



## **Airspace Amendment (Danger Areas) Regulations 2023**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 26 October 2023

David Hurley  
Governor-General

By His Excellency's Command

Catherine King  
Minister for Infrastructure, Transport, Regional Development and Local Government

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## 1 Name

This instrument is the *Airspace Amendment (Danger Areas) Regulations 2023*.

## 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	30 November 2023.	30 November 2023

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Airspace Act 2007*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Airspace Regulations 2007*

#### **1 Regulation 3**

Insert:

*military operating area* means a type of danger area mentioned in paragraph 6(5C)(a).

#### **2 Before subregulation 6(1)**

Insert:

*Prohibited areas and restricted areas*

#### **3 Subregulation 6(1)**

Omit “, a restricted area or a danger area”, substitute “or a restricted area”.

#### **4 At the end of subregulation 6(1)**

Add:

Note: Airspace of a prohibited or restricted area is a type of special use airspace.

#### **5 Paragraph 6(3)(c)**

Before “security”, insert “national”.

#### **6 Subregulation 6(4)**

Repeal the subregulation.

#### **7 Subregulation 6(5)**

After “declaration”, insert “made under subregulation (1)”.

#### **8 After subregulation 6(5)**

Insert:

*Danger areas*

(5A) CASA may, in writing, make a declaration designating a volume of Australian-administered airspace to be a danger area.

Note: A danger area is a type of special use airspace.

(5B) CASA must not declare a volume of airspace to be a danger area unless, in the opinion of CASA, activities dangerous to the flight of aircraft may exist in the area at specified times.

(5C) A declaration made under subregulation (5A) may designate a volume of airspace as:

- (a) a type of danger area known as a military operating area, as specified in the declaration; or
- (b) another type of danger area, as specified in the declaration; or
- (c) a danger area of an unspecified type.

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- (5D) If paragraph (5C)(a) or (b) applies, the declaration may (subject to subregulation (5E)):
- (a) impose conditions on the flight of aircraft in the area; and
  - (b) specify conditions and classes of aircraft for the purposes of paragraph (a) of this subregulation.
- (5E) Conditions on the flight of aircraft in so much of the area as is outside Australian territory may only be imposed in relation to Australian aircraft.
- (5F) A declaration made under subregulation (5A) must specify a volume of airspace by reference to its horizontal and vertical points.

*Declarations made under this regulation*

## **9 Regulation 6 (note)**

Omit “(see paragraph (a) of item 1A of Part 2 of Schedule 1 to the *Legislative Instruments Regulations 2004*)”, substitute “(see paragraph (a) of item 1 of the table in section 7 of the *Legislation (Exemptions and Other Matters) Regulation 2015*)”.

## **10 Regulation 7 (heading)**

After “**publication**”, insert “**etc.**”.

## **11 After subregulation 7(3)**

Insert:

- (3A) A declaration of a danger area that, in accordance with paragraph 6(5C)(a) or (b), specifies the area to be a military operating area or another type of area, must set out the conditions in accordance with which the flight of aircraft in the area is permitted.

Note: Consistent with Australia’s international obligations, conditions on the flight of aircraft in so much of the area as is outside Australian territory may only be imposed in relation to Australian aircraft.

## **12 Subregulation 9(2)**

Repeal the subregulation (including the note), substitute:

- (2) CASA may make a determination that the air traffic services to be provided for the following airspace are services that are at variance with air traffic services that would otherwise be provided for the airspace in accordance with Annex 11 to the Chicago Convention:
- (a) airspace above an area of Australian territory declared under subregulation 6(1) to be a restricted area;
  - (b) a volume of airspace declared under subregulation 6(5A) to be a danger area.

Note: A determination made under this subregulation is not a legislative instrument (see paragraph (b) of item 1 of the table in section 7 of the *Legislation (Exemptions and Other Matters) Regulation 2015*).

## **13 Subregulation 13(1)**

Omit all the words after “under”, substitute “regulation 6, 7, 10, 11 or 12”.

**14 After subregulation 13(1A)**

Insert:

- (1B) CASA may, in writing, delegate to a member of the staff of CASA holding or performing the duties of a position equivalent to, or higher than, an Executive Level 1 position, any functions or powers under regulation 5 or 8, subregulation 9(2) or regulation 14.

**15 In the appropriate position in Part 4**

Insert:

**18 Transitional—saving of determinations**

A determination made under subregulation 9(2) of the *Airspace Regulations 2007* that was in force immediately before the commencement of the *Airspace Amendment (Danger Areas) Regulations 2023* has effect, after that commencement, as if it had been made under subregulation 9(2) of the *Airspace Regulations 2007* as amended by that instrument.