heading to Division 91.C.2 and its substitution by a note containing changed regulatory cross references. This change is consequential on Item 51 of this Schedule.

Item 63 Regulation 91.150 (heading)

Item 63 provides for the repeal and substitution of the heading of regulation 91.150. The change simplifies the wording of the heading and is consequential on Item 93 of this Schedule.

Item 64 Paragraph 91.150(1)(a)

Item 64 provides for the omission of the words “an inoperative instrument, indicator, item of equipment or system” within paragraph 91.150(1)(a) and the substitution of “inoperative equipment”. The change simplifies the wording of the heading and is consequential on Item 93 of this Schedule.

Item 65 Paragraph 91.150(1)(b)

Item 65 provides for the omission of the words “instrument, indicator, item of equipment or system” within paragraph 91.150(1)(b) and the substitution of “equipment”. The change simplifies the wording of the heading and is consequential on Item 93 of this Schedule.

Item 66 Subregulation 91.190(1)

Item 66 provides for the repeal and substitution of subregulation 91.190(1) excluding the note. The change clarifies that operations under Part 91 do not permit the dropping of things from aircraft as these operations are intended to be routinely subject to the safety controls related to dispensing operations in Part 138.

Item 67 Subregulation 91.195(1) (note)

Item 67 provides for the amendment of regulation cross references within the note following subregulation 91.195(1). This change is consequential to Items 52, 182 and 186 of this Schedule.

Item 68 Subregulation 91.200(1) (note)

Item 68 provides for the amendment of regulation cross references within the note following subregulation 91.200(1). This change is consequential to Items 52, 182 and 186 of this Schedule.

Item 69 Division 91.D.3 (heading)

Item 69 omits the word “planning” from the Division 91.D.3 heading and substitutes it with the word “notification”. This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this Division. The heading for Division 91.D.3 becomes “Flight notifications and pre-flight checks”.

Item 70 Regulation 91.240 (heading)

Item 70 omits the words “planning and” from the heading of regulation 91.240. This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this regulation. The amendments results in regulation 91.240 being expressed to deal with “flight notifications”.

Item 71 Subregulation 91.240(1)

Item 71 omits the words “planning and” from subregulation 91.240(1) consequential on Item 70 of this Schedule.

Item 72 Subregulation 91.240(1)

Item 72 omits the words “plans and” from subregulation 91.240(1) consequential on Item 70 of this Schedule.

Item 73 Subregulation 91.240(2)

Item 73 omits the words “planning and” from subregulation 91.240(2). This change is necessary because “flight planning” carries a specific meaning that is inaccurate for this subregulation. The amendment results in subregulation 91.240(2) being expressed to deal with “flight notifications”.

Item 74 Subdivisions 91.D.4.1 to 91.D.4.3

Item 74 provides for the repeal and substitution of Subdivisions 91.D.4.1, 91.D.4.2 and 91.D.4.3. This item makes the principal changes to restructure Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots. It substantially reorders and rearranges existing Part 91 provisions so that they are organised as general operating rules in Subdivision 91.D.4.1, visual flight rules (VFR) in Subdivision 91.D.4.2 and instrument flight rules (IFR) in Subdivision 91.D.4.3. Except in relation to cross referencing, the existing provisions within these Subdivisions, and the provisions repealed by Items 61 and 76 of this Schedule, which are inserted into these Subdivisions by this Item, are not substantively amended and reflect the same policy as previously made.

Item 75 Subregulations 91.430(1) and (2)

Item 75 provides for the repeal and substitution of subregulations 91.430(1) and (2). The changes to subregulation (1) clarify that a rotorcraft may be operated on the ground for maintenance purposes or maintenance training purposes without meeting the pilot qualification requirements in subregulation (2). The new subregulation (1) also creates a new mechanism for a person of a kind prescribed in the Part 91 MOS to be permitted to operate a rotorcraft on the ground, subject to ensuring that the rotorcraft is secured from moving. The new subregulation (2) adds a requirement, if the rotorcraft is a foreign registered aircraft, that the person must s for the addition of utility category aircraft to the kinds of aircraft permitted to be used for aerial work operations in paragraph 138.205(1)(c). The omission of utility category aircraft was unnecessarily restrictive noting the kinds of aircraft used by this industry sector.

Item 76 Regulations 91.435 to 91.450

Item 76 provides for the repeal of regulations 91.435 to 91.450. This change is consequential on Item 74 of this Schedule and is part of the restructuring of Part 91 to ensure that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 77 Subregulation 91.455(2)(note)

Item 77 provides for the omission of a cross reference to Division 138.D.6 within the note following subregulation 91.455(2). This change is consequential on Item 53 of this Schedule.

Item 78 At the end of subregulation 91.495(1)

Item 78 provides for the insertion of a new note at the end of subregulation 91.495(1). This change is consequential on Item 54 of this Schedule.

Item 79 At the end of subregulation 91.500(1)

Item 79 would provide for the insertion of a new note at the end of subregulation 91.500(1). This change is consequential on Item 54 of this Schedule.

Item 80 Subregulation 91.505(1)(note)

Item 80 provides for the omission and substitution of regulatory cross references within the note following subregulation 91.505(1). This change is consequential on Item 54 of this Schedule.

Item 81 Paragraph 91.510(2)(c)

Item 81 provides for the omission of the phrase “the pilot in command does not hold” in paragraph 91.510(2)(c) and substitution of the phrase “neither the operator of the aircraft nor the pilot in command holds”. The amendment ensures that the offence provision in subregulation 91.510(2), which relates to fuelling aircraft with non-crew on board, does not apply if the operator holds a relevant approval under regulation 91.045, even if the pilot does not hold such an approval. This change appropriately encompasses certain aerial work situations where the operator, not the pilot in command, holds the relevant approval.

Item 82 Subregulation 91.510(2)(note)

Item 82 provides for the insertion of a cross reference to regulation 138.302 within the note following subregulation 91.510(2). This change is consequential on Item 55 of this Schedule.

Item 83 Subregulation 91.540(1)(note)

Item 83 provides for the repeal of the note following subregulation 91.540(1). This change is consequential on Item 56 of this Schedule.

Item 84 Subregulation 91.550(1)(note)

Item 84 provides for the repeal of the note following subregulation 91.550(1). This change is consequential on Item 56 of this Schedule.

Item 85 Subregulation 91.560(1)(note)

Item 85 provides for the repeal of the note following subregulation 91.560(1). This change is consequential on Item 56 of this Schedule.

Item 86 Subregulation 91.570(1)(note)

Item 86 provides for the omission and substitution of regulatory cross references within the note following subregulation 91.570(1). This change is consequential on Item 57 of this Schedule.

Item 87 Regulation 91.660

Item 87 provides for the repeal and substitution of regulation 91.660 that prescribes requirements related to the use of certain navigation specifications. The current regulation does not provide sufficient flexibility for future technological advances related to these requirements.

Subregulation (1) would provide that the pilot in command of an aircraft for a flight contravenes the subregulation if: the flight, or any part of the flight, is conducted using a navigation specification prescribed by the Part 91 Manual of Standards; and neither the operator of the aircraft for the flight nor the pilot in command holds an approval under regulation 91.045 for an Australian aircraft or, for a foreign registered aircraft, an approval by the national aviation authority of the aircraft's State of registry or of the State of the operator, to use that navigation specification during the flight or during a part of the flight. Subregulation (2) provides that a person commits an offence of strict liability if the person contravenes subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 91.

Item 88 Subregulation 91.725(1) (paragraph (a) of the definition of *permitted person*)

Item 88 provides for the repeal of paragraph (a) of the definition of *permitted person* in subregulation 91.725(1) and substitution of a new paragraph (a) that states "a crew member of the aircraft". The previous wording of paragraph (a) risked excluding classes of persons that may need to be carried on aircraft as a permitted person in specialised circumstances, resulting in operational limitations or additional costs to operators. The new definition is broader and mitigates that risk through the incorporation of the defined term "crew member" which has inserted into the CASR Dictionary via the *Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019*.

Item 89 Subparagraph 91.750(2)(g)(i)

Item 89 provides for the omission of a legislative cross reference to subregulation 91.310(2) and replaces it with a cross reference to subregulation 91.277(2). This change is consequential on Item 74 of this Schedule that contributes to ensuring that the visual and instrument flight rules provided in the CASR can be easily identified and used by pilots.

Item 90 Regulation 91.795

Item 90 provides for the repeal and substitution of regulation 91.795 expressing the Part 91 MOS provisions related to aircraft take-off performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 91 MOS to prescribe requirements related to take-off performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 91 MOS. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aircraft for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 91. The amendment is intended to ensure CASA can draft clearer and simpler MOS provisions.

Item 91 Regulation 91.800

Item 91 provides for the repeal and substitution of regulation 91.800 expressing the Part 91 MOS provisions related to aircraft landing performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 91 MOS to prescribe requirements related to landing performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 91 MOS. This subregulation mentions "safety factor percentages", which is an industry-recognised concept for safety margins built into performance calculations. The prescribed requirements may include, or may include calculations that result in, the identification of maximum weights for aircraft for landing. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command

or the operator of the aircraft for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 91. The amendment is intended to ensure CASA can draft clearer and simpler MOS provisions.

Item 92 Subpart 91.K (heading)

Item 92 provides for the renaming of Subpart 91.K consequential on Item 93 of this Schedule.

Item 93 Regulations 91.810 and 91.815

Item 93 provides for the repeal of regulations 91.810 and 91.815 and their replacement by a new regulation 91.810. Subregulation (1) provides that the Part 91 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is a contravention if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that a contravention is an offence of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 91.

Civil Aviation Safety Amendment (Part 119) Regulations 2018

Item 94 Subregulation 119.025(1)

Item 94 provides for an amendment to subregulation 119.025(1) adding a reference to the Part 119 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 95 After regulation 119.035

Item 95 provides for the insertion of a new regulation after regulation 119.035. The new regulation 119.036 requires an Australian air transport operator to have a position (however described) that is the head of the training and checking part of the organisation. The requirement for a person holding such a position is implied but not explicitly stated in the present provisions, including by regulations 119.145 and 119.150. The head of training and checking (if any) constitutes a member of the key personnel of an operator for section 28 of the *Civil Aviation Act 1988*. The amendment clarifies that it is a requirement for Australian air transport operators to have a head of training and checking.

Civil Aviation Safety Amendment (Part 121) Regulations 2018

Item 96 Subregulation 121.010(1)

Item 96 provides for an amendment to subregulation 121.010(1) adding a reference to the Part 121 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 97 Paragraphs 121.115(3)(e) and (f)

Item 97 provides for the omission of the words “an inoperative instrument, indicator, item of equipment or system” within paragraph 121.115(3)(e) and (f) and the substitution of “inoperative equipment”. The change simplifies the wording of the heading and is consequential on Item 101 of this Schedule.

Item 98 Regulations 121.395 to 121.410

Item 98 provides for the repeal of regulations 121.395 to 121.410 and the substitution of a single new regulation 121.395 expressing the Part 121 MOS provisions related to aeroplane take-off

performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 121 MOS to prescribe requirements related to take-off performance. Subregulation (2) set out a short, non-exclusive list of requirements able to be prescribed by the Part 121 MOS. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aeroplane for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 121. The amendment is intended to ensure CASA can draft clearer and simpler MOS provisions.

Item 99 Regulations 121.415 and 121.420

Item 99 provides for the repeal of regulations 121.415 to 121.420 and the substitution of a single new regulation 121.420 expressing the Part 121 MOS provisions related to aeroplane landing performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 121 MOS to prescribe requirements related to landing performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 121 MOS. This subregulation mentions “safety factor percentages”, which is an industry-recognised concept for safety margins built into performance calculations. The prescribed requirements may include, or may include calculations that result in, the identification of maximum weights for aeroplanes for landing. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aeroplane for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 121. The amendment is intended to ensure CASA can draft clearer and simpler MOS provisions.

Item 100 Subpart 121.K (heading)

Item 100 provides for the renaming of Subpart 121.K consequential on Item 101 of this Schedule.

Item 101 Regulations 121.460 and 121.465

Item 101 provides for the repeal of regulations 121.460 and 121.465 and their replacement by a new regulation 121.460. Subregulation (1) provides that the Part 121 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is a contravention if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that a contravention is an offence of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 121.

Item 102 subparagraph 121.475(2)(n)(ii)

Item 102 provides for the omission of the words “an inoperative instrument, indicator, item of equipment or system” within subparagraph 121.475(2)(n)(ii) and the substitution of “inoperative equipment”. The change simplifies the wording of the heading and is consequential on Item 101 of this Schedule.

Item 103 Subregulation 121.495(1)

Item 103 provides for the insertion of the phrase “for a flight” after “qualified as pilot in command” in subregulation 121.495(1). This change ensures that the provision operates in the intended context of linking the pilot’s qualifications to the qualifications needed for a specific flight.

Item 104 Paragraph 121.495(1)(c)

Item 104 provides for the repeal and substitution of paragraph 121.495(1)(c) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 105 Subregulation 121.500(1)

Item 105 provides for the insertion of the phrase "for a flight" after "qualified as co-pilot" in subregulation 121.500(1). This change ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 106 Paragraph 121.500(1)(a)

Item 106 provides for the repeal and substitution of paragraph 121.500(1)(a) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 107 Subregulation 121.500(2)

Item 107 provides for the insertion of the phrase "for a flight" after "qualified as co-pilot" in subregulation 121.500(2). This change ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 108 Subregulation 121.500(2)

Item 108 provides for the omission of the phrase "of the aeroplane" and substitution of the phrase "for the flight" in subregulation 121.500(2). This change is consequential on Item 105 of this Schedule and ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 109 Subregulation 121.505(1)

Item 109 provides for the insertion of the phrase "for a flight" after "qualified as cruise relief co-pilot" in subregulation 121.505(1). This change ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 110 Paragraph 121.505(1)(a)

Item 110 provides for the repeal and substitution of paragraph 121.505(1)(a) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the

error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. This includes authorisation under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 111 Subregulation 121.505(2)

Item 111 provides for the insertion of the phrase “for a flight” after “qualified as cruise relief co-pilot” in subregulation 121.505(2). This change ensures that the provision operates in the intended context of linking the pilot’s qualifications to the qualifications needed for a specific flight.

Item 112 Paragraphs 121.505(2)(a) and (b)

Item 112 provides for the omission of the phrase “of the aeroplane” and substitution of the phrase “for the flight” in paragraphs 121.505(2)(a) and (b). This change is consequential on Item 111 of this Schedule and ensures that the provision operates in the intended context of linking the pilot’s qualifications to the qualifications needed for a specific flight.

Item 113 Paragraph 121.510(2)(a)

Item 113 provides for the omission of the words “(other than training or checking mentioned in regulation 121.610 or 121.620)” from paragraph 121.510(2)(a). The wording of the paragraph had incorrectly required the use of simulators for all training or checking activities conducted in accordance with Subpart 121.N other than those mentioned in regulations 121.610 or 121.620. As one example, the wording of this paragraph had required a line check to be conducted in a simulator, which is an inappropriate requirement that would degrade the safety outcomes associated with that check. The change is associated with Item 114 of this Schedule that inserts a new paragraph 121.540(2)(aa) containing more appropriate contextual limitations for subregulation 121.540(2).

Item 114 After paragraph 121.510(2)(a)

Item 114 provides for the insertion of new paragraph 121.510(2)(aa). This addition is consequential on Item 113 of this Schedule. That Item omitted the contextual limitations of the previous element of the offence under subregulation 121.510(2). This Item inserts new contextual limitations that limit the offence to the conduct of training or checking that involves a simulated engine or system failure that affects, or is likely to affect, the aeroplane’s performance or handling characteristics as these activities present higher relative risks that should be the subject of an additional safety control. The additional safety control is the requirement to do training or checking in relation to these matters in a simulator instead of an aircraft if that aircraft is one to which the subregulation applies. The reference to the mentioned failures affecting the aeroplane’s performance or handling characteristics includes affecting these matters beyond the parameters of normal operation. It would also include any exercise involving the use of an emergency checklist or other procedure (for example a stall recovery) to recover from a situation specified in the aircraft flight manual.

Item 115 Paragraph 121.510(4)(a)

Item 115 provides for the omission of the words “(other than training or checking mentioned in regulation 121.610 or 121.620)” from paragraph 121.510(4)(a). The wording of the paragraph had incorrectly required the use of simulators for all training or checking activities conducted in accordance with Subpart 121.N other than those mentioned in regulations 121.610 or 121.620. As one example, the wording of this paragraph had required a line check to be conducted in a simulator, which is an inappropriate requirement which would degrade the safety outcomes

associated with that check. The change is associated with Item 116 of this Schedule that inserts a new paragraph 121.510(4)(aa) containing more appropriate contextual limitations for subregulation 121.510(4).

Item 116 After paragraph 121.510(4)(a)

Item 116 provides for the insertion of new paragraph 121.510(4)(aa). This addition is associated with Item 115 of this Schedule. That Item omitted the contextual limitations of the previous element of the offence under subregulation 121.510(4). This Item inserts new contextual limitations that limit the offence to the conduct of training or checking that involves a simulated engine or system failure that affects, or is likely to affect, the aeroplane's performance or handling characteristics as these activities present higher relative risks that should be the subject of an additional safety control. The additional safety control is the requirement to do training or checking in relation to these matters in a simulator instead of an aircraft if that aircraft is one to which the subregulation applies. The reference to the mentioned failures affecting the aeroplane's performance or handling characteristics would include affecting these matters beyond the parameters of normal operation. It would also include any exercise involving the use of an emergency checklist or other procedure (for example a stall recovery) to recover from a situation specified in the aircraft flight manual.

Item 117 Subregulation 121.535(2)

Item 117 provides for the omission of the phrase "of the aeroplane" and substitution of the phrase "for the flight" in subregulation 121.535(2). This change ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 118 Paragraph 121.535(4)(b)

Item 118 provides for the omission of the phrase "of the aeroplane" and substitution of the phrase "for the flight" in paragraph 121.535(4)(b). This change ensures that the provision operates in the intended context of linking the pilot's qualifications to the qualifications needed for a specific flight.

Item 119 Regulation 121.555

Item 119 provides for the amendment of regulation 121.555 to place the existing content inside a new subregulation 121.555(1). This change is consequential on Item 121 of this Schedule which added a new subregulation 121.555(2).

Item 120 Paragraph 121.555(b)

Item 120 provides for the amendment of paragraph 121.555(b) to replace "include training on the matters prescribed" with "meet the requirements prescribed". This ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to initial training for flight crew members.

Item 121 At the end of regulation 121.555

Item 121 provides for the insertion of a new subregulation 121.555(2) at the end of regulation 121.555. This change would clarify that the Part 121 MOS may prescribe requirements for flight crew member initial training related to training facilities or devices.

Item 122 Subregulation 121.560(1) (note)

Item 122 provides for the repeal of the note following subregulation 121.560(1). This note is no longer required consequential on Items 8 and 9 of Schedule 2.

Item 123 Paragraph 121.610(1)(c)

Item 123 provides for the amendment of paragraph 121.610(1)(c) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to annual emergency and safety equipment training for flight crew members.

Item 124 after subregulation 121.610(1)

Item 124 provides for the insertion of a new subregulation 121.610(1A) after subregulation 121.610(1). This change clarifies that the Part 121 MOS may prescribe requirements for flight crew member annual emergency and safety equipment training related to training facilities or devices.

Item 125 Paragraph 121.620(1)(c)

Item 125 provides for the amendment of paragraph 121.620(1)(c) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to 3 yearly training for flight crew members.

Item 126 after subregulation 121.620(1)

Item 126 provides for the insertion of a new subregulation 121.620(1A) after subregulation 121.620(1). This change clarifies that the Part 121 MOS may prescribe requirements for flight crew member 3 yearly training related to training facilities or devices.

Item 127 Paragraph 121.620(2)(a)

Item 127 provides for the repeal and substitution of paragraph 121.620(2)(a). This change is consequential on Item 125 of this Schedule.

Item 128 Paragraph 121.710(b)

Item 128 provides for the amendment of paragraph 121.710(b) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to initial training for cabin crew members.

Item 129 Paragraph 121.715(2)(a)

Item 129 provides for the amendment of paragraph 121.715(2)(a) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to conversion training for cabin crew members.

Item 130 Subregulation 121.725(1)

Item 130 provides for the amendment of subregulation 121.725(1) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to annual training for cabin crew members.

Item 131 Subregulation 121.725(2)

Item 131 provides for the amendment of subregulation 121.725(2) to replace “in the matters” with “in relation to the requirements”. This change is consequential on Item 130 of this Schedule.

Item 132 Subregulation 121.735(1)

Item 132 provides for the amendment of subregulation 121.735(1) to replace “include training on the matters prescribed” with “meet the requirements prescribed”. This change ensures that there is adequate power for the Part 121 MOS to prescribe all relevant requirements, not just a list of matters, related to three yearly training for cabin crew members.

Item 133 Subregulation 121.735(2)

Item 133 provides for the amendment of subregulation 121.735(2) to replace “in the matters” with “in relation to the requirements”. This change is consequential on Item 132 of this Schedule.

Item 134 Regulation 121.755

Item 134 provides for the repeal of regulation 121.755 and substitution of an updated regulation. Subregulation (1) provides that the Part 121 MOS may prescribe requirements related to emergency evacuation procedures, including the demonstration of such procedures.

Subregulation (2) provides that the operator of an aeroplane contravenes this subregulation if the operator is subject to a requirement in subregulation (1) and the requirement is not met.

Subregulation (3) provides that a person commits an offence of strict liability if the person contravenes subregulation (2). The penalty is set at 50 penalty units in accordance with other Part 121 provisions. Subregulation (4) provides that subregulation (3) does not apply to an operator and a requirement if the operator holds an approval under regulation 121.010 in relation to the requirement. This change broadens the matters able to be prescribed in the Part 121 MOS and provides for an operator to obtain an approval that provides alleviations from those matters.

Civil Aviation Safety Amendment (Part 133) Regulations 2018

Item 135 Subregulation 133.015(1)

Item 135 provides for the amendment of subregulation 133.015(1) to include a reference to the Part 133 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 136 Subregulation 133.030(1)

Item 136 provides for the amendment of subregulation 133.030(1). The subregulation provides that both the operator and the pilot in command contravene the subregulation if, during the flight, the rotorcraft is operated in a way that does not meet a requirement or limitation that is set out in the aircraft flight manual instructions for the rotorcraft, and that relates to the operation of the rotorcraft. This change is associated with Item 62 of this Schedule.

Item 137 Paragraphs 133.085(4)(e) and (f)

Item 137 provides for the omission of the words “an inoperative instrument, indicator, item of equipment or system” within paragraphs 133.085(4)(e) and (f) and the substitution of “inoperative equipment”. The change simplifies the wording of the heading and is consequential on Item 147 of this Schedule.

Item 138 At the end of Division 133.D.4

Item 138 provides for the insertion of a new regulation 133.167 at the end of Division 133.D.4 regulating minimum heights for medical transport operations. This Item is associated with Item 139 of this Schedule which repeals regulation 133.300 due to its location in an inappropriate Part 133 Divisional location. Additionally, this new regulation omits the previous reference within regulation 133.300 to external load operations under Part 133 involving the winching of a person other than for medical transport operations. This change is a refinement of the broad policy under the new CASR Parts 91, 133 and 138 that external load operations outside of

Part 133 medical transport operations should be regulated under Part 138 to ensure consistent safety controls. The new provision provides for the Part 133 MOS to prescribe circumstances in which specified Part 91 provisions relating to minimum height do not apply to medical transport operations, and for the Part 133 MOS to prescribe requirements in relation to such operations.

Item 139 Regulation 133.300

Item 139 provides for the repeal of regulation 133.300 consequential on Item 138 of this Schedule.

Item 140 Regulation 133.305

Item 140 provides for the repeal and substitution of regulation 133.305 expressing the Part 133 MOS provisions related to rotorcraft take-off performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 133 MOS to prescribe requirements related to take-off performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 133 MOS. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the rotorcraft for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 133. The amendment ensures CASA can draft clearer and simpler MOS provisions.

Item 141 Regulation 133.310

Item 141 provides for the repeal and substitution of regulation 133.310 expressing the Part 133 MOS provisions related to rotorcraft landing performance in an alternative manner. Subregulation (1) provides a simplified and broad head of power for the Part 133 MOS to prescribe requirements related to landing performance. Subregulation (2) set outs a short, non-exclusive list of requirements able to be prescribed by the Part 133 MOS. This subregulation mentions “safety factor percentages”, which is an industry-recognised concept for safety margins built into performance calculations. The prescribed requirements may include, or may include calculations that result in, the identification of maximum weights for rotorcraft for landing. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the rotorcraft for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 133. The amendment ensures CASA can draft clearer and simpler MOS provisions.

Item 142 Subregulation 133.315(2)

Item 142 provides for the repeal of subregulation 133.315(2) and substitution of a new subregulation that disapplies subregulation 133.315(1) in relation to a stage of a flight if the flight is a medical transport operation and other listed conditions apply. The other listed provisions are intended to enable Part 133 operators to develop flexible risk management procedures for operations to medical transport operating sites, and to permit operations at such flights if the operator complies with its procedures. The new provision clarifies the application of the performance class rules for rotorcraft when operating at medical transport operating sites and the authority for operators to conduct such operations under their own procedures.

Item 143 Paragraph 133.325(1)(a)

Item 143 provides for the repeal and substitution of paragraph 133.325(2)(a). This change rectifies the omission of certain stages of flight in a rotorcraft flight conducted under a performance class and ensures that the safety requirements are correctly prescribed.

Item 144 Paragraph 133.335(3)(a)

Item 144 provides for the insertion of a reference to the “take-off and initial climb” stage of a flight within paragraph 133.335(3)(a). This change rectifies the omission of this stage of a rotorcraft flight conducted under a performance class, thereby correctly prescribing the requirements related to flights in a performance class during Part 133 operations.

Item 145 Subregulation 133.335(4)

Item 145 provides for the repeal and substitution of subregulation 133.335(4). This change rectifies the omission of the “take-off and initial climb” stage of a rotorcraft flight conducted under a performance class from the subregulation and also simplify the wording of the one of the requirements within the subregulation. This change ensures that appropriate alleviations from the performance class requirements are in place for medical transport operations in certain circumstances.

Item 146 Subpart 133.K (heading)

Item 146 provides for the renaming of Subpart 133.K consequential on Item 147 of this Schedule.

Item 147 Regulations 133.360 and 133.365

Item 147 provides for the repeal of regulations 133.360 and 133.365 and their replacement by a new regulation 133.360. Subregulation (1) provides that the Part 133 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is a contravention if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that a contravention is an offence of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 133.

Item 148 After regulation 133.375

Item 148 provides for the insertion of a new regulation 133.377 to require a Part 133 operator to comply with requirements about who may conduct training or checks of the operator’s flight crew members. These safety controls were originally intended to be prescribed within the Part 133 MOS using regulation 133.370(4) however further analysis identified that the subregulation did not provide sufficient head of power to properly encompass the safety controls. Additionally, similar to other Items in this Schedule intended to increase commonality of requirements across different CASR Parts, the regulation has been similarly constructed to provisions in Parts 135 and 138. Subregulation (1) provides that an operator of a rotorcraft for a flight contravenes the subregulation if a flight crew member of the operator’s personnel undertakes training or a check that is required under Part 133 and the training or check is conducted other than in accordance with subregulation (2). Subregulation (2) provides that the training or check must be conducted by either an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 133 MOS; or a Part 142 operator with whom the operator has a contract for the Part 142 operator to conduct the training or check for the operator. Subregulation (3) provides that a person commits an offence of strict liability if they contravene subregulation (1). The penalty is set at 50 penalty units, in accordance with other offences within Part 133.

Item 149 Paragraph 133.385(1)(d)

Item 149 provides for the repeal and substitution of paragraph 133.385(1)(d) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft’s State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the

error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 150 Paragraph 133.390(1)(a)

Item 150 provides for the repeal and substitution of paragraph 133.390(1)(a) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Civil Aviation Safety Amendment (Part 135) Regulations 2018

Item 151 Subregulation 135.020(1)

Item 151 provides for the amendment of subregulation 135.020(1) to include a reference to the Part 135 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 152 Paragraphs 135.095(3)(e) and (f)

Item 152 provides for the omission of the words “an inoperative instrument, indicator, item of equipment or system” within paragraphs 135.095(3)(e) and (f) and the substitution of “inoperative equipment”. The change simplifies the wording of the heading and is consequential on Item 156 of this Schedule.

Item 153 Regulation 135.345

Item 153 provides for the repeal and substitution of regulation 135.345 expressing the Part 135 MOS provisions related to aeroplane take-off performance in an alternative manner.

Subregulation (1) provides a simplified and broad head of power for the Part 135 MOS to prescribe requirements related to take-off performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 135 MOS. Subregulations (3), (4) and (5) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aeroplane for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 135. The amendment ensures CASA can draft clearer and simpler MOS provisions.

Item 154 Regulation 135.350

Item 154 provides for the repeal and substitution of regulation 135.350 expressing the Part 135 MOS provisions related to aeroplane landing performance in an alternative manner.

Subregulation (1) provides a simplified and broad head of power for the Part 135 MOS to prescribe requirements related to landing performance. Subregulation (2) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 135 MOS. This subregulation mentions “safety factor percentages”, which is an industry-recognised concept for safety margins built into performance calculations. The prescribed requirements may include, or may include calculations that result in, the identification of maximum weights for aeroplanes for landing.

Subregulations (3), (4) and (5) in combination would provide that it is an offence of strict liability for the pilot in command or the operator of the aeroplane for a flight to contravene a requirement to which they are subject under subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 135. The amendment ensures CASA can draft clearer and simpler MOS provisions.

Item 155 Subpart 135.K (heading)

Item 155 provides for the renaming of Subpart 135.K consequential on Item 156 of this Schedule.

Item 156 Regulations 135.370 and 135.375

Item 156 provides for the repeal of regulations 135.370 and 135.375 and their replacement by a new regulation 135.370. Subregulation (1) provides that the Part 135 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (2) provides that it is a contravention if a person subject to a requirement mentioned in subregulation (1) does not comply with the requirement. Subregulation (3) provides that a contravention is an offence of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 135.

Item 157 After regulation 135.385

Item 157 provides for the insertion of a new regulation 135.387 to require a Part 135 operator to comply with requirements about who may conduct training or checks of the operator's flight crew members. These safety controls were originally intended to be prescribed within the Part 135 MOS using regulation 135.380(4) however further analysis identified that the subregulation did not provide sufficient head of power to properly encompass the safety controls. Additionally, similar to other Items in this Schedule intended to increase commonality of requirements across different CASR Parts, this regulation has been similarly constructed to provisions in Parts 133 and 138. Subregulation (1) provides that an operator of an aeroplane for a flight contravenes the subregulation if a flight crew member of the operator's personnel undertakes training or a check that is required under Part 135 and the training or check is conducted other than in accordance with subregulation (2). Subregulation (2) provides that the training or check must be conducted by either an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 135 MOS or a Part 142 operator with whom the operator has a contract for the Part 142 operator to conduct the training or check for the operator. Subregulation (3) provides that a person commits an offence of strict liability if they contravene subregulation (1). The penalty is set at 50 penalty units, in accordance with other offences within Part 135.

Item 158 Paragraph 135.395(1)(d)

Item 158 provides for the repeal and substitution of paragraph 135.395(1)(d) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 159 Paragraph 135.400(1)(a)

Item 159 provides for the repeal and substitution of paragraph 135.400(1)(a) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an Australian air transport operation is specifically permitted by regulation 119.260 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. The provision is intended to cover authorisations under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Civil Aviation Safety Amendment (Part 138) Regulations 2018

Item 160 At the end of subregulation 138.005(3)

Item 160 provides for the insertion of the words "authorising that operation" at the end of subregulation 138.005(3). This change amends the application of the provisions of the Part that are currently limited to the conduct of an operation by a person holding an aerial work certificate. The intention is to ensure that provisions of the Part apply by reference to the specific authorisations on aerial work certificates, and do not apply to a person conducting an aerial work operation if the person holds an aerial work certificate that does not include an authorisation for the particular operation.

Item 161 Subregulation 138.005(4)

Item 161 provides for the amendment of subregulation 138.005(4). This change is consequential on Item 160 of this Schedule.

Item 162 After regulation 138.010

Item 162 provides for the insertion of a new regulation 138.012 defining *significant change* for an aerial work operator. This change is part of other measures in this Schedule to create enhanced similarities between the administrative requirements applicable to different kinds of certificated operators (Australian air transport operators under Part 119, aerial work operators under Part 138 and flight training providers under Parts 141 and 142). Analysis of operator certificates has identified that hundreds of operators conduct operations across multiple CASR Parts and the enhancement of similarities in the administrative scheme, where this does not create inappropriate lack of flexibility for industry sectors other than air transport, will result in enhanced efficiencies for these operators. This specific change inserts a definition that prescribes several kinds of changes that are significant for the purpose of other amendments in this Schedule that establish a scheme for the management of changes by aerial work operators. Significant changes made by an aerial work operator must be approved by CASA prior to their implementation by operators. The definition is similar to the definition of the term for Australian air transport operators in Part 119, Part 141 operators and Part 142 operators but contains modifications that reflect the particular nature of the aerial work sector. Maximising consistency between the Part 138 and Part 119 definitions will reduce the compliance burden and cost for persons who operate under both Part 138 and one or more of the air transport Parts that are subject to the Part 119 scheme.

Item 163 Regulation 138.015

Item 163 provides for the repeal of regulation 138.015 that defines *aerial work specialist* and the substitution of a new regulation 138.015 that defines *task specialist*, in like terms. The change corrects an inconsistent use of the terms, with all references to the former term being replaced by the latter term.

Item 164 Subregulation 138.025(1)

Item 164 provides for the amendment of subregulation 138.025(1) to include a reference to the Part 138 MOS. The amendment clarifies that a person may apply to CASA for an approval contemplated by the MOS.

Item 165 Paragraph 138.050(1)(h)

Item 165 provides for the repeal of paragraph 138.050(1)(h), which presently makes it a condition on an aerial work certificate that the operator must be the registered operator of aircraft used under the certificate or hold a CASA approval in relation to the aircraft. This provision is considered unnecessarily restrictive. Its repeal will provide operators with greater flexibility and reduce the administrative burden on operators for aircraft cross-hire arrangements.

Item 166 Regulations 138.060 and 138.065

Item 166 provides for the repeal of regulations 138.060 and 138.065 and the insertion of five new regulations 138.060, 138.062, 138.064, 138.066 and 138.068. This change is part of other measures in this Schedule to create enhanced similarities between the administrative requirements applicable to different kinds of certificated operators (Australian air transport operators under Part 119, aerial work operators under Part 138 and flight training providers under Parts 141 and 142). Analysis of operator certificates has identified that hundreds of operators conduct operations across multiple CASR Parts and the enhancement of similarities in the administrative scheme, where this does not create inappropriate lack of flexibility for industry sectors other than air transport, will result in enhanced efficiencies for these operators. These specific changes collectively establish in Part 138 a comprehensive system of managing change by holders of aerial work certificates. The provisions variously: impose specific requirements on operators in relation to changes of name and address (138.060); create a mechanism for operators to apply to CASA for approval of “significant changes” (138.062); require CASA to approve “significant changes” (138.064) when specified requirements are met; require operators to make changes in accordance with the process in the operator’s operations manual (138.066); and empower CASA to give directions relating to an operator’s operations manual or its key personnel (138.068). Unlike the provisions being repealed, the new provisions are similar to the corresponding regulations in Parts 119, 141 and 142 that apply respectively to Australian air transport operations, Part 141 flight training and for Part 142 activities. All offences within the five new regulations are of strict liability in accordance with other provisions of Part 138 and all penalties are set at 50 penalty units, also in accordance with other Part 138 offences.

Item 167 Subregulation 138.150(1)

Item 167 provides for the repeal and substitution of subregulation 138.150(1). This subregulation previously applied regulation 138.150 to an aerial work operator that conducts aerial work operations of a kind prescribed by the Part 138 MOS for the subregulation. This MOS prescription was determined to be unnecessary as the fatigue related safety controls should apply to all aerial work operators. Therefore, subregulation (1) now provides that regulation 138.150 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This change corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the fatigue related safety controls.

Item 168 Subregulation 138.155(1)

Item 168 provides for the repeal and substitution of subregulation 138.155(1). This change is part of other measures in this Schedule to create enhanced similarities between the administrative requirements applicable to different kinds of certificated operators (Australian air transport operators under Part 119, aerial work operators under Part 138 and flight training providers under Parts 141 and 142). Analysis of operator certificates identified that hundreds of operators conduct operations across multiple CASR Parts and the enhancement of similarities in the administrative

scheme, where this does not create inappropriate lack of flexibility for industry sectors other than air transport, will result in enhanced efficiencies for these operators. This specific change replaces the prescription of all operations manual requirements in the Part 138 MOS with a combination of prescriptive and outcome-based elements required to be present in the operations manual of an aerial work operator.

Item 169 After regulation 138.155

Item 169 provides for the addition of a new regulation 138.157 requiring that an aerial work operator must comply with its operations manual. Subregulation (1) provides that an aerial work operator contravenes the subregulation if the operator does not meet a requirement of the operator's operations manual. Subregulation (2) provides that a person commits an offence of strict liability if the person contravenes subregulation (1). The penalty is set at 50 penalty units in accordance with other provisions of Part 138. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 170 Regulation 138.190

Item 170 provides for the repeal of regulation 138.190. This change is consequential on Items 203 and 209 of this Schedule as it is a duplicative requirement.

Item 171 Paragraph 138.205(1)(c)

Item 171 provides for the addition of utility category aircraft to the kinds of aircraft permitted to be used for aerial work operations in paragraph 138.205(1)(c). The omission of utility category aircraft was unnecessarily restrictive noting the kinds of aircraft used by this industry sector.

Item 172 Regulation 138.275

Item 172 provides for the repeal and substitution of regulation 138.275. The previous provision regulated minimum height rules for aerial work operations by disapplying specified Part 91 provisions if "circumstances" prescribed in the Part 138 MOS applied. The new provision reproduces the current regulation but adds power for the Part 138 MOS to prescribe "requirements" that must be complied with in order for the height rules in Part 91 to be disappplied. The amendment is intended to ensure CASA can draft clear and simple MOS provisions and have adequate flexibility to regulate aerial work operations below standard minimum heights, noting the broad range of operations covered by the Part that are often conducted closer to the ground than other kinds of operations.

Item 173 Regulation 138.285

Item 173 provides for the omission and substitution of a regulatory reference within regulation 138.285. This change is consequential on Item 174 of this Schedule and is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 174 Regulation 138.295

Item 174 provides for the repeal of regulation 138.295. This regulation had empowered the Part 138 MOS to prescribe fuel requirements for aerial work operations and was determined to be unnecessary as the relevant requirements can be prescribed in the Part 91 MOS under regulation 91.455. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 175 At the end of Division 138.D.6

Item 175 provides for the insertion of a new regulation 138.302 at the end of Division 138.D.6. The new regulation, titled "Fuelling safety procedures", requires aerial work operators to include procedures in their operations manual that manage safety risks associated with fuelling activities.

The insertion of this regulation provides for the disapplication of regulation 91.510 when regulation 138.302 applies as specified in Item 55 of this Schedule. Regulation 91.510 regulates fuelling of aircraft when persons other than crew are onboard and had not been disapplied for aerial work operations which inappropriately restricted necessary operational flexibility for aerial work operators.

Item 176 Division 138.D.7 (heading)

Item 176 provides for the omission of the phrase “aerial work” from the heading of Division 138.D.7. This change is intended to more clearly signpost that the Division provides for the general prescription of requirements related to the carriage of passengers and cargo during aerial work operations. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 177 Regulations 138.305, 138.310 and 138.315

Item 177 repeals regulations 138.305, 138.310 and 138.315 relating to the carriage of aerial work passengers and substitutes a new single regulation 138.305 addressing this topic. Subregulation (1) provides that regulation 138.305 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This subregulation corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to the carriage of aerial work passengers. Subregulation (2) provides that a person contravenes the subregulation if: the person is the operator or pilot in command of an aircraft for a flight involving an aerial work operation; and a passenger is carried on the flight; and the passenger is not aerial work passenger, as defined for Part 138; or the aircraft operator does not hold an aerial work certificate authorising the operation; or the operator’s operations manual does not contain procedures for the safe carriage of aerial work passengers; or requirements relating to the carriage of aerial work passengers in the Part 138 MOS are not met. Subregulation (3) provides that a person commits an offence of strict liability if the person contravenes subregulation (2). The penalty is set at 50 penalty units in accordance with other provisions of Part 138. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 178 Regulation 138.320

Item 178 provides for the repeal and substitution of regulation 138.320 that prescribes detailed requirements for the carriage of “restricted persons”. The offence provisions within the previous regulation were determined to be unnecessary consequential on Item 169 of this Schedule.

Item 179 Regulations 138.325, 138.330, 138.335, 138.355 and 138.360

Item 179 provides for the repeal of regulations 138.325, 138.330, 138.335, 138.355 and 138.360. These regulations required the operations manual of an aerial work operator to contain certain procedures. These regulations were determined to be unnecessary consequential on Item 164 of this Schedule that puts in place broad outcome-based requirements related to the content of operations manuals. Certain specific operations manual content requirements remain as specific regulations within Part 138 if they are related to matters not yet widely used by Australian operators or matters where additional regulatory application provisions are necessary. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 180 Before subregulation 138.370(1)

Item 180 provides for the insertion of a new subregulation 138.370(1A). This addition provides that regulation 138.400 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This change corrects an omission in Part 138 whereby an

operator not holding an aerial work certificate did not have to comply with the safety controls related to the conduct of risk assessments.

Item 181 Division 138.D.10 (heading)

Item 181 provides for the repeal and substitution of the heading of Division 138.D.10. This change omits the word “additional” from the heading and is intended to more clearly signpost that the Division provides for the prescription of all requirements specifically related to external load operations, rather than just additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 182 Regulations 138.390 and 138.395

Item 182 provides for the repeal of regulations 138.390 and 138.395. These regulations were determined to be unnecessary as the relevant safety controls can be prescribed in the Part 138 MOS using regulation 138.410. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 183 Before subregulation 138.400(1)

Item 183 provides for the insertion of a new subregulation 138.400(1A). This addition provides that regulation 138.400 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This change corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to conducting external load operations at night that are not part of an emergency service operation.

Item 184 Regulation 138.405

Item 184 provides for the repeal of regulation 138.405. This regulation was determined to be unnecessary as the relevant safety controls can be prescribed in the Part 138 MOS using regulation 138.410. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 185 Regulation 138.410 (heading)

Item 185 provides for the repeal and substitution of the heading of regulation 138.410. This change omits the word “additional” from the heading and is intended to more clearly signpost that the regulation provides for the prescription of most of the requirements specifically related to external load operations, rather than just the additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 186 Subregulation 138.410(2)

Item 186 provides for the omission of the word “additional” from subregulation 138.410(2). This change is consequential on Item 185 of this Schedule and is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 187 Division 138.D.11 (heading)

Item 187 provides for the repeal and substitution of the heading of Division 138.D.11. This change omits the word “additional” from the heading and is intended to more clearly signpost that the Division provides for the prescription of all requirements specifically related to dispensing operations, rather than just additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 188 Regulations 138.415 and 138.420

Item 188 provides for the repeal of regulations 138.415 and 138.420. Regulation 138.415 was determined to be unnecessary as the relevant safety controls can be prescribed in the Part 138 MOS using regulation 138.425. It is necessary to repeal regulation 138.420 as further policy review identified that the discharge of firearms from an aircraft during an aerial work operation should not be a dispensing operation and should instead be a task specialist operation. Therefore, the regulation encompassing the relevant safety controls belongs in Division 138.D.12. This change is associated with Item 194 of this Schedule that places a new regulation related to the possession and discharge of firearms during aerial work operations within Division 138.D.12. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 189 Regulation 138.425 (heading)

Item 189 provides for the repeal and substitution of the heading of regulation 138.425. This change omits the word “additional” from the heading and is intended to more clearly signpost that the regulation provides for the prescription of most of the requirements specifically related to dispensing operations, rather than just the additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 190 Subregulation 138.425(2)

Item 190 provides for the omission of the word “additional” from subregulation 138.425(2). This change is consequential on Item 189 of this Schedule and is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 191 Division 138.D.12 (heading)

Item 191 provides for the repeal and substitution of the heading of Division 138.D.12. This change omits the word “additional” from the heading and is intended to more clearly signpost that the Division provides for the prescription of requirements specifically related to task specialist operations, rather than just additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 192 Regulation 138.430 (heading)

Item 192 provides for the repeal and substitution of the heading of regulation 138.430. This change omits the word “additional” from the heading and is intended to more clearly signpost that the regulation provides for the prescription of requirements specifically related to task specialist operations, rather than just the additional requirements. This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 193 Subregulation 138.430(2)

Item 193 provides for the omission of the word “additional” from subregulation 138.430(2). This change is consequential on Item 192 of this Schedule and is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 194 At the end of Division 138.D.12

Item 194 provides for the insertion of a new regulation 138.432 that regulates the possession and discharge of firearms on an aerial work operation at the end of Division 138.D.12. This change is associated with Item 188 of this Schedule that repealed existing regulation 138.420 as aerial work operations involving the discharge of firearms are not considered to be dispensing operations and therefore the regulation is more appropriately placed in Division 138.D.12. Subregulation (1) provides that regulation 138.432 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This subregulation corrects an omission in Part 138

whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to the discharge of firearms during aerial work operations. Without the change, discharge of firearms by uncertificated operators is prohibited under Part 91. Subregulation (2) provides that the operator and pilot in command contravene the subregulation if certain circumstances apply and a requirement prescribed by the Part 138 MOS is not met. Subregulation (3) provides that it is an offence of strict liability for a person to contravene subregulation (2). The penalty is set at 50 penalty units in accordance with other provisions of Part 138. Subregulation (4) provides that this regulation applies despite regulations 91.160, 91.165 and 91.190. This change to the existing provision is necessary to enable uncertificated operators to discharge firearms from the aircraft, consistent with current practices. Without the change, discharge of firearms by uncertificated operators is prohibited by Part 91 of CASR.

Item 195 Regulation 138.435

Item 195 provides for the repeal and substitution of regulation 138.435, expressing the Part 138 MOS provisions related to aircraft take-off performance in an alternative manner. Subregulation (1) provides that regulation 138.435 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This subregulation corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to take-off performance requirements for aerial work operations. Subregulation (2) provides a simplified and broad head of power for the Part 138 MOS to prescribe requirements related to take-off performance. Subregulation (3) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 138 MOS. Subregulations (4), (5) and (6) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aircraft for a flight to contravene a requirement to which they are subject under subregulation (2). The penalty is set at 50 penalty units in accordance with other provisions of Part 138. The amendment ensures that CASA can draft clearer and simpler MOS provisions.

Item 196 Regulation 138.440

Item 196 provides for the repeal and substitution of regulation 138.440, expressing the Part 138 MOS provisions related to aircraft landing performance in an alternative manner. Subregulation (1) provides that regulation 138.440 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This subregulation corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to landing performance requirements for aerial work operations. Subregulation (2) provides a simplified and broad head of power for the Part 138 MOS to prescribe requirements related to landing performance. Subregulation (3) sets out a short, non-exclusive list of requirements able to be prescribed by the Part 138 MOS. This subregulation mentions “safety factor percentages”, which is an industry-recognised concept for safety margins built into performance calculations. The prescribed requirements may include, or may include calculations that result in, the identification of maximum weights for aircraft for landing. Subregulations (4), (5) and (6) in combination provide that it is an offence of strict liability for the pilot in command or the operator of the aircraft for a flight to contravene a requirement to which they are subject under subregulation (2). The penalty is set at 50 penalty units in accordance with other provisions of Part 138. The amendment ensures that CASA can draft clearer and simpler MOS provisions.

Item 197 Regulation 138.445

Item 197 provides for the repeal of regulation 138.445 that requires rotorcraft aerial work operations flown in a performance class to meet the requirements for that performance class in the Part 138 MOS. This change is consequential on Items 195 and 196 of this Schedule as the Part 138 MOS can encompass any necessary requirements using the new regulations 138.435 and

138.440 inserted via those Items. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 198 Regulation 138.455

Item 198 provides for the repeal of regulation 138.455 that requires an aerial work operator's operations manual to have procedures for the loading of aircraft in accordance with regulation 138.450 and procedures required by the Part 138 MOS in relation to the carriage or availability of weight and balance documents for flights. This change is consequential on Item 168 of this Schedule and is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 199 Subpart 138.K (heading)

Item 199 provides for the renaming of Subpart 138.K consequential on Item 200 of this Schedule.

Item 200 Regulations 138.365 and 138.470

Item 200 provides for the repeal of regulations 138.465 and 138.470 and their substitution by a new regulation 138.465. Subregulation (1) provides that regulation 138.465 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This subregulation corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to requirements for fitment or carriage of equipment for certain aerial work operations. Subregulation (2) provides that the Part 138 MOS may prescribe requirements relating to the fitment of equipment, non-fitment of equipment, carrying of equipment and equipment requirements generally for aircraft. Subregulation (3) provides that it is a contravention if a person subject to a requirement mentioned in subregulation (2) did not comply with the requirement. Subregulation (4) provides that a contravention is an offence of strict liability. The penalty is set at 50 penalty units in accordance with other provisions of Part 138.

Item 201 Division 138.N.1 (heading)

Item 201 provides for the repeal of the heading of Division 138.N.1, which is not considered necessary. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 202 Before subregulation 138.475(1)

Item 202 provides for the insertion of a new subregulation 138.475(1A). This addition provides that regulation 138.475 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This change corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to flight crew composition, number, qualifications and training for aerial work operations.

Item 203 Paragraph 138.475(2)(c)

Item 203 provides for the repeal and substitution of paragraph 138.475(2)(c) to add a requirement for flight crew operating foreign registered aircraft to be authorised to pilot the aircraft during the flight by the aircraft's State of registry. The use of foreign registered aircraft during an aerial work operation is specifically permitted by regulation 138.200 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. This includes authorisation under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 204 Paragraphs 138.475(2)(d) and (e)

Item 204 provides for the repeal of paragraphs 138.475(2)(d) and (e) that prescribe specific requirements related to life jacket and life raft training and that can be encompassed by the Part 138 MOS using subregulation 138.475(3). This change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 205 Subregulation 138.480(1)

Item 205 provides for the omission of “(1)” from the front of the subregulation and is consequential on Item 206 of this Schedule. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 206 Subregulations 138.480(2) and (3)

Item 206 provides for the repeal of subregulations 138.480(2) and (3) as these subregulations are unnecessary due to Item 168 of this Schedule. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 207 Regulation 138.495

Item 207 provides for the repeal of regulation 138.495. This change is consequential on Item 211 of this Schedule. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 208 Before subregulation 138.500(1)

Item 208 provides for the insertion of a new subregulation 138.500(1A). This addition provides that regulation 138.500 applies to an operator whether or not the operator holds an aerial work certificate authorising the operation. This change corrects an omission in Part 138 whereby an operator not holding an aerial work certificate did not have to comply with the safety controls related to the pilot in command meeting certain minimum requirements.

Item 209 Paragraph 138.500(1)(a)

Item 209 provides for the repeal and substitution of paragraph 138.500(1)(a) to add a requirement for flight crew operating foreign registered aircraft be authorised to pilot the aircraft during the flight by the aircraft’s State of registry. The use of foreign registered aircraft during an aerial work operation is specifically permitted by regulation 138.200 and this change corrects the error in the original paragraph which required flight crew to be authorised solely under the Australian flight crew licensing scheme contained within Part 61 when that licensing scheme is only applicable to aircraft registered under Part 47 and does not encompass foreign registered aircraft. This includes authorisation under the laws of the State of registry that permit pilots of a third State to fly the aircraft pursuant to an agreement under Article 83bis of the Chicago Convention.

Item 210 Paragraph 138.500(1)(b)

Item 210 provides for the insertion of the text “(if any)” after the word “manual” in paragraph 138.500(1)(b) in relation to qualifications specified in an operations manual, to acknowledge that the application of the regulation to uncertificated operators by Item 208 of this Schedule will mean that some operators will not have an operations manual. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 211 Subregulation 138.500(2A)

Item 211 provides for the insertion of a new subregulation 138.500(2A) that encompasses the effect of previous regulation 138.495 which is repealed by Item 207 of this Schedule. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 212 Subregulation 138.500(3)

Item 212 provides that a person commits an offence of strict liability if they contravene subregulation 138.500(2A) which is inserted by Item 211 of this Schedule. The applicable penalty is 50 penalty units.

Item 213 Regulation 138.505

Item 213 provides for the addition of a new regulation 138.505 after regulation 138.500. This change effectively relocates and renumbers existing regulation 138.515 so that it applies generally to persons conducting aerial work operations and not only operators with a training and checking system. The new regulation omits the previous note following subregulation 138.515(2), which is unnecessary due to Items 8 and 9 of Schedule 2. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 214 Division 138.N.2

Item 214 provides for the repeal of Division 138.N.2. The Division prescribes training requirements for operators that are required to have a training and checking system. The Part 138 MOS may prescribe the requirements encompassed within this Division using subregulation 138.475(3) and repeal of this Division removes considerable complexity from the Part 138 regulatory structure. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 215 Subpart 138.P (heading)

Item 215 provides for the repeal and substitution of the heading of Subpart 138.P to replace the reference to “aerial work specialist” with “task specialist”. The change ensures consistent use of terminology in Part 138.

Item 216 Subregulations 138.540(2) and (3)

Item 216 provides for the repeal and substitution of subregulations 138.540(2) and (3). The change simplifies the training and checking scheme for air crew members by moving the prescription of detailed technical requirements to the Part 138 MOS using subregulation 138.540(3) instead of containing some technical requirements within subregulation 138.540(2) and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 217 Regulation 138.545

Item 217 provides for the repeal of regulation 138.545. The change simplifies the training and checking scheme for air crew members by moving requirements related to new or inexperienced air crew members to the Part 138 MOS using subregulation 138.540(3) instead of containing some requirements related to air crew member training and checking within the Part 138 regulations and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 218 Subregulation 138.550(1)

Item 218 provides for the omission of the words “for a flight involving an aerial work operation” from subregulation 138.550(1). The change ensures the proper application of the offence provision for this subregulation as some of the training or checks prescribed by the Part 138 MOS in relation to this subregulation are not strictly applicable to a specific flight. The change is part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 219 Regulations 138.555, 138.560, 138.565 and 138.570

Item 219 provides for the repeal of regulations 138.555, 138.560, 138.565 and 138.570. The change simplifies the training and checking scheme for air crew members by moving the prescription of training and checking requirements for air crew members to the Part 138 MOS using subregulation 138.540(3) instead of containing some requirements within the subject regulations and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 220 Division 138.P.2 (heading)

Item 220 provides for the repeal and substitution of the heading of Division 138.P.2 to replace the reference to “aerial work specialists” with “task specialists”. The change ensures consistent use of terminology in Part 138.

Item 221 Regulation 138.575

Item 221 provides for the omission of “aerial work specialist” wherever occurring within regulation 138.575 and its substitution by “task specialist”. The change ensures consistent use of terminology in Part 138.

Item 222 Subregulations 138.580(2) and (3)

Item 222 provides for the repeal and substitution of subregulations 138.580(2) and (3). The change simplifies the training and checking scheme for task specialists by moving the prescription of detailed technical requirements to the Part 138 MOS using subregulation 138.580(3) instead of containing some technical requirements within subregulation 138.580(2) and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 223 Regulation 138.585

Item 223 provides for the repeal of regulation 138.585. The change simplifies the training and checking scheme for task specialists by moving the prescription of training and checking requirements for task specialists to the Part 138 MOS using subregulation 138.580(3) instead of containing some requirements within the Part 138 regulations and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Item 224 Paragraph 138.590(1)(a)

Item 224 provides for the omission of “aerial work specialist” wherever occurring within paragraph 138.590(1)(a) and its substitution by “task specialist”. The change ensures consistent use of terminology in Part 138.

Item 225 Regulations 138.595 and 138.600

Item 225 provides for the repeal of regulations 138.595 and 138.600. The change simplifies the training and checking scheme for task specialists by moving the prescription of training and checking requirements for task specialists to the Part 138 MOS using subregulation 138.580(3) instead of containing some requirements within the Part 138 regulations and others within the Part 138 MOS. The changes are part of a suite of changes to simplify the Part 138 scheme in response to industry feedback.

Civil Aviation Safety Regulations 1998

Item 226 Subregulation 21.197(2)

Item 226 provide for the omission of the word “certificated” in subregulation 21.197(2). This change has the effect of modifying subregulation 21.197(2) to operate in relation to the maximum take-off weight of an aircraft that is not type certificated. The change is intended to ensure that the regulation operates correctly for Part 103 aircraft, many of which are not type certificated.

Schedule 2 – Other amendments

Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019

Item 1 Paragraph 131.150(2)(f)

Item 1 provides for the omission of the word “recurrent” wherever occurring in paragraph 131.150(2)(f). This change is consequential on Items 8 and 9 of this Schedule.

Civil Aviation Safety Amendment (Part 119) Regulations 2018

Item 2 Paragraph 119.150(2)(d)

Item 2 provides for the omission of the word “recurrent” in paragraph 119.150(2)(d), consequential on Items 8 and 9 of this Schedule.

Civil Aviation Safety Amendment (Part 138) Regulations 2018

Item 3 Subregulations 138.105(2) and (3)

Item 3 provides for the omission of the word “recurrent”, wherever occurring, in subregulations 138.105(2) and (3). This change is consequential on Items 8 and 9 of this Schedule.

Civil Aviation Safety Regulations 1998

Item 4 Part 142 (heading)

Item 4 provides for the omission of the word “recurrent” from the heading of Part 142. This change is consequential to the insertion of the definition of ***recurrent training*** in the CASR Dictionary by the *Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019* and the inferred delineation within Part 121 between the undefined ‘non-recurrent training’ and the defined ***recurrent training***. Those changes potentially incorrectly limited the training and checking activities that a certificated air operator (an operator that holds various kinds of certificates including but not limited to an AOC or aerial work certificate) could contract to a Part 142 operator. The omission of the word “recurrent” and other associated changes within Part 142 clarify that a Part 142 operator can be contracted to deliver any training or checking for which a certificated air operator is responsible under the CASR, including initial operator training (for example company induction training) and recurrent training, while maintaining a distinction between operator training and Part 61 qualification training that is the responsibility of a pilot.

Item 5 Paragraph 142.005(a)

Item 5 provides for the omission of the word “recurrent” in paragraph 142.005(a). This change is consequential on Item 4 of this Schedule.

Item 6 Paragraph 142.015(1)(b)

Item 6 provides for the omission of the word “recurrent” in paragraph 142.015(1)(b). This change is consequential on Item 4 of this Schedule.

Item 7 Regulation 142.020 (heading)

Item 7 provide for the omission of the word “recurrent” in the heading of regulation 142.020. This change is consequential on Item 4 of this Schedule.

Item 8 Regulation 142.020 (definition of *contracted recurrent training*)

Item 8 provides for the repeal of the definition of ***contracted recurrent training*** in regulation 142.020. This change is consequential on Item 4 of this Schedule.

Item 9 Regulation 142.020

Item 9 provides for the insertion of the new definition of *contracted training* in regulation 142.020. This change effectively replaces the definition of *contracted recurrent training* and is consequential on Items 8 and 9 of this Schedule.

Item 10 Regulation 142.020 (definition of *contracting operator*)

Item 10 provides for the repeal and substitution of the definition of *contracting operator* in regulation 142.020. This change clarifies the definition and is consequential on Items 8 and 9 of this Schedule.

Item 11 Regulation 142.035 (definition of *contracted recurrent training*)

Item 11 provides for the repeal the definition of *contracted recurrent training* in regulation 142.035. The definition is affected by the amendments in Items 8 and 9 of this Schedule and is not required in regulation 142.035.

Item 12 Regulation 142.035 (definition of *instructor*)

Item 12 provides for the omission of the word “recurrent” from the definition of *instructor* in regulation 142.035. This change is consequential on Items 8 and 9 of this Schedule.

Item 13 Regulation 142.035 (definition of *recurrent training*)

Item 13 provides for the repeal of the definition of *recurrent training* within regulation 142.035. This change is due to the insertion of this defined term in the CASR Dictionary by the *Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019* and is also consequential on Items 8 and 9 of this Schedule.

Item 14 Regulation 142.035 (definition of *training base*)

Item 14 provides for the repeal and substitution of the definition of *training base* in regulation 142.035. This change simplifies the definition and is consequential on Items 8 and 9 of this Schedule.

Item 15 Paragraph 142.160(1)(f)

Item 15 provides for the omission of the word “recurrent” wherever occurring in paragraph 142.160(1)(f). This change is consequential on Items 8 and 9 of this Schedule.

Item 16 Subregulation 142.190(2)

Item 16 provides for the omission of the word “recurrent” wherever occurring in subregulation 142.190(2). This change is consequential on Items 8 and 9 of this Schedule.

Item 17 Paragraphs 142.255(a) and (c)

Item 17 provides for the omission of the word “recurrent” in paragraphs 142.255(a) and (c). This change is consequential on Items 8 and 9 of this Schedule.

Item 18 Subregulation 142.340(1)

Item 18 provides for the omission of the word “recurrent” wherever occurring in subregulation 142.340(1). This change is consequential on Items 8 and 9 of this Schedule.

Item 19 Subpart 202.GB (heading)

Item 19 provides for the omission of the word “recurrent” in the heading of Subpart 202.GB. This change is consequential on Item 4 of this Schedule.

Schedule 3—Amendments to delay commencement from 25 March 2021 to 2 December 2021

Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019

Item 1 Subsection 2(1) (table item 2)

Item 1 amends the commencement provision of the regulation instrument that inserts Parts 103, 105 and 131 into the CASR to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the Aeronautical Information Publication (AIP) so that the AIP is consistent with the new rules from the commencement.

Item 2 Item 8 of Schedule 2 (regulations 202.501 and 202.502)

Item 2 amends specified transitional and savings provisions in Part 202 of CASR to reflect the proposed deferral of the commencement date of Parts 91, 103, 105, 119, 121, 133, 135 and 138 of CASR from 25 March 2021 to 2 December 2021.

Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019

Item 3 Subsection 2(1) (table item 1)

Item 3 amends the commencement provision of the regulation instrument that amends the CASR Dictionary to give effect to Parts 91, 103, 105, 199, 121, 133, 135 and 138 of CASR, to defer the commencement date from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 91) Regulations 2018

Item 4 Subsection 2(1) (table item 1)

Item 4 amends the commencement provision of the CASR Part 91 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 119) Regulations 2018

Item 5 Subsection 2(1) (table item 1)

Item 5 amends the commencement provision of the CASR Part 119 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 121) Regulations 2018

Item 6 Subsection 2(1) (table item 1)

Item 6 amends the commencement provision of the CASR Part 121 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 133) Regulations 2018

Item 7 Subsection 2(1) (table item 1)

Item 7 amends the commencement provision of the CASR Part 133 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 135) Regulations 2018

Item 8 Subsection 2(1) (table item 1)

Item 8 amends the commencement provision of the CASR Part 135 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.

Civil Aviation Safety Amendment (Part 138) Regulations 2018

Item 9 Subsection 2(1) (table item 1)

Item 9 amends the commencement provision of the CASR Part 138 regulation instrument to defer the commencement date of that instrument from 25 March 2021 to 2 December 2021. The new date coincides with a scheduled republication date for the AIP so that the AIP is consistent with the new rules from the commencement.