



CIVIL AVIATION
SAFETY AUTHORITY
AUSTRALIA

Notice of Proposed Rule Making

Air Operator Certification – Foreign Operators

Proposed Part 129 of the
Civil Aviation Safety Regulations (CASRs)

Who this NPRM applies to

It is expected that this proposal will affect the following groups in the aviation industry:

Current and potential foreign operators intending to operate foreign registered aircraft into, within and from Australia.

Issued as part of the process of public consultation by
CASA's Standards Administration and Support Branch

Document NPRM 0218OS — September 2002

Foreword

Context of this NPRM

The proposals contained in this Notice of Proposed Rule Making (NPRM) are part of CASA's regulatory reform program, which aims to develop standards that are appropriate, clear, concise and aligned with international practice.

Background

This NPRM introduces, and invites consultation on, a proposal for rules to place requirements on applicants for the issue of a Foreign Aircraft Air Operators Certificate (FAAOC), applicable to foreign air transport operations regardless of size or complexity.

The product of consultation between CASA and the aviation industry (Section 1), this NPRM seeks comments from parties interested in the proposal and from the aviation community at large.

The Synopsis of Change Proposals (Section 3) discusses specific elements of the proposed change that CASA intends to effect through new Civil Aviation Safety Regulation (CASR) Part 129.

Proposed Changes In A Page

The **time-conscious reader** will obtain a quick appreciation of this NPRM through the **Proposed Changes in a Page** (Section 2).

A **text synopsis** of the proposed changes is also provided as background (Section 3).

In the event you require **complete information** about the changes, refer to the draft regulations to give effect to CASR Part 129 (Annex A).

How you can help us

CASA is responsible under the *Civil Aviation Act 1988*, amongst other functions, for developing and promulgating appropriate, clear and concise aviation safety standards. In the performance of this function and the exercise of its powers, CASA must, where appropriate, consult with government, commercial, industrial, consumer and other relevant bodies and organisations.

Civil Aviation Act 1988 Subsection 9(1)(c) and Subsection 16

CASA is committed to working cooperatively with the aviation industry to maintain and enhance aviation safety. This is especially important as far as the development of standards and regulatory material is concerned.

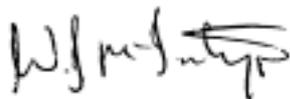
CASA Standards Development and Rule Making Manual, 2.6.1

To ensure clear and relevant safety standards, we need the benefit of your knowledge as an aviator, aviation consumer and/or provider of related products and services **by completing the Response Form and returning it to CASA by 2 December 2002.**

Implementation Schedule

Proposed CASR Part 129 has its basis in Section 27 of the *Civil Aviation Act 1988* ('the Act') which mandates the requirements for an Air Operator's Certificate ('AOC'), and Section 28 of the Act setting out requirements for an FAAOC application. The changes proposed are considered minor and reflect existing legislation and current differences to the International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs). CASR Part 129 is proposed to take effect during 2005. This timing will allow for the passage of CASRs with related provisions.

I would like to thank you in advance for expressing interest in this proposal and emphasise that no rule changes will be undertaken until all NPRM responses and submissions received by the closing date **2 December 2002** have been considered.



Bill McIntyre
Executive Manager
Aviation Safety Standards

19 September 2002

Contents

Abbreviations	5
Definitions	6
1. The Consultation Process	7
What CASA does with your comments	7
2. Proposed Changes in a Page	8
3. Synopsis of Change Proposals	9
3.1 Background	9
3.2 Extent of proposed change	9
3.3 Persons affected	10
3.4 Key change proposals	10
3.5 Impact of changes	11
3.6 Benefits and impacts	12
NPRM Response Form	13

*** COMPLETE AND RETURN TO CASA ***

Please note that an ‘**On-line Response Form**’ is now available for submission of your comments to this NPRM. Access to the ‘**On-line Response Form**’ may be gained by clicking on the following website address <http://www.casa.gov.au/avreg/newrules/casr/129.htm> or, if you are working from a paper copy of the NPRM, by typing in the above website address.

Annex A – Proposed Legislative Changes – Civil Aviation Safety Regulation (CASR) Part 129	A1
Annex B – Consultative Drafts of Subparts A-C of Proposed Civil Aviation Safety Regulation (CASR) Part 91	B1
Annex C – Consultative Draft of Subpart D of Proposed Civil Aviation Safety Regulation (CASR) Part 91	C1

INTENTIONALLY LEFT BLANK



Abbreviations

ACAS	Airborne Collision Avoidance Systems
AOC	Air Operator's Certificate
CAA	Civil Aviation Authority
CAO	Civil Aviation Order
CAR	Civil Aviation Regulation
CASA	Civil Aviation Safety Authority
CASR	Civil Aviation Safety Regulation (currently known as CAR 1998)
CEO	Chief Executive Officer
EGPWS	Enhanced Ground Proximity Warning System
FAA	Federal Aviation Administration of the USA
FAAOC	Foreign Aircraft Air Operator's Certificate
FAR	Federal Aviation Regulations of the USA
GPWS	Ground Proximity Warning System
ICAO	International Civil Aviation Organization
MTOW	Maximum Take-off Weight
NPRM	Notice of Proposed Rule Making
OLD	Office of Legislative Drafting
RPT	Regular Public Transport
SARPs	Standards and Recommended Practices (ICAO)
SCC	Standards Consultative Committee
SOR	Summary of Responses

Definitions

Note: Definitions are as previously advised in the Dictionary incorporated in proposed CASR Part 91 – *General Operating and Flight Rules* and are included for reference purposes only.

Air transport means the transport of passengers or cargo for remuneration or hire, excluding the following:

- (a) the carriage of passengers, in accordance with subregulation 91.1045 (7), by an aircraft certified in the limited category;
- (b) the carriage of passengers for the purpose of engaging in parachuting operations;
- (c) the carriage of passengers in accordance with CASR Part 115 [passenger operations for hire or reward in gliders and balloons];
- (d) the carriage of passengers as permitted under CASR Part 136 [aerial work operations];
- (e) a cargo-only flight conducted wholly within Australia in an aircraft having an Maximum Take-Off Weight (MTOW) not exceeding 5,700 kg.

Australian operator means an operator whose principal place of business, or whose place of permanent residence, is in Australia.

Foreign Operator – means an operator who is not an Australian operator

Operator means a person, organisation or enterprise responsible for making available an aircraft for an operation to the aircraft's pilot in command.

The following definition has been extracted from the *Civil Aviation Act 1988*.

Regulated Domestic Flight - means a flight:

- (a) that is undertaken wholly within Australia for the purpose prescribed by the regulations for the purposes of subsection 27(9); and
- (b) that is not undertaken as part of a flight into or out of Australian territory.

The Act – means the *Civil Aviation Act 1988*.

1. The Consultation Process

1.1 CASA is committed to working cooperatively with the aviation industry to maintain and enhance aviation safety. The CASA Standards Consultative Committee (SCC) is a joint industry/CASA forum, set up to involve the aviation industry formally during the development phase of regulatory material. The SCC brings together CASA staff and representatives from a diverse range of aviation industry organisations to work jointly during the development phase of regulatory material. The SCC examines proposed regulatory changes to determine if they are worth pursuing and assists CASA in the allocation of priorities to those projects. Aviation industry experts then work together with CASA staff in subordinate groups (SCC Sub-Committees and project teams) on the detailed development of regulatory material (both new regulations and amendments).

1.2 The NPRM process is CASA's method of notifying and seeking comment from the aviation industry and the public with respect to proposed changes to rules. All submissions are evaluated and assessed with a view to incorporating any necessary changes to the draft regulations prior to their formal promulgation as law. The regulatory proposals contained in this NPRM are as a result of CASA/Industry consultation.

1.3 During the period of formal consultation, CASA's technical specialists responsible for the development and implementation of the regulations will consult extensively with industry.

1.4 The Standards Consultative Committee's Operational Standards Sub-Committee was responsible for reviewing the development of CASR Part 129.

1.5 The Office of Legislative Drafting (OLD) of the Attorney-General's Department has reviewed and drafted the legislation contained in Annexes A, B and C to this NPRM.

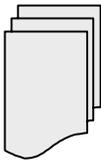
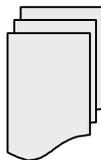
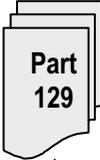
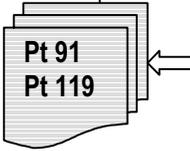
1.6 CASA now seeks comments on this proposal from the aviation industry and the general public before proceeding further.

What CASA does with your comments

1.7 At the end of the response period for public comments, all submissions will be analysed, evaluated and considered. Subsequent to the closing date for comments, a Summary of Responses (SOR) will be prepared, and made publicly available in conjunction with the making of the Final Rule.

1.8 CASA is required to register each comment and submission received, but will not individually acknowledge a response unless specifically requested. However, the names of contributors will be published in the subsequent SOR, except where CASA is specifically requested not to do so.

2. Proposed Changes in a Page

INTERNATIONAL STANDARDS	EXISTING AUSTRALIAN STANDARDS	CASR PART 129 – NEW STANDARD
 <p>ICAO Annex 6, Part 1 Operation of Aircraft</p> <p>Sets out the basis for Contracting States to meet AOC requirements and to demonstrate compliance (subject to notified differences) in manuals and procedures</p>	 <p>Civil Aviation Act 1988: Section 27 – AOC Requirements & Section 28 – FAOC Application Requirements</p>	 <p>Objective To align requirements for authorisation of foreign operators in Australian territory to the ICAO standard and accepted best international practice.</p> <p>Key Points</p> <ul style="list-style-type: none"> ▪ common crew language mandated requiring flight crew to be proficient in English ▪ use of operations specifications acting as a schedule to AOC authorisation ▪ clear assignment of general operating and flight rules that apply to foreign operators ▪ refinement of certification requirements for maintenance, servicing and airworthiness ▪ prescription of mandatory operating requirements re. ACAS, GPWS, EGPWS <p>Read in conjunction with CASR Part 91 Subparts A-D: Sets out General Operating and Flight Rules requirements for aircraft in Australian controlled airspace CASR Part 119: May apply to foreign operators for certain flight operations in Australian controlled airspace</p> 

3. Synopsis of Change Proposals

3.1 Background

3.1.1 A Foreign Aircraft Air Operator's Certificate (FAAOC) is a permission, issued by CASA, that authorises a foreign operator to conduct an aviation activity into, within or from Australian territory, subject to any condition placed on that FAAOC. Before an AOC can be issued in accordance with section 28 of the Act, an applicant is required to satisfy CASA, in accordance with the requirements of section 27AE (1) of the Act, by providing the following documents:

- (a) a copy of any air operator's certificate, or any document having substantially the same effect, issued by the authority responsible for regulating civil aviation in the country in which the aircraft is registered or operating;
- (b) a copy of any limitations or conditions imposed by the authority on operations conducted or carried out by the applicant, unless those limitations or conditions are specified in a certificate or document specified in paragraph (a);
- (c) copies of any operational authorisations or requirements, however described, issued by the authority in relation to the operations of the applicant, unless those authorisations or requirements are specified in a certificate or document specified in paragraph (a) or (b);
- (d) written particulars of all licences held by flight crew members intended to be engaged in carrying out operations under the foreign aircraft AOC.

3.1.2 The purpose of the process for FAAOC certification is to provide a means by which prospective foreign air operators are authorised by CASA to conduct business in a manner that complies with the applicable Civil Aviation Act, Civil Aviation Regulations and Civil Aviation Orders. The process for accessing the application is designed to ensure that applicants comply, or are capable of complying, with the regulatory requirements.

3.1.3 FAAOC holders are required to be compliant with and to maintain those authorised operations to an acceptable level of safety. In this way, AOC holders benefit the community as a whole by providing a safe, quality service that can be monitored through an ongoing surveillance program.

3.2 Extent of proposed change

3.2.1 Proposed CASR Part 129 directly affects current and potential foreign operators intending to operate foreign registered aircraft into, within and from Australia. CASR Part 129 will prescribe the rules for an applicant wishing to obtain and to retain a FAAOC that applies to foreign air transport operations regardless of size or complexity. CASR Part 129 will preserve current requirements with only minor changes deemed necessary on the basis of industry consultation.

3.2.2 Through the release of proposed CASR Part 91, CASA and the aviation community are working towards significant simplification and rationalisation of Australian domestic AOC requirements. CASR Part 129 proposes the retention of existing FAAOC requirements, as CASA and the industry are generally satisfied with existing requirements for FAAOC holders.

3.2.3 Adopting the regulations proposed in this NPRM will ensure Australia's requirements are consistent with those of ICAO. CASR Part 129 will contribute to this outcome by requiring foreign operators to comply with:

- Subparts A to C of proposed CASR Part 91, in relation to applicability, general and operating requirements common to both AOC and FAAOC authorisations.
(Note: As proposed CASR Part 91 includes a provision that determines whether or not CASR Part 129 applies, consultative drafts of Part 91 Subparts A to C are incorporated for reference purposes in Annex B to this NPRM);
- Subpart D to proposed CASR Part 91 will outline specific regulations applicable to foreign registered aircraft. Draft Subpart D to CASR Part 91 is incorporated into Annex C for comment by respondents to this NPRM.

3.3 Persons affected

3.3.1 The proposed CASR Part 129 will apply to:

- a foreign operator who is a foreign aircraft AOC holder, or is an applicant for a foreign aircraft AOC, and who is engaged, or intends to engage, in air transport operations into, within or from Australian territory using foreign registered aeroplanes or rotorcraft other than on regulated domestic flights; and
- the operation of a foreign registered aircraft into, within or from Australian territory under a foreign aircraft AOC.

3.3.2 Proposed CASR Part 129 will not apply to Private and Aerial Work Operations.

3.4 Key change proposals

3.4.1 In order to align Australian legislation with international best practice, CASR Part 129 proposes minor amendments in the following areas:

- A standard that mandates a common crew member language, and that requires certain flight crew members to be proficient in conducting and comprehending radiotelephony communications in the English language;
- The use of operations specifications that act as a schedule to the AOC authorisation;
- A clear assignment of the general operating and flight rules that apply to foreign operators;
- The refinement of maintenance, servicing and airworthiness requirements in relation to foreign aircraft;
- The prescription of mandatory operating requirements such as radio and navigation equipment, fitment and usage of ACAS (if required for the aircraft type), fitment and usage of GPWS and EGPWS from 1 July 2005 (if required for the aircraft type).

3.5 Impact of changes

3.5.1 CASR Part 129 will be supplemented by a separate CASR, Part 119, applying to operators who are AOC holders and who are engaged, or intend to engage, in air transport operations:

- (a) in or outside Australian territory, using Australian registered aeroplanes or rotorcraft; or
- (b) in Australian territory, using foreign registered aeroplanes or rotorcraft on regulated domestic flights; or
- (c) if the operator is an Australian operator - in Australian territory, using foreign registered aeroplanes or rotorcraft on flights other than regulated domestic flights; or
- (d) using an aircraft (being an aircraft to which paragraph (a), (b) or (c) does not apply) in respect of which the operator is required to comply with Part 119 under the 83 bis agreement as defined in Section 4A of the Act.

3.5.2 The following table distinguishes which CASR Part applies to the type of air transport operation.

Air Transport Operation	Is a Part 119 AOC required?	Is a Part 129 AOC required?
A foreign operator using a foreign registered aircraft within Australia other than regulated domestic flights	✗	✓
A foreign operator using a foreign registered aircraft outside Australian territory	✗	✗
A foreign operator using a foreign registered aircraft in Australia on regulated domestic flights	✓	✗
A foreign operator using an Australian registered aircraft within Australia on behalf of an Australian operator	✓	✗
A foreign operator using an Australian registered aircraft outside Australia	✓	✗
An Australian operator using an Australian aircraft into, within or from Australia	✓	✗
An Australian operator using a foreign registered aircraft outside Australia	✗	✗
An Australian operator using a foreign registered aircraft into, within or from Australia	✓	✗

3.6 Benefits and impacts

3.6.1 CASA anticipates minimal impact on the aviation industry following implementation of the proposal in this NPRM because very little change to existing requirements is being made.

3.6.2 By facilitating minor change to existing arrangements, proposed CASR Part 129 will encourage stability by preserving existing requirements of FAAOC holders with only minimal regulatory change required to harmonise with best international practices.

3.6.3 The benefit to the aviation community is greater regulatory certainty.

3.6.4 The travelling public is expected to benefit through continued confidence in the safety performance of FAAOC holders.

3.6.5 No significant impacts or identifiable controversial elements are anticipated in relation to proposed CASR Part 129.

NPRM Response Form

Air Operator Certification – Foreign Operators – Proposed CASR Part 129

Please complete this response form and return to
CASA Standards Administration & Support Branch
Reply Paid 2005, GPO Canberra ACT 2601, Australia
Free Fax to 1800 653 897
by 2 December 2002

Please note that an 'On-line Response Form' is now available for submission of your comments to this NRPM. Access to the 'On-line Response Form' may be gained by clicking on the following website address <http://www.casa.gov.au/avreg/newrules/casr/129.htm> or, if you are working from a paper copy of the NPRM, by typing in the above website address.

Please provide relevant information and indicate your acceptance or otherwise of the proposal presented in this Notice of Proposed Rule Making by ticking [✓] the appropriate box below.

Your name (optional): _____ ARN* (if known): _____
 Organisation: _____ ARN* (if known): _____
 Address: _____

* Aviation Reference Number, usually your CASA-issued licence or certificate number

Your telephone number (optional): (to enable the Project Manager to contact you as necessary)

Do you consent to have your name published as a respondent to this NPRM? YES [] NO []

Signed: Date:

Your affiliation:

- Private Industry Association Airline Union Government Other

Your involvement in the aviation industry:

- Consumer Pilot or Flight Crew Ground or Support Staff Product or Service Provider Owner Operator

Your satisfaction with the adequacy of the existing Legislation:

- Very satisfied Satisfied No opinion Dissatisfied Very Dissatisfied

Please comment:

Your response to change proposals (complete in conjunction with NPRM Section 3)

CASA invites you to advise your acceptance, or otherwise for the key change proposals contained in this NPRM by indicating your preference and commenting below:

A standard that mandates a common crew member language, and that requires flight crew members to be proficient in conducting and comprehending radiotelephony communications in the English language

- proposal is acceptable without change
- acceptable but would be improved if changes were made
- not acceptable but would be acceptable if changes were made
- not acceptable under any circumstances

Comments: _____

The use of operations specifications that act as a schedule to the AOC authorisation

- proposal is acceptable without change
- acceptable but would be improved if changes were made
- not acceptable but would be acceptable if changes were made
- not acceptable under any circumstances

Comments: _____



A clear assignment of the general operating and flight rules that apply to foreign operators

- proposal is acceptable without change
- acceptable but would be improved if changes were made
- not acceptable but would be acceptable if changes were made
- not acceptable under any circumstances

Comments: _____

The refinement of maintenance, servicing and airworthiness requirements in relation to foreign aircraft

- proposal is acceptable without change
- acceptable but would be improved if changes were made
- not acceptable but would be acceptable if changes were made
- not acceptable under any circumstances

Comments: _____

The prescription of mandatory operating requirements such as radio and navigation equipment, fitment and usage of ACAS (if required for the aircraft type), fitment and usage of GPWS and EGPWS from 1 July 2005 (if required for the aircraft type)

- proposal is acceptable without change
- acceptable but would be improved if changes were made
- not acceptable but would be acceptable if changes were made
- not acceptable under any circumstances

Comments: _____

**Please forward your response to CASA by
2 December 2002
to the following address:**

Post (no stamp required)

Regulatory Documentation Coordinator
Standards Administration & Support Branch
Civil Aviation Safety Authority
Reply Paid 2005
Canberra ACT 2601, Australia

E-mail PART129nprm@casa.gov.au

Fax 1800 653 897 (free call)
international +612 6217 1691

Online Please note that an 'On-line Response Form' is now available for submission of your comments to this NRPM. Access to the 'On-line Response Form' may be gained by clicking on the following website address
<http://www.casa.gov.au/avreg/newrules/casr/129.htm> or, if you are working from a paper copy of the NPRM, by typing in the above website address.

Additional information is available from:

Mick Haxell, CASR Part 129 Project Manager

Post (no stamp required)

Operational & Flight Crew Licensing Standards Branch
Civil Aviation Safety Authority
Reply Paid 2005
Canberra ACT 2601, Australia

E-mail haxell_m@casa.gov.au

Telephone 02 6217 1745 or 131 757 (for the cost of a local call)
international +612 6217 1745

Fax 02 6217 1757
international +612 6217 1757



Annex A

Proposed Legislative Changes – Civil Aviation Safety Regulation (CASR) Part 129

Language, Style and Presentation of Draft Regulations

The draft regulations included in this NPRM were drafted by the Office of Legislative Drafting (OLD) of the Commonwealth Attorney-General's Department. That Office is committed to using plain language and clear presentation in regulations.

The OLD welcomes comment on the language, style or presentation of regulations that its officers draft. If you would like to comment on the language or presentation of the draft, please include those comments with your other comments on the draft. CASA will pass them on to the drafter.



INTENTIONALLY LEFT BLANK



Civil Aviation Amendment Regulations 2002 (No.)¹

Statutory Rules 2002 No. ²

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Civil Aviation Act 1988*.

Dated 2002

Governor-General

By His Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]
Minister for Transport and Regional Services

DRAFT ONLY

1 Name of Regulations

These Regulations are the *Civil Aviation Amendment Regulations 2002 (No.)*.

2 Commencement

These Regulations commence on ^Date^.

3 Amendment of *Civil Aviation Regulations 1998*

Schedule 1 amends the *Civil Aviation Regulations 1998*.

Schedule 1 Amendments

(regulation 3)

[1] Part 129

substitute

**Part 129 Air operator certification —
foreign operators**

Subpart 129.A Applicability

129.000 Make-up of this Part

This Part is made up as follows:

Subpart 129.A	Applicability
129.000	Make-up of this Part
129.005	Applicability
129.010	Definitions for Part 129
129.015	Provisions of Part to be conditions of foreign aircraft AOC
129.020	Air transport operations by foreign operator a prescribed purpose

129.025	Exemptions in the case of equivalent standards
Subpart 129.B	General
129.030	Form of foreign aircraft AOC
129.035	Operations specifications
129.040	Common language
129.045	Operator to ensure compliance with Australian law
129.050	Requirement for compliance with general operating and flight rules
Subpart 129.C	Certification requirements
129.055	Authorisation
129.060	Flight crew member licences
129.065	Operator to provide English-language copy of documents
Subpart 129.D	Operating requirements
129.070	Radio and navigation equipment
129.075	ACAS requirements
129.080	ACAS must be activated during flight
129.085	Reporting unserviceable ACAS during flight
129.090	Reporting unserviceable ACAS before flight
129.095	Ground proximity warning system requirements
129.100	Operations in airspace with special requirements
Subpart 129.M	Aircraft maintenance
129.105	Requirements of the country of registry and the State of the operator
129.110	Operator's responsibility for maintenance
129.115	Personnel, facilities and resources in Australia
129.120	Maintenance control manual
129.125	Maintenance program
129.130	Maintenance records

129.005 Applicability

- (1) This Part applies to:
 - (a) a foreign operator who is a foreign aircraft AOC holder, or is an applicant for a foreign aircraft AOC, and who is engaged, or intends to engage, in air transport operations into, within or from Australian territory using foreign

DRAFT ONLY

-
- registered aircraft other than on regulated domestic flights;
and
- (b) the operation of a foreign registered aircraft into, within or from Australian territory under a foreign aircraft AOC.
- (2) A reference in this Part to *operations* under a foreign aircraft AOC is a reference to operations to which this Part applies.

Note 1 To obtain and hold a foreign aircraft AOC, an operator must hold a valid air operator certificate, or an equivalent document, issued by the civil aviation authority of another Contracting State, or a State or territory acceptable to CASA, authorising the conduct of the operations — see regulation 129.055.

Note 2 For provisions relating to operators conducting regulated domestic flights in Australian territory using foreign registered aeroplanes or rotorcraft, or foreign operators using Australian registered aircraft, see Part 119.

Note 3 Cargo-only operations by foreign operators in foreign registered aircraft having an MTOW not exceeding 5 700 kg and not conducted wholly within Australia are air transport operations to which this Part applies since they are not excluded operations — see the definition of *air transport* in the Dictionary.

Note 4 A foreign aircraft AOC holder engaged in international air transport operations to or from Australia, in addition to complying with the Act, these Regulations and the conditions of the AOC, must comply with the requirements of the *Air Navigation Act 1920* and other applicable Australian civil aviation laws, and the requirements of Australian customs, health and immigration laws. Information on these requirements is published in the AIP.

Note 5 For requirements relating to foreign state aircraft, see Subpart 91.D.

129.010 Definitions for Part 129

In this Part:

country of registry, of an aircraft, means the country where the aircraft is registered.

foreign aircraft AOC has the meaning given in subsection 27AE (4) of the Act.

foreign aircraft AOC holder means the holder of a foreign aircraft AOC.

State of the operator, for an operator who is a foreign aircraft AOC holder or is an applicant for a foreign aircraft AOC,

means the Contracting State, State or territory of the authority mentioned in subregulation 129.055 (1) that issued the air operator certificate or equivalent document mentioned in that subregulation to the operator.

129.015 Provisions of Part to be conditions of foreign aircraft AOC

A provision of this Part that imposes a requirement on an operator engaged in operations under a foreign aircraft AOC is a condition of the operator's foreign aircraft AOC.

Note 1 Paragraph 28BA (1) (b) of the Act provides that an AOC has effect subject to (among other things) conditions specified in the regulations.

Note 2 Where an operator is an applicant for an AOC, CASA must be satisfied that the applicant has complied with, or is capable of complying with, the provisions of these Regulations, including this Part (see paragraph 28 (1) (a) of the Act).

129.020 Air transport operations by foreign operator a prescribed purpose

For subsection 27 (9) of the Act, air transport operations of a kind mentioned in regulation 129.005 are a prescribed purpose.

129.025 Exemptions in the case of equivalent standards

CASA may exempt the operator or the pilot in command of an aircraft engaged in operations under a foreign aircraft AOC from compliance with a provision of this Part in respect of the aircraft only if:

- (a) CASA is satisfied that, under the operator's air operator certificate or equivalent document mentioned in regulation 129.055, the operator or pilot in command is required to comply with an equivalent provision of no less a standard in respect of the safe operation of the aircraft than the provision of this Part from which an exemption is sought; and
- (b) the aircraft is engaged in a non-scheduled flight.

Note 1 **Non-scheduled flight** is defined in section 3 of the Act as a flight over or into Australian territory otherwise than under the authority of an international airline licence issued under the *Air Navigation Act 1920*.

Note 2 For exemption procedures generally, see Subpart 11.G.

Subpart 129.B General

Note For other general provisions relating to AOCs, see Division 2 of Part III of the Act.

129.030 Form of foreign aircraft AOC

- (1) A foreign aircraft AOC for an operator comprises:
 - (a) a certificate document; and
 - (b) the operations specifications.
- (2) The certificate document must contain at least:
 - (a) the operator's full name; and
 - (b) the date of issue and term of the AOC; and
 - (c) a description of the types of operations authorised, including a statement as to whether the carriage of passengers is permitted.
- (3) The operations specifications must contain particulars of the following, if applicable to the operator:
 - (a) any business name, other than the name stated in the certificate document, under which the operator may operate;
 - (b) the operator's business address;
 - (c) the operator's Australian business address and contact details;
 - (d) the aircraft types that are authorised for use and, if CASA limits the authorisation to specified aircraft, the registration and serial number of each aircraft authorised;
 - (e) airspace operations with special requirements, authorised by the AOC;
 - (f) areas of operation or routes;
 - (g) frequency of flights;
 - (h) any special authorisations or limitations.
- (4) For subsection 28BB (1) of the Act, conditions imposed on an operator by the operations specifications of a foreign aircraft AOC are conditions of the AOC.

129.035 Operations specifications

- (1) A foreign aircraft AOC holder must not conduct any flights or operations under the AOC except:
 - (a) as authorised by the operations specifications of the AOC; and
 - (b) in accordance with the rules of the country of registry of the aircraft that give effect to the Standards and Recommended Practices contained in Annex 6 to the Chicago Convention.
- (2) Despite paragraph (1) (b), if a requirement of these Regulations is more stringent than the comparable requirement of a rule of the country of registry mentioned in that paragraph, the requirement of these Regulations applies.
- (3) Except with the permission in writing of CASA, a foreign aircraft AOC holder must not conduct any flight or operations under the AOC if one or more of the particulars of the operations specifications mentioned in subregulation 129.030 that are relevant to the flight or operations are no longer able to apply to the flight or operations.

Note Contravention of an AOC condition (including a condition of the operations specifications) may result in the suspension or cancellation of an AOC — see section 28BA of the Act.

129.040 Common language

An operator engaged in operations under a foreign aircraft AOC must ensure that, in operations to which this Part applies:

- (a) all crew members are able to communicate with each other in a common language; and
- (b) on any flight of an aircraft of the operator:
 - (i) the pilot in command of the aircraft is; or
 - (ii) if the aircraft's flight manual, or the authority mentioned in subregulation 129.055 (1) for the operator, requires that the aircraft carry 2 or more flight crew members — at least 2 of the flight crew members are;

proficient in conducting and comprehending radiotelephony communications in the English language; and

- (c) all ground support personnel and crew members in the operator's organisation are able to read and understand the language in which those parts of the operator's operations manual that are relevant to their duties and responsibilities are written.

129.045 Operator to ensure compliance with Australian law

An operator engaged in operations under a foreign aircraft AOC must ensure that personnel in the operator's organisation who are involved in those operations are adequately trained and made aware that they must comply with the relevant Australian aviation laws and procedures when operating into, within or from Australian territory.

129.050 Requirement for compliance with general operating and flight rules

- (1) Subject to subregulation (2), a foreign registered aircraft operating into, within or from Australian territory under a foreign aircraft AOC is exempted from operating in accordance with Part 91.
- (2) Subparts 91.A to 91.D apply to the operation of an aircraft mentioned in subregulation (1).
- (3) In the application of Subpart 91.C to an aircraft mentioned in subregulation (1):
 - (a) a person is taken to comply with subregulation 91.235 (1) if the person is authorised, by the State or territory that has issued the certificate or equivalent document mentioned in regulation 129.055, to taxi the aircraft; and
 - (b) a person is taken to comply with paragraph 91.240 (1) (b) if a flight control seat is occupied by a person who is authorised, by the State or territory that has issued the certificate or equivalent document mentioned in regulation 129.055, to taxi the aircraft.

Subpart 129.C Certification requirements

129.055 Authorisation

- (1) An operator engaged in operations under a foreign aircraft AOC must hold a valid air operator certificate, or an equivalent document, that:
 - (a) is issued by the authority responsible for regulating civil aviation in a Contracting State, or a State or territory that is acceptable to CASA; and
 - (b) authorises the holder to conduct those operations into, within or from Australian territory.
- (2) CASA must be satisfied, for an operator mentioned in subregulation (1), that the responsible authority mentioned in paragraph (1) (a) continues to maintain its functions in respect of operations under the foreign aircraft AOC in accordance with the Chicago Convention.
- (3) If a certificate or equivalent document mentioned in subregulation (1) is cancelled or revoked, the operator must tell CASA in writing as soon as possible after the cancellation or revocation.

129.060 Flight crew member licences

An operator engaged in operations under a foreign aircraft AOC must ensure that a person does not act as a flight crew member on a foreign registered aircraft operated under the AOC unless the person holds a current licence or certificate that:

- (a) shows the person's ability to perform the duties connected with operating that aircraft; and
- (b) is issued or validated by or under the laws of a Contracting State or a State or territory that is acceptable to CASA.

129.065 Operator to provide English language copy of documents

- (1) An operator who is an applicant for a foreign aircraft AOC must provide to CASA an English-language copy of each of

the following documents that CASA informs the operator is required, in accordance with the Act or these Regulations, for consideration of the application:

- (a) the air operator's certificate or equivalent document required under regulation 129.055 and, if the operations specifications form part of the certificate or document, the operations specifications;
 - (b) if the operator is not an individual, the operator's current certificate of incorporation or registration as a legal personality, or equivalent document;
 - (c) the operator's policy and procedures manual, or equivalent document, that relates to the flying operations and aircraft types that are proposed to be authorised (or, if there is more than one such manual or document, each of them);
 - (d) the operator's maintenance control manual or equivalent document;
 - (e) a MEL or equivalent document;
 - (f) the operator's cabin crew manual or equivalent document;
 - (g) each RNAV and RVSM approval issued to the applicant by the State of the operator and not included in the operator's operations specifications mentioned in paragraph (a).
- (2) The documents that may be required under subregulation (1) are in addition to any documents that may be required under section 27AB, 27AC or 27AE of the Act.

Subpart 129.D Operating requirements

129.070 Radio and navigation equipment

- (1) The operator and the pilot in command of a foreign registered aircraft operated under a foreign aircraft AOC must ensure that, unless otherwise permitted by the aircraft's MEL in accordance with regulation 91.330, the aircraft carries on a flight:
 - (a) radio equipment, capable of communicating with relevant facilities, as follows:
 - (i) 2 VHF transceivers;

-
- (ii) 2 headphone sets with boom microphones, or 1 headphone set with a boom microphone, a hand-held microphone and a loudspeaker;
 - (iii) if continuous VHF communication coverage cannot be maintained with ATS — 1 HF transceiver; and
- (b) 2 independent navigation systems capable of providing the pilot with the navigation information necessary to enable flight within the tolerances specified in the AIP, or by ATS, for the flight route.

Penalty: 50 penalty units.

Note Regulation 91.330 relates to operations with inoperative or unserviceable instruments or equipment.

- (2) An offence against subregulation (1) is an offence of strict liability.

129.075 ACAS requirements

- (1) This regulation applies to a foreign registered, turbine-engined aeroplane operated under a foreign aircraft AOC that:
- (a) has an MTOW of more than 15 000 kg; or
 - (b) is permitted by its type certificate to have a passenger seating capacity of more than 30 seats.
- (2) The operator and the pilot in command of an aeroplane to which this regulation applies must ensure that the aeroplane does not begin a flight in Australian territory if it is not fitted with an approved ACAS II that is serviceable.

Penalty: 25 penalty units.

- (3) It is a defence to a charge of contravening subregulation (2) that:
- (a) the flight is for the purpose of moving the aeroplane to a place to have an approved but unserviceable ACAS II that is fitted to the aeroplane repaired, removed, replaced or overhauled; or
 - (b) the aeroplane is fitted with an approved ACAS II that is unserviceable and, at the beginning of the flight:

-
- (i) the unserviceability is permitted for the aeroplane under a law in force in the country or registry of the aircraft; and
 - (ii) not more than 10 days have passed since the ACAS II became unserviceable; and
 - (iii) the aeroplane has been in Australian territory for no more than a total of 72 hours during those days.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (3) — see the *Criminal Code*, subsection 13 (3).

- (4) An offence against subregulation (2) is an offence of strict liability.

129.080 ACAS must be activated during flight

- (1) The pilot in command of a foreign registered turbine-engined aeroplane that is operated under a foreign aircraft AOC and is fitted with an approved ACAS II that is serviceable must take all reasonable steps to ensure that the ACAS II is activated at all times while the aeroplane is in flight in Australian territory.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

129.085 Reporting unserviceable ACAS during flight

- (1) This regulation applies to a foreign registered turbine-engined aeroplane that is operated under a foreign aircraft AOC and is fitted with an approved ACAS II.
- (2) If the ACAS II of an aeroplane to which this regulation applies becomes unserviceable while the aeroplane is on a flight in, or into, Australian territory, the aeroplane's pilot in command must:
 - (a) if the aeroplane is in controlled airspace — tell ATS of the unserviceability as soon as practicable; or
 - (b) if the aeroplane is not in controlled airspace — take all reasonable steps to tell ATS of the unserviceability before entering controlled airspace.

Penalty: 5 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

129.090 Reporting unserviceable ACAS before flight

- (1) The pilot in command of an aeroplane to which regulation 129.075 applies must tell ATS, before beginning a flight of a kind mentioned in paragraph 129.075 (3) (a) or (b), that the aeroplane does not have a serviceable ACAS II.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

129.095 Ground proximity warning system requirements

- (1) This regulation applies to a foreign registered, turbine-engined aeroplane operated under a foreign aircraft AOC, that:
- (a) has a maximum take-off weight of more than 15 000 kg;
or
 - (b) is permitted by its type certificate to have a passenger seating capacity of more than 9 passengers.
- (2) The operator and the pilot in command of an aircraft to which this regulation applies must ensure that the aircraft is fitted with:
- (a) an approved GPWS that has a GPWS forward-looking terrain avoidance function; or
 - (b) if the operations are carried out on or before 30 June 2005 — a GPWS that meets the requirements of paragraph 6.15.9 of Part I of Annex 6 to the Chicago Convention.

Penalty: 50 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) In this regulation:

GPWS forward-looking terrain avoidance function means the employment of an aircraft navigation system and a terrain

database to compute a display of terrain along, and in the vicinity of, the flight path of an aircraft in order to provide the flight crew with a warning of any terrain that may endanger the aircraft if its flight path were not altered.

129.100 Operations in airspace with special requirements

- (1) An operator who:
 - (a) is engaged in operations under a foreign aircraft AOC; and
 - (b) conducts operations in airspace with special requirements using a foreign registered aircraft;
must hold, for that aircraft, an approval to conduct operations in airspace with special requirements that:
 - (c) is issued by a competent authority of the country in which the aircraft is registered; and
 - (d) is acceptable to CASA.
- (2) If an approval mentioned in subregulation (1) is cancelled or revoked, the operator must tell CASA in writing as soon as possible after the cancellation or revocation.

Note Examples of airspace with special requirements in Australian territory include RVSM and RNP.

Subpart 129.M Aircraft maintenance

129.105 Requirements of the country of registry and the State of the operator

If:

- (a) a provision of this Subpart provides that a foreign aircraft AOC holder must comply with the requirements of the country of registry of an aircraft in relation to a matter; and
- (b) the country of registry of the aircraft is not the State of the operator;

the foreign aircraft AOC holder must take into account any additional requirements of the State of the operator in relation to the matter.

129.110 Operator's responsibility for maintenance

- (1) An operator engaged in operations under a foreign aircraft AOC must ensure that, in accordance with procedures acceptable to the country of registry:
 - (a) each foreign registered aircraft authorised by the AOC is maintained in an airworthy condition; and
 - (b) the operational and emergency equipment necessary for an intended flight of any such aircraft is serviceable unless a MEL or equivalent document permits the operation of the aircraft with the unserviceability, in accordance with regulation 91.330; and
 - (c) the certificate of airworthiness of each such aircraft remains valid.

Note Regulation 91.330 relates to operations with inoperative or unserviceable instruments or equipment.

- (2) The procedures mentioned in subregulation (1) must meet at least the appropriate requirements of the Standards And Recommended Practices set out in Annexes 6 and 8 to the Chicago Convention.
- (3) The operator must ensure that each foreign registered aircraft authorised by the foreign aircraft AOC is maintained and released to service by a maintenance organisation that:
 - (a) is approved by the aircraft's country of registry; and
 - (b) complies at least with the appropriate requirements of the Standards and Recommended Practices set out in Part I or Part III of Annex 6 to the Chicago Convention.
- (4) The operator must employ 1 or more persons to ensure that all maintenance on foreign registered aircraft authorised by the foreign aircraft AOC is carried out in accordance with the maintenance control manual or an equivalent document.
- (5) The operator must ensure that the maintenance of foreign registered aircraft authorised by the foreign aircraft AOC is performed in accordance with the operator's maintenance program.

129.115 Personnel, facilities and resources in Australia

An operator engaged in operations under a foreign aircraft AOC must ensure that a foreign registered aircraft authorised by the AOC does not operate into, within or from Australia unless competent personnel, appropriate data and adequate facilities and equipment are available in Australia for the proper servicing, maintenance and preventive maintenance of the aircraft.

129.120 Maintenance control manual

- (1) An operator engaged in operations under a foreign aircraft AOC must provide, for the use and guidance of personnel involved with the maintenance and operation of foreign registered aircraft authorised by the AOC, a maintenance control manual, or an equivalent document, acceptable to the country of registry of the aircraft.
- (2) The maintenance control manual or equivalent document must meet at least the appropriate requirements of the Standards and Recommended Practices set out:
 - (a) for an aeroplane — in Part I, Chapter 11 of Annex 6 to the Chicago Convention; or
 - (b) for a rotorcraft — in Part III, Section II, Chapter 9 of Annex 6 to the Chicago Convention.
- (3) The operator must ensure that the maintenance control manual or equivalent document is amended as necessary to keep the information in the manual or document current and valid.

129.125 Maintenance program

- (1) An operator engaged in operations under a foreign aircraft AOC must provide, for the use and guidance of personnel involved with the maintenance and operation of foreign registered aircraft authorised by the AOC, a maintenance program approved by the country of registry of the aircraft.
- (2) The maintenance program must meet at least the appropriate requirements of the Standards and Recommended Practices set out:

-
- (a) for an aeroplane — in Part I, Chapter 11 of Annex 6 to the Chicago Convention; or
 - (b) for a rotorcraft — in Part III, Section II, Chapter 9 of Annex 6 to the Chicago Convention.
- (3) The operator must ensure that the maintenance program is amended as necessary to keep the information in the program current and valid.

129.130 Maintenance records

- (1) An operator engaged in operations under a foreign aircraft AOC must maintain and retain maintenance records relating to foreign registered aircraft authorised by the AOC in accordance with the requirements of the country of registry of the aircraft.
- (2) The records mentioned in subregulation (1) must meet at least the appropriate requirements of the Standards and Recommended Practices set out:
 - (a) for an aeroplane — in Part I, Chapter 8 of Annex 6 to the Chicago Convention; or
 - (b) for a rotorcraft — in Part III, Section II, Chapter 6 of Annex 6 to the Chicago Convention.

[2] Dictionary, Part 1

insert the following definitions in the appropriate alphabetical positions (determined on a letter-by-letter basis)

ACAS II has the meaning given by subregulation 121A.668 (1).

approved ACAS II has the meaning given by subregulation 121A.668 (2).

approved GPWS has the meaning given by subregulation 121A.665 (4).

GPWS means ground proximity warning system.

Notes

1. These Regulations amend Statutory Rules ^{^year^} No. , as amended by ^{^year^} No. .
2. Notified in the *Commonwealth of Australia Gazette* on 2002.



Annex B

Consultative Drafts of Subparts A-C of Proposed Civil Aviation Safety Regulation (CASR) Part 91

Note: Subparts A to C of proposed CASR Part 91 was previously released as an NPRM and is included in this Annex B to assist readers of this NPRM to review these Subparts with the proposed CASR Part 129.

INTENTIONALLY LEFT BLANK

Part 91 General operating and flight rules

Subpart 91.A Applicability, definitions, etc

91.000 Make-up of this Part

This Part is made up as follows:

Subpart 91.A Applicability, definitions, etc

- 91.000 Make-up of this Part
- 91.005 Applicability
- 91.010 Definitions
- 91.015 Reference to an aircraft's engine
- 91.020 Reference to aircraft's pilot in command
- 91.025 Defences available to pilot in command

Subpart 91.B General

- 91.030 Firearms not to be brought into passenger cabin of aircraft etc
- 91.035 Firearms not to be discharged on aircraft
- 91.040 Firearms not to be mounted externally on aircraft
- 91.045 Carriage of animals
- 91.050 Portable electronic devices — PEDs that are transmitters
- 91.055 PEDs other than transmitters
- 91.060 Air displays
- 91.065 Aerial towing
- 91.070 Formation flight
- 91.075 Aerobatic flight

Subpart 91.C Operational

- 91.080 Deviations in an emergency situation
- 91.085 Preservation of flight data and cockpit voice recordings
- 91.090 Flight crew responsibilities when operating in foreign states
- 91.095 Recording of defects and abnormalities
- 91.100 Aircraft flight check systems

91.101	Australian aircraft not to be operated contrary to direction
91.105	Provision of and compliance with operating instructions
91.110	Altimeter setting procedures
91.115	Display of standard visual signals
91.120	Land and hold short operations
91.125	Reporting emergency actions
91.130	Reporting service or facility defects
91.135	Reporting of accidents or incidents
91.140	Assistance to aircraft in distress
91.145	Use of distress and urgency signals
91.150	Parking or stopping of aircraft
91.155	Dropping of objects from aircraft
91.160	Picking up people or things during flight
91.165	Supersonic flight
91.170	Mercy flights
91.175	Aircraft must operate under either VFR or IFR
91.180	Precautions before flight
91.185	Basic rule — 'see and avoid'
91.190	Operating near other aircraft
91.195	Giving right of way
91.200	Who has right of way
91.205	How to give right of way
91.210	How to overtake in flight
91.215	Right of way rules — aircraft on the ground or water
91.220	Operating on or in vicinity of non-controlled aerodrome
91.225	Safety during take-off and landing
91.230	Where flying training may be carried out
91.235	Approval to taxi aircraft
91.240	Starting and ground running of aircraft engines
91.245	Loading or unloading with engines running
91.250	Compliance with ATC clearances and instructions
91.255	Compliance with ATC light signals
91.260	Compliance with prohibited and restricted airspace procedures

91.265	Compliance with airspace rules and procedures
91.270	Compliance with cruising levels
91.275	Minimum height for flight under IFR
91.280	Minimum height for flight under the VFR by night
91.285	Minimum operating heights
91.290	IFR approach and departure procedures
91.295	Submission of flight plans
91.300	Simulated failure of flight instruments in IMC or at night during training
91.305	Simulation of engine emergencies in IMC or at night during training
91.310	Simulated instrument flight
91.315	Use of radio
91.320	Radio failure
91.325	Flight in icing conditions
91.330	Operations with inoperative or unserviceable instruments or equipment
91.335	Documents to be carried
91.340	Production of documents and records
91.345	Carrying people on or in certain parts of aircraft prohibited
91.350	Alcohol and other drugs — crew members
91.355	Alcohol and other drugs — passengers
91.360	Operations over the high seas
91.365	Fuel and oil for aircraft
91.370	Rules for fuelling aircraft
91.371	Hot refuelling generally
91.372	Hot refuelling — pilot in command's responsibilities
91.375	Fuel management
91.380	Competence of crew to use emergency equipment
91.385	Loading of aircraft
91.390	Cargo to be restrained
91.395	Stowage and restraint of carry-on baggage
91.400	Stowage and restraint of passenger service equipment
91.405	Cargo not to be carried in certain places
91.410	Carriage of cargo in cargo compartments

-
- 91.415 Carriage of cargo on unoccupied seats
 - 91.420 Place of carriage of cargo to contain loading instructions
 - 91.425 Crew members at duty stations
 - 91.430 Briefing of passengers
 - 91.435 Additional briefing for persons with reduced mobility
 - 91.440 Passenger seats — general
 - 91.445 Restraint of infants
 - 91.450 Passenger seat belts
 - 91.455 Carriage of sick or injured passengers
 - 91.460 Certain activities not to be carried out by aircraft carrying passengers or certain crew members
 - 91.465 Smoking in aircraft
 - 91.470 Offensive or disorderly behaviour
 - 91.475 Protection of passengers during fuelling — aircraft generally
 - 91.480 Protection of passengers during stops other than fuelling stops — aircraft generally
 - 91.485 Reduced vertical separation minima (RVSM) operations
 - 91.490 Required navigation performance (RNP) operations
 - 91.495 Basic area navigation (B-RNAV) operations
 - 91.500 Minimum navigation performance standards (MNPS) operations

91.005 Applicability

- (1) This Part applies to the operation of:
 - (a) Australian civil aircraft (other than those to which Part 101 or 103 applies) operating in or outside Australian territory; and
 - (b) foreign registered civil aircraft operating to, within or from Australian territory, except:
 - (i) to any extent to which they are exempted by Part 129;
 - (ii) that if a foreign registered civil aircraft to which Part 129 does not apply operates within Australian territory for a total of no longer than 3 months in any 12-month period, only Subparts 91.A to 91.D apply to the aircraft.
- (2) Nothing in this Part is intended to affect the application to a foreign registered civil aircraft of a requirement of the country of registration of the aircraft where that requirement is more stringent than the comparable requirement of this Part.

91.010 Definitions

In this Part:

air display means organised flying, including contests and exhibitions of aerobatics, formations and the like, performed before a public gathering.

air display organiser means a person approved by CASA to plan and conduct an air display.

public gathering means an assembly of people within a predefined boundary at a place on the basis of a general public invitation, whether or not a charge is made.

91.015 Reference to an aircraft's engine

A reference in this Part to an aircraft's engine or engines does not include an auxiliary power unit fitted to the aircraft that is not used to propel the aircraft.

91.020 Reference to aircraft's pilot in command

A reference in this Part to an aircraft's pilot in command includes the second in command of an aircraft whose designated pilot in command is incapacitated.

91.025 Defences available to pilot in command

- (1) If:
- (a) a provision of this Part requires an aircraft's pilot in command to do, or not to do, something; and
 - (b) the provision is contravened at a time when the aircraft concerned is being flown by a person other than its pilot in command; and
 - (c) the aircraft's pilot in command is charged with the contravention;

it is a defence that at the time the pilot in command was incapacitated.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (1) — see the *Criminal Code*, s 13.3.

- (2) The pilot in command of an aircraft is taken to have complied with an obligation to ensure that a state of affairs exists, or that something has been done, if:
- (a) he or she has personally determined that the state of affairs exists, or that the thing has been done; or
 - (b) he or she has received information that satisfies him or her that the state of affairs exists, or that the thing has been done.
- (3) If:
- (a) a provision of this Part requires an aircraft's pilot in command not to permit the doing of an act by any person; and
 - (b) a person does that act; and
 - (c) the pilot in command is charged with permitting the doing of that act;

it is a defence that the pilot in command had given a direction, whether personally or through an agent, to the person not to do that act.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (3)— see the *Criminal Code*, s 13.3.

Subpart 91.B General

91.030 Firearms not to be brought into passenger cabin of aircraft etc

General principle

- (1) A person must not bring a firearm into the passenger cabin of an aircraft except in strictly limited circumstances and even then only with the permission of the aircraft's pilot in command and operator, and in compliance with any relevant State or Territory law.

Offences

- (2) A person may possess a firearm in the passenger cabin of an aircraft only:
 - (a) with the consent of the pilot in command, and the operator, of the aircraft; and
 - (b) in accordance with any relevant law of a State or Territory.

Penalty: 10 penalty units.

Consents

- (3) A consent under paragraph (2) (a) does not authorise the person who carries the firearm to load it in the passenger cabin of the aircraft unless the consent specifically allows the loading of the firearm after it is brought into the cabin.

Offences strict liability

- (4) Strict liability applies to a contravention of subregulation (2).

State and Territory law

- (5) Nothing in this regulation affects any law of a State or Territory concerning the possession or carrying of firearms.

Note Carriage of firearms in the passenger cabin of an aircraft operating an air transport service is dealt with under Part 2 of the *Air Navigation Act 1920*.

91.035 Firearms not to be discharged on aircraft

General principle

- (1) A person must not discharge a firearm while on board an aircraft, except in accordance with an appropriate approval and in compliance with any relevant State or Territory law.

Offences

- (2) A person may discharge a firearm while on board an aircraft:
- (a) only with the consent in advance of the pilot in command, and the operator, of the aircraft; and
 - (b) only if spent cartridge cases, or complete rounds of ammunition ejected from the firearm's breech, will not cause a hazard to the aircraft, or to persons, livestock or property on the ground; and
 - (c) only if both the aircraft's pilot in command and its operator have given consent to the carriage of the firearm under paragraph 91.030 (2) (a).

Penalty: 50 penalty units.

Consents

- (3) However, if an aircraft is operating in or over a State or Territory whose law requires the person to have a licence to discharge the firearm from the aircraft, the consent of a pilot or operator under paragraph (2) (a) has no effect for subregulation (2) unless:
- (a) the person actually holds such a licence; and
 - (b) the licence is in effect; and
 - (c) the person has shown the pilot or operator the licence.

Offences strict liability

- (4) Strict liability applies to a contravention of subregulation (2).

State and Territory law

- (5) Nothing in this regulation affects any law of a State or Territory about the discharge of firearms.

Note State or Territory law may prohibit the discharge of a firearm over private property without the property-owner's consent.

91.040 Firearms not to be mounted externally on aircraft

General principle

- (1) A person must not fly an aircraft with a firearm mounted on it in a position that allows the firearm to be discharged at an external target.

Offences

- (2) The pilot of an aircraft may fly the aircraft with a firearm mounted on it in a way that allows the firearm to be discharged only if CASA so approves.

Penalty: 50 penalty units.

Offences strict liability

- (3) Strict liability applies to a contravention of subregulation (2).

Firearms mounted on interior walls

- (4) This regulation does not prevent a firearm being mounted on an interior wall of an aircraft if regulation 91.030 is not contravened.

91.045 Carriage of animals

- (1) The operator of an aircraft must not permit a live animal to be carried in the aircraft if the animal's presence in the aircraft would be likely:
- (a) to affect anyone on the aircraft; or

-
- (b) to affect the flight control of the aircraft;
in a way that might adversely affect the safety of the aircraft.

Penalty: 25 penalty units.

Note In relation to the carriage of animals, see Advisory Circular 91.045.

- (2) Strict liability applies to a contravention of subregulation (1).

91.050 Portable electronic devices — PEDs that are transmitters

- (1) In this regulation:

PED means portable electronic device.

radio frequency emission means radio emission (within the meaning given by the *Radiocommunications Act 1992*).

Note ‘For the purposes of this Act, a *radio emission* is any emission of electromagnetic energy of frequencies less than 420 terahertz without continuous artificial guide, whether or not any person intended the emission to occur.’— *Radiocommunications Act 1992*, s 8 (1).

- (2) A person must not operate, on board an aircraft in flight, a PED that is designed to produce radio frequency emission.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft must not permit the operation, on board an aircraft in flight, of a PED that is designed for radio frequency emission.

Penalty: 25 penalty units.

- (4) Strict liability applies to a contravention of subregulation (2) or (3).

- (5) For subregulations (2) and (3), an aircraft is taken to be in flight from the moment the aircraft first moves for the purpose of taking off at the start of the flight until the moment it finally comes to rest at the end of the flight.

- (6) Despite subregulations (2) and (3), the operator or the pilot in command of an aircraft may use, or permit a person on board the aircraft to use, a hand-held VHF transceiver.

-
- (7) Despite subregulations (2) and (3), the pilot in command of an aircraft may use, or permit a person on board the aircraft to use, a mobile telephone if:
- (a) the pilot is satisfied that the person needs to communicate urgently with another person; and
 - (b) no other means of communication is available, or practicable in the circumstances.

Note See Advisory Circular 91.050 in relation to the carriage of portable electronic devices.

91.055 PEDs other than transmitters

- (1) In this regulation:
- PED** has the same meaning as in regulation 91.050, but does not include a PED that is designed to produce radio frequency emission.
- (2) Subject to subregulation (4), a person may operate a PED that is not a device to which subregulation (3) applies on an aircraft only if the aircraft's pilot in command permits its use.

Penalty: 25 penalty units.

- (3) This subregulation applies to devices of the following kinds:
- (a) hearing aids;
 - (b) heart pacemakers and other implanted prosthetic devices;
 - (c) portable voice recorders;
 - (d) electric shavers;
 - (e) electronic watches.
- (4) The operator of an aircraft may permit the use of a PED if he or she is satisfied that the operation of the device will not cause interference with any of the aircraft's systems or equipment.

Note See Advisory Circular 91.050 in relation to the carriage of portable electronic devices.

- (5) The pilot in command of an aircraft must not allow the operation of a PED on the aircraft if:
- (a) the PED is not a device to which subregulation (3) applies; and

-
- (b) the aircraft is carrying out an approach or departure procedure.

Penalty: 25 penalty units.

- (6) Strict liability applies to:
- (a) a contravention of subregulation (2); and
 - (b) the circumstance mentioned in paragraph (5) (a).

91.060 Air displays

- (1) A person must not conduct, or participate as a pilot or aircraft operator in, an air display that has not been approved by CASA.

Penalty: 10 penalty units.

- (2) Subject to subregulation (5), a person who participates in an air display must comply with the rules in subregulation (4).

Penalty: 10 penalty units.

- (3) In those rules:

close formation means a formation of aircraft so close together that the pilot of each aircraft (other than the leader) obtains attitude information entirely by visual reference to another aircraft in the formation.

stable flypast means flight (with wings level) by an aircraft, or a close formation of aircraft, past a spectator or a group of spectators, the aircraft moving parallel to or moving away from the line of the spectators, and with a rate of climb or descent no greater than 500 feet per minute.

Note For the minimum distances from spectators for aircraft carrying out a stable flypast, see rule 8 and table 91.060.

- (4) The rules are:

Rule 1 General conditions

An air display may be conducted only:

- (a) in accordance with an air display approval issued by CASA; and

-
- (b) under the control of an air display organiser; and
 - (c) in accordance with a program of events that has been approved by CASA.

Rule 2 Safety principles

The following safety principles apply during an air display:

- (a) the event must be conducted only in VMC;
- (b) a person may participate only with the approval of the air display organiser;
- (c) if any participant fails to observe any aspect of the approval the air display organiser must withdraw the participant's approval to participate;
- (d) members of the public must not enter any area where an aircraft engine is operating;
- (e) members of the public must not enter an active movement area;
- (f) public viewing areas must not be situated under a take-off or approach path;
- (g) no element of an air display may continue if it causes hazard to persons;
- (h) air display operations above a height of 1 500 feet must not be carried out over an area designated as a public viewing area.

Note See rule 9 regarding operations below 1 500 feet.

Rule 3 What to do with copies of display approval

The air display organiser must provide a copy of the air display approval to:

- (a) the owner or operator of the aerodrome or landing ground;
- (b) all participants in the flight program; and
- (c) all safety service providers.

Rule 4 Pre-display briefing

The air display organiser must provide, each day, a pre-display briefing to all pilots and principal safety personnel involved in the air display, covering all relevant elements of the following safety matters:

- (a) the program of events;
- (b) current and forecast weather conditions;
- (c) runways, taxiways, spectator, aircraft parking and movement areas;
- (d) circuit pattern, holding areas, holding heights and any unusual aircraft manoeuvres;
- (e) any physical hazards and obstructions likely to affect participants;
- (f) airspace limits and holding procedures;
- (g) air traffic control procedures and radio frequencies;
- (h) emergency facilities and emergency procedures;
- (i) minimum heights and distances applicable to participants in the display, as required by rules 8 and 9;
- (j) ground handling and taxiing procedures;
- (k) procedures for handling movement of aircraft not participating in the display;
- (l) special effects or signals involving smoke or explosives;
- (m) any special ground markings;
- (n) scheduled aircraft movements;
- (o) a time check.

Rule 5 Pilot responsibilities

A pilot may participate or fly in an air display only if he or she:

- (a) complies with any instructions issued by CASA; and
- (b) is authorised to participate by CASA or the air display organiser; and
- (c) complies with any instructions issued by the air display organiser; and
- (d) is qualified to undertake the manoeuvres he or she intends to perform; and

-
- (e) in the case of low level aerobatic manoeuvres, holds an authorisation in accordance with Part 61 to perform low level aerobatics; and
 - (f) has been briefed on all matters relevant to their participation; and
 - (g) is aware of any limitations or exemptions in the air display approval; and
 - (h) is able to comply with these Regulations (other than any provisions that the air display approval exempts him or her from compliance with); and
 - (i) observes all limitations and instructions applicable under these Regulations.

Rule 6 Minimum height without specific approval

All operations (other than take-off and landing) below 500 feet at an air display are subject to specific approval as part of the program of events.

Rule 7 Take-off and landing

During take-off or landing, an aircraft, or a formation of aircraft, must:

- (a) if taking off from a runway, remain on the centreline of the designated runway until at a safe height, and then manoeuvre away from spectators to gain the appropriate minimum airborne distance from spectators; and
- (b) in the process of landing on a runway, make conventional manoeuvres to gain the centreline of the designated runway and after that remain on the centreline of the runway until speed is reduced to safe taxi speed.

Rule 8 Minimum distance from spectators during stable flypast

The minimum horizontal distance from spectators that must be observed below a height of 1 500 feet by aircraft performing a constant-direction stable flypast is:

- (a) for aircraft not in close formation, 100 metres; and

-
- (b) for the nearest aircraft in close formation, the distance specified in rule 9.

Rule 9 Airborne minimum distances

The minimum distances from spectators set out in table 91.060 must be observed by aircraft that are performing airborne manoeuvres below a height of 1 500 feet during an air display.

Rule 10 Display zone

The air display organiser must establish and arrange an air display zone as follows:

- (a) the display zone must not encompass any built-up or populous area;
- (b) no part of the display zone may be within 100 m of spectators;
- (c) the minimum distances between spectators and aircraft specified in rules 8 and 9 must be maintained at all times;
- (d) a show centre must be established as a focal point for aerial manoeuvres if there is no straight spectator line or there is more than 1 spectator area.

Rule 11 Location

In assessing a proposed site for an air display, the air display organiser must take into account the following:

- (a) the suitability of surfaces used for the take-off, landing taxiing and parking of aircraft;
- (b) the take-off and landing distances required and available;
- (c) obstructions in the vicinity of the aerodrome or landing area, having regard to the types of aircraft that are expected to take part;
- (d) the airspace available to accommodate the planned display activities;
- (e) the proximity of built-up or noise-sensitive areas;
- (f) the proximity of vantage points that are likely to become unofficial spectator areas;
- (g) the proximity of any prohibited, restricted or danger areas;

-
- (h) the proximity of livestock farms or wildlife conservation areas;
 - (i) the proximity of other aerodromes, known aircraft landing areas or other aviation activity;
 - (j) the availability of clear entry and exit routes for the public and for emergency service vehicles.

Rule 12 *Marking of the display axis*

The air display organiser must ensure that the display axis for the air display is sufficiently obvious to be kept clearly in sight by the pilot of each manoeuvring aircraft, the organiser and, if the display is under the control of an air traffic controller, the controller.

- (5) CASA may exempt an air display, or a type of air display, from compliance with any of those rules, if the scale or nature of the event is such that safety will not be compromised if the exemption is granted.
- (6) The pilot in command of an aircraft may operate the aircraft in the vicinity of a public gathering only in the course of ordinary air navigation or:
 - (a) as part of an approved air display; and
 - (b) with the authority of the air display organiser; and
 - (c) in accordance with that authority.

Penalty: 10 penalty units.

- (7) The air display organiser must take reasonable steps to ensure that all activities under the relevant approval are conducted in accordance with these Regulations and the approval.

Penalty: 10 penalty units.

Note In relation to air displays generally, see Advisory Circular 91.060.

- (8) Strict liability applies to a contravention of subregulation (1), (2), (6) or (7).

Table 91.060 Airborne minimum distances to be observed during air displays

Column 1 Item	Column 2 Kind of aircraft	Limitation by MTOW or maximum display speed	Column 3 Minimum distance from spectators (m)
1	Rotorcraft	(a) MTOW up to 5 700 kilograms	150
		(b) MTOW greater than 5 700 kilograms	250
2	Other aircraft (when not tracking or manoeuvring towards spectators)	(a) Up to 100 knots	100
		(b) 101 – 200 knots	250
		(c) More than 200 knots or MTOW greater than 5 700 kilograms	350
3	Other aircraft (when tracking or manoeuvring towards spectators)	(a) Up to 100 knots	150
		(b) 101 – 200 knots	350
		(c) More than 200 knots or MTOW greater than 5 700 kilograms	500

91.065 Aerial towing

- (1) Subject to subregulation (2), the pilot in command of an aircraft in flight may permit a thing to be towed by the aircraft only with CASA's approval and only in accordance with any direction of CASA.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not prevent the reasonable use of a radio aerial or a static pressure measuring device from an aircraft in flight in accordance with another provision of these Regulations.

Note See also Part 136.

- (3) Strict liability applies to a contravention of subregulation (1).

91.070 Formation flight

- (1) For the purposes of this regulation, 2 or more aircraft are flying in formation if:

- (a) they are flying within sight of each other; and
- (b) they operate as a single aircraft with regard to navigation, position reporting and control.

- (2) In spite of subregulation (1), aircraft are taken to be in formation:

- (a) during any period when they are manoeuvring to achieve separation from each other in order to effect individual control; and
- (b) during join-up and breakaway.

- (3) A person may act as pilot in command of an aircraft in formation flight only if he or she is authorised, in accordance with Part 61, to fly in formation.

Penalty: 50 penalty units.

- (4) A person may pilot an aircraft in formation flight only:

- (a) with the agreement of the pilot in command of each other aircraft in the formation; and

(b) if a formation leader has been assigned.

Penalty: 50 penalty units.

(5) A pilot may fly an aircraft in formation flight only by day and only in VMC.

Penalty: 50 penalty units.

(6) A pilot may participate in formation flight only if he or she has been briefed, immediately before the flight, on normal and emergency procedures related to the flight.

Penalty: 50 penalty units.

(7) During formation flight the formation leader is solely responsible for navigating the formation by the use of navigation procedures, systems and equipment appropriate to the route or area.

(8) In spite of the responsibility of the formation leader under subregulation (7), the pilots of the other aircraft in the formation must have a means of establishing and maintaining navigation if the formation breaks up.

Penalty: 50 penalty units.

(9) Strict liability applies to a contravention of subregulation (3), (4), (5), (6) or (8).

(10) Nothing in this regulation prevents a pilot from approaching an aircraft in distress, at the invitation of the pilot in command of the distressed aircraft, for the purpose of an in-flight inspection or to give other assistance.

91.075 Aerobatic flight

(1) A person may fly as pilot in command of an aircraft in aerobatic flight only if he or she is authorised, in accordance with Part 61, to do so.

Penalty: 25 penalty units.

-
- (2) The pilot in command of an aircraft must not perform aerobatic manoeuvres:
- (a) in conditions less than VMC; or
 - (b) in an aircraft not approved for the manoeuvres; or
 - (c) over a city, town or populous area.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft may perform aerobatic manoeuvres in the following circumstances only with CASA's approval:
- (a) below 3 000 feet AGL;
 - (b) in the vicinity of a public gathering or at an air display;
 - (c) at night.

Penalty: 25 penalty units.

- (4) The pilot in command of an aircraft may perform aerobatic manoeuvres in controlled airspace only in accordance with an ATC clearance.

Penalty: 25 penalty units.

Note In relation to aerobatic flight generally, see Advisory Circular 91.075.

- (5) Strict liability applies to a contravention of subregulation (1), (2) (3) or (4).

Subpart 91.C Operational

91.080 Deviations in an emergency situation

In an emergency situation related to the safety of an aircraft or its occupants, the aircraft's pilot in command may act in contravention of any provision of these Regulations to the extent that he or she considers necessary to preserve the safety of the aircraft or anybody on board.

Note 1 Subregulation 91.250 (6) may require the deviation to be reported to ATC. See also subregulation 91.125 (1).

Note 2 A defendant bears an evidential burden in relation to the matter mentioned in this regulation — see the *Criminal Code*, s 13 (3).

91.085 Preservation of flight data and cockpit voice recordings

- (1) In the event of an accident, serious incident or incident that is required to be notified to an air safety authority, the pilot in command and the operator of the aircraft concerned must take all reasonable steps to preserve any relevant CVR or FDR record for examination by the authority.

Penalty: 25 penalty units.

- (2) In subregulation (1):

air safety authority means:

- (a) in relation to an accident or serious incident to which subsection 19BA (1) of the *Air Navigation Act 1920* applies, or an incident to which subsection 19BC (1) of that Act applies — the Director of Air Safety Investigation appointed under section 19GA of that Act; or
- (b) in relation to an accident, serious incident or incident that must be reported to an authority of another country under a law of that country — the authority to which that report must be made under that law.

- (3) Strict liability applies to a contravention of subregulation (1).

91.090 Flight crew responsibilities when operating in foreign states

- (1) The pilot in command of an Australian aircraft operating within foreign airspace must comply with the rules and procedures applicable to flight and manoeuvring within that airspace.

Penalty: 15 penalty units.

Note 1 Section 22 of the Act imposes certain additional requirements on the pilot in command of an Australian aircraft operating internationally.

Note 2 A person is not criminally liable for failing to do something that he or she is incapable of doing — see generally s 4.2 of the *Criminal Code*.

- (2) Strict liability applies to a contravention of subregulation (1).

91.095 Recording of defects and abnormalities

- (1) When an aircraft completes a flight, its pilot in command must record in the aircraft's Flight and Technical Record or another approved document:
 - (a) any damage; and
 - (b) any technical defect; and
 - (c) any significant abnormal instrument indication; and
 - (d) any abnormal aircraft handling or behaviour; and
 - (e) any instance of an operating limit being exceeded; he or she knows of in the aircraft, or observed during the flight.

Penalty: 25 penalty units.

- (2) It is a defence to a charge of contravening subregulation (1) that the defendant had reason to believe that the relevant matter had already been recorded and appropriate action taken.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (2) — see the *Criminal Code*, s 13 (3).

- (3) Strict liability applies to a contravention of subregulation (1).

91.100 Aircraft flight check systems

- (1) The operator of an aircraft must make available, to each of the flight crew of the aircraft, copies of the checklists of normal, abnormal and emergency procedures for the operation of the aircraft.

Penalty: 25 penalty units.

- (2) The pilot in command of an aircraft must ensure that the operator's check list for the aircraft is complied with.

Penalty: 25 penalty units.

Note In relation to flight check systems, see Advisory Circular 91.100.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.101 Australian aircraft not to be operated contrary to direction

- (1) A person must not operate an aircraft, and the registration holder of an Australian aircraft must not allow the aircraft to be operated, in contravention of a direction under Subpart 11.H.

Penalty: 50 penalty units.

Note A person is not liable for a contravention of a direction if he or she could not have been aware of its content — see the *Criminal Code*, s 9.4 (2).

- (2) A contravention of subregulation (1) is an offence of strict liability.

91.105 Provision of and compliance with operating instructions

- (1) The operator of an aircraft must make available, to the crew of the aircraft, the operating instructions and information necessary for the safe operation of the aircraft.

Penalty: 50 penalty units.

- (2) The pilot in command of an aircraft must ensure that it is operated in accordance with all the operating instructions, procedures and limitations that are necessary for the safe conduct of the flight.

Penalty: 50 penalty units.

Note In relation to the pilot in command's responsibilities, see regulation .

- (3) A person assigned to a duty or activity in relation to the operation of an aircraft must comply with all operating instructions, procedures and limitations that are necessary for the safe performance of the duty or activity.

Penalty: 25 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

91.110 Altimeter setting procedures

- (1) The pilot in command of an aircraft must set and use altimeter pressure datum values in accordance with relevant standards and procedures published in the AIP.

Penalty: 25 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.115 Display of standard visual signals

- (1) A person may display a standard visual signal to an aircraft only:

- (a) in the course of his or her duties; or
- (b) in an emergency.

Penalty: 10 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.120 Land and hold short operations

- (1) A pilot may land an aircraft as an active participant in a LAHSO only if he or she has a logbook authorisation in accordance with Part 61, or an authorisation by the aircraft's operator, recorded in a way specified in the operations manual of the aircraft's operator, to do so.

Penalty: 15 penalty units.

- (2) For subregulation (1), an aircraft is an active participant in a LAHSO if the aircraft is required to hold short of an intersecting runway.

- (3) Strict liability applies to a contravention of subregulation (1).

91.125 Reporting emergency actions

- (1) If the pilot in command of an aircraft takes emergency action under regulation 91.080 that results in the breach of a regulation applicable to the operation of the aircraft, he or she must report to CASA the breach and the circumstances in which it occurred:
 - (a) immediately, if CASA so requests; or
 - (b) if the aircraft is engaged in an international operation at the time of the contravention — within 28 days of the occurrence; or
 - (c) in any other case — within 10 days of the occurrence.

Penalty: 15 penalty units.

Note 1 Subregulation 91.250 (6) requires that non-compliance with ATC instructions must also be reported to ATC.

Note 2 Reporting may also be required under Part 2A of the *Air Navigation Act 1920*.

- (2) Strict liability applies to a contravention of subregulation (1).

91.130 Reporting service or facility defects

- (1) If:
 - (a) a hazard to aviation exists; and
 - (b) the hazard has not been the subject of a NOTAM or ATC advice; and
 - (c) the pilot in command of an aircraft knows about the hazard;

he or she must report the hazard as soon as practicable in accordance with instructions published in the AIP.

Penalty: 10 penalty units.

- (2) In particular, the pilot in command of an aircraft must report an aviation hazard of any of the following kinds:
 - (a) failure or malfunction of an aviation facility or aviation service;
 - (b) an unforecast or un-notified meteorological condition or situation;
 - (c) volcanic ash or massed airborne dust.

-
- (3) Strict liability applies in relation to:
- (a) a failure to make the report required by subregulation (1);
or
 - (b) making such a report otherwise than in the way required by that subregulation.

91.135 Reporting of accidents or incidents

- (1) If the pilot in command of an aircraft knows first-hand of an accident, serious incident or incident involving another aircraft, he or she must report the matter as soon as practicable to the relevant authority.

Penalty: 25 penalty units.

- (2) In subregulation (1):

relevant authority means:

- (a) in relation to an accident, serious incident or incident to which Division 2 of Part 2A of the *Air Navigation Act 1920* applies — the Director of Air Safety Investigation mentioned in section 19GA of that Act; or
- (b) in relation to an accident, serious incident or incident that must be reported to an authority of another country under a law of that country — the authority to which that report must be made under that law.

- (3) It is a defence to a charge of contravening subregulation (1) that the defendant had reasonable grounds to believe that the matter had already been reported to the authority.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (3) — see the *Criminal Code*, s 13 (3).

- (4) Strict liability applies in relation to a failure to make the report required by subregulation (1).

91.140 Assistance to aircraft in distress

- (1) If the pilot in command of an aircraft becomes aware that:
- (a) an aircraft is in distress; and
 - (b) he or she is able to assist the aircraft in distress; and
 - (c) no other appropriate assistance is available; and

-
- (d) by giving reasonable assistance he or she will not endanger his or her own aircraft or its passengers; the pilot must give reasonable assistance.

Penalty: 50 penalty units.

- (2) The question of what assistance is reasonable in the circumstances must be decided in accordance with:
- (a) appropriate procedures published in the AIP; and
 - (b) any request from ATS or a relevant search and rescue organisation for assistance.

91.145 Use of distress and urgency signals

- (1) The pilot in command of an aircraft may make an aviation distress signal only if he or she knows that the aircraft or its passengers or both are in grave and imminent danger and require immediate assistance.

Penalty: 15 penalty units.

- (2) It is a defence to a charge of contravening subregulation (1) if all of the following conditions are satisfied:
- (a) at the time, the defendant believed that the aircraft or its passengers or both were in grave and imminent danger;
 - (b) according to the defendant's knowledge at the time of the circumstances, the belief was reasonable;
 - (c) there was no practicable way in which the defendant could have obtained more information.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (2) — see the *Criminal Code*, s 13 (3).

- (3) A person on board an aircraft, other than its pilot in command, may make an aviation distress signal only if the aircraft's pilot in command directs or authorises the person to make the signal.

Penalty: 15 penalty units.

- (4) Strict liability applies to a contravention of subregulation (3).

-
- (5) An aircraft's pilot in command may give a direction or authorisation referred to in subregulation (3) only if he or she knows that the aircraft or its passengers or both are in grave and imminent danger.

Penalty: 15 penalty units.

- (6) It is a defence to a charge of contravening subregulation (5) if all of the following conditions are satisfied:
- (a) at the time, the defendant believed that the aircraft or its passengers or both were in grave and imminent danger;
 - (b) according to the defendant's knowledge at the time of the circumstances, the belief was reasonable;
 - (c) there was no practicable way in which the defendant could have obtained more information.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (6)— see the *Criminal Code*, s 13 (3).

- (7) If an aviation distress signal is used and the danger passes, the person who made the signal must try to cancel it.

Penalty: 10 penalty units.

- (8) The pilot in command of an aircraft may use an aviation urgency signal only to give an urgent message concerning the safety of an aircraft, or a ship, person or vehicle.

Penalty: 15 penalty units.

- (9) Strict liability applies to a contravention of subregulation (7) or (8).
- (10) Nothing in this regulation prevents the testing of an ELT in accordance with procedures published in the AIP.

91.150 Parking or stopping of aircraft

- (1) The person responsible for parking an aircraft must not park the aircraft in a place where it is likely to cause a hazard or obstruction to other aircraft.

Penalty: 5 penalty units.

-
- (2) The person responsible for parking an aircraft must ensure that it is secured so as to ensure that it cannot shift in winds likely at the location while the aircraft is parked.

Penalty: 10 penalty units.

- (3) If an aircraft stops where it constitutes a hazard to other aircraft, and cannot immediately be moved to a safe place, the person responsible for stopping the aircraft must immediately tell the aerodrome operator and any other authority relevant to warning other aircraft of the hazard.

Penalty: 10 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

91.155 Dropping of objects from aircraft

General principle

- (1) Aircraft are not to drop objects unless reasonable precautions have been taken to minimise danger to people and property.

Offence

- (2) The pilot in command of an aircraft may drop an object, or allow an object to be dropped, from the aircraft in flight only if the pilot has taken reasonable precautions to ensure the dropping of the object will not endanger persons, property or the aircraft.

Penalty: 25 penalty units.

Note 1 For rotorcraft operations, see Part 133; for aerial work dropping operations, see Part 136; for search and rescue operations, see Part 138.

Note 2 In regard to air-dropping generally, see Advisory Circular 91.155.

Offence strict liability

- (3) Strict liability applies to a contravention of subregulation (2).

91.160 Picking up people or things during flight

- (1) The pilot in command of an aircraft must ensure that if a person or thing is picked up by the aircraft while it is in flight, the pickup is done in accordance with Part 133 or with the prior approval of CASA.

Penalty: 25 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.165 Supersonic flight

- (1) An aircraft may exceed Mach 1 only:
 - (a) in controlled airspace, and on a route approved for supersonic flight; or
 - (b) with CASA's approval.
- (2) If an aircraft is flown in contravention of subregulation (1), its pilot in command and (if its pilot in command was not at the controls at the relevant time) its pilot, are each guilty of an offence punishable by a maximum fine of 15 penalty units.
- (3) Strict liability applies to a contravention of subregulation (1) by either an aircraft's pilot in command or (if its pilot in command was not at the controls at the relevant time) its pilot.

91.170 Mercy flights

- (1) If a provision of these regulations is contravened in the course of carrying out a flight, it is a defence to a charge of contravening the provision that:
 - (a) before the contravention, the pilot in command of the aircraft concerned declared the flight to be a mercy flight, in accordance with the AIP; and
 - (b) the contravention did not expose anybody to a level of hazard that was, in the circumstances, unreasonable.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (1): see the *Criminal Code*, s 13 (3).

-
- (2) A declaration that a flight is a mercy flight has no effect for subregulation (1) unless:
- (a) the flight is for the purpose of relieving a person from grave and imminent danger arising out of an urgent medical necessity, flood or fire or similar situation, at a time where failure to make the flight is likely to result in serious or permanent disability or loss of life; and
 - (b) there is no practical alternative to the flight; and
 - (c) it is not practicable to get an exemption from the provision before the flight begins.
- (3) If CASA so requires, the pilot in command must report the circumstances of the flight.

Penalty: 10 penalty units.

Note In relation to mercy flights generally, see Advisory Circular 91.170.

- (4) Strict liability applies to a contravention of subregulation (3).

91.175 Aircraft must operate under either VFR or IFR

- (1) The pilot in command of an aircraft must operate the aircraft in accordance with either the VFR or the IFR.

Penalty: 50 penalty units.

- (2) The pilot in command of an aircraft may operate under the VFR in weather conditions that do not meet the criteria for VMC only if:
- (a) ATC authorises the pilot to operate under Special VFR; and
 - (b) the pilot is able to comply with the Special VFR criteria published in the AIP.

Penalty: 50 penalty units.

- (3) The pilot in command of a VFR flight that encounters weather conditions that do not meet the criteria for VMC must endeavour to remain in VMC and to hold, divert, or land at the nearest suitable landing area.

Penalty: 50 penalty units.

-
- (4) The pilot in command of an aircraft may operate under the IFR only if he or she is appropriately qualified and the aircraft is equipped and approved for flight under the IFR.

Penalty: 50 penalty units.

- (5) Despite subregulation (4), if an aircraft is being operated as mentioned in subregulation 91.330 (3), and the applicable MEL or approval requires the flight to be conducted under VMC, the aircraft's pilot in command may operate the flight as an IFR category flight.
- (6) A pilot may proceed with an IFR flight only if the prevailing or forecast weather conditions are such that the flight can be conducted in compliance with:
- (a) the crew's qualifications and recency requirements; and
 - (b) the minimum take-off or arrival weather criteria specified for the IFR for the particular aircraft at the planned departure and arrival points; and
 - (c) the relevant requirements published in the AIP for aerodrome standards, navigation aids and aircraft equipment, taking into account how far those requirements may be complied with by planning for holding or diversion.

Penalty: 50 penalty units.

- (7) Strict liability applies to a contravention of subregulation (1), (2), (3), (4) or (6).

91.180 Precautions before flight

- (1) The pilot in command of an aircraft must, before flight, inspect the aircraft and review all factors relevant to the safety of the flight that can reasonably be assessed before departure.

Penalty: 50 penalty units.

-
- (2) When reviewing factors likely to affect the safety of the flight, the pilot in command of an aircraft must take such action as is reasonable to ensure that, before take-off, all of the following requirements are met:
- (a) the aircraft's Flight and Technical Record shows the aircraft to be airworthy for the flight;
 - (b) current weather information relevant to the flight has been assessed;
 - (c) NOTAM and safety advisory information relevant to the flight has been considered;
 - (d) any flight notification requirements published in the AIP for the flight have been complied with;
 - (e) all aircraft instruments and equipment, and the navigation and communications facilities, required for the safety of the flight are available and serviceable;
 - (f) the aerodrome and operating facilities required for the safety of the flight are available and serviceable;
 - (g) any alternate aerodrome requirements in Part 121A or 121B, or published in the AIP, applicable in the circumstances of the flight have been complied with;
 - (h) documents required to be carried are on board and accessible to the crew;
 - (i) the aircraft's take-off, landing and en-route flight performance capabilities meet the performance requirements for the circumstances and conditions expected during the flight;
 - (j) any internal, external or portable aircraft lights necessary for the flight are available and serviceable;
 - (k) sufficient fuel is on board the aircraft for it to land at the end of the flight with the required fuel reserves still on board;

Note See regulation 91.375 as to how much fuel the aircraft's pilot in command must plan to have left on landing.

- (l) the quantity of fuel in the aircraft's fuel tank or tanks has been checked by visual inspection or by 2 different methods;

-
- (m) any fuel or oil used to replenish the aircraft's fuel or oil tank or tanks or oil replenishment is of the type and grade specified in the aircraft flight manual or equivalent; and
 - (n) the fuel has been appropriately checked, and is free of water and foreign matter; and
 - (o) any emergency equipment required for the flight is on board, serviceable, and readily available for use;
 - (p) if required, supplemental and first aid oxygen sufficient for normal and emergency needs is on board;
 - (q) the required complement of appropriately qualified crew members are on board and appear fit to perform their duties;
 - (r) all articles, equipment and loads are stowed or secured in accordance with these Regulations;
 - (s) the aircraft's take-off weight and estimated landing weight are within limits appropriate to the flight;
 - (t) the aircraft's centre of gravity will remain within the approved range limits throughout the flight;
 - (u) the aircraft has been checked for anything that might compromise the safety of the flight (such as ice or snow accretions, fuel leaks, oil leaks, configuration abnormalities, or visible damage), and nothing of that kind has been found;
 - (v) the aircraft's hatches, access ports, panels and tank caps are closed, and control locks, chocks, covers and similar ground safety devices have been removed, shown to the pilot in command if he or she so directs, and stowed on board if required;
 - (w) appropriate functional checks of the aircraft's controls, engines, fuel and oil systems and any other items specified in the aircraft's checklists have been carried out;
 - (x) flight controls have been checked for full and free movement, and all controls and flight surfaces are in the correct positions and settings for take off;
 - (y) all crew and passengers are restrained in their correct positions;

-
- (z) all aircraft check-list procedures from pre-flight to take-off have been complied with.

Penalty: 50 penalty units.

Note See generally Advisory Circulars 91.100, 91.180 and 91.225.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.185 Basic rule — ‘see and avoid’

The pilot of an aircraft must keep a proper lookout and exercise vigilance (including monitoring radio transmissions if the aircraft is equipped with radio) to enable him or her to see and avoid other aircraft, whether in flight or on the surface.

Note See generally Advisory Circular 91.220.

91.190 Operating near other aircraft

- (1) An aircraft must not be flown so close to another aircraft as to create a collision hazard.
- (2) However, subregulation (1) does not prevent pilots flying in formation as permitted by regulation 91.070.
- (3) An aircraft must not be operated on the ground in such a manner as to create a hazard to itself or to another aircraft.

Note See generally Advisory Circular 91.220.

- (4) The pilot in command of an aircraft that contravenes subregulation (1) or (3) is guilty of an offence punishable by a maximum fine of 50 penalty units.
- (5) Strict liability applies to a contravention of subregulation (1) or (3).

91.195 Giving right of way

- (1) An aircraft must give way to, or keep out of the way of, another aircraft that has right of way over it.

Note The rules about which aircraft has right of way are set out in regulation 91.200, below. See also Advisory Circular 91.220.

-
- (2) The pilot in command of an aircraft that contravenes subregulation (1) is guilty of an offence punishable by a maximum fine of 25 penalty units.
 - (3) Strict liability applies to a contravention of subregulation (1).

91.200 Who has right of way

- (1) The rules in subregulation (6) determine which aircraft has right of way when there is a danger of collision between aircraft in the air.

Note See also Advisory Circular 91.220.

- (2) An aircraft that has right of way must maintain its heading and speed, and must not alter course except in a manner that increases the separation between the aircraft and reduces the risk of collision.
- (3) Nothing in those rules relieves the pilot in command of an aircraft of responsibility to take any action necessary to prevent a collision.
- (4) An aircraft has right of way over another aircraft that must, under those rules, give way to it.
- (5) If 2 or more of the rules apply to a particular situation, right of way is to be decided in accordance with the lower- or lowest-numbered of the applicable rules.
- (6) The rules are:

Rule 1 Aircraft compelled to land

An aircraft must give way to another aircraft if the first aircraft's pilot in command knows or believes that the other aircraft is compelled to land or is in an emergency.

Rule 2 Landing aircraft

An aircraft that is operating on ground or water, or is in flight, must give way to an aircraft that is landing, and is within 3 nautical miles of the landing runway threshold and is aligned for landing on its final approach, unless

-
- (a) the pilots of the 2 aircraft are in communication with each other; and
 - (b) they agree that the former aircraft has right of way.

Rule 3 Lower aircraft generally has priority for landing

If 2 aircraft are approaching for landing together, the higher aircraft must give way to the lower, except that:

- (a) an aircraft that is on its final approach need not give way to another aircraft (other than a glider) that is not on its final approach; and
- (b) an aircraft must not cut in front of another aircraft that is in the final stages of its approach to land.

Rule 4 Aircraft in the vicinity of an aerodrome

An aircraft that is in the vicinity of an aerodrome, but not intending to land, must give way to an aircraft that is manoeuvring to land.

Rule 5 Aircraft overtaking another aircraft

An aircraft that is being overtaken has right of way over the aircraft overtaking it, and the aircraft that is overtaking has the responsibility of maintaining separation until the overtaking manoeuvre is completed and the overtaking aircraft is clear.

Rule 6 Right of way between aircraft etc of different kinds

Anything listed, or of a kind listed, in the following list must give way to anything listed, or of a kind listed, above it in the list:

- a balloon
- a person descending by parachute
- a glider
- an airship
- an aircraft that is towing something (including another aircraft)
- a power-driven aircraft.

Rule 7 Approaching head on

If 2 aircraft are approaching head on or nearly so, and there is danger of collision, each aircraft must alter its heading to the right.

Rule 8 Aircraft on converging headings

If 2 aircraft at approximately the same altitude are on converging headings, the aircraft that has the other on its right must give way to the other.

91.205 How to give right of way

- (1) An aircraft that is required to give way to, or keep out of the way of, another aircraft must not pass ahead of the other aircraft, or directly over or under it, so closely that there is a danger of collision.

Note See also Advisory Circular 91.220.

- (2) In spite of subregulation (1), an aircraft that is responding to the commands of an ACAS system may manoeuvre to the extent necessary to ensure the safety of the aircraft.
- (3) If an aircraft is overtaking a glider that is hill soaring, the overtaking aircraft must either pass well clear or pass to the side that allows the glider to turn away from the hill without restriction.
- (4) The pilot in command of an aircraft that contravenes subregulation (1) or (3) is guilty of an offence punishable by a maximum fine of 25 penalty units.
- (5) Strict liability applies to a contravention of subregulation (1) or (3).

91.210 How to overtake in flight

- (1) An aircraft that is overtaking another aircraft must keep out of the way of the aircraft that is being overtaken, even if the aircraft being overtaken alters course while being overtaken.

Note 1 See also Advisory Circular 91.220.

Note 2 The AIP imposes further requirements on aircraft operating on parallel runways under General Aviation Aerodrome Procedures.

- (2) Subject to subregulation 91.205 (3), an aircraft that is overtaking another aircraft must pass on its right side, and remain on its right side until past and clear.
- (3) Subregulations (1) and (2) apply even if the overtaking aircraft is climbing or descending.
- (4) The pilot in command of an aircraft that contravenes subregulation (1) or (2) is guilty of an offence punishable by a maximum fine of 25 penalty units.
- (5) Strict liability applies to a contravention of subregulation (1) or (2).

91.215 Right of way rules — aircraft on the ground or water

Taking-off or landing

- (1) An aircraft may take off or land only if there is no apparent risk of collision with any aircraft, person, vessel, vehicle or structure in the take-off or landing path.
- (2) The pilot in command of an aircraft that is operated in a way that contravenes subregulation (1) is guilty of an offence punishable by a maximum fine of 50 penalty units.

Note See also Advisory Circular 91.220.

Taxiing

- (3) The pilot in command, or a person in control, of an aircraft taxiing or being towed on the manoeuvring area of an aerodrome must:
 - (a) give way to any other aircraft that is on its final approach to land and ensure that his or her aircraft does not infringe the graded runway strip in front of the landing aircraft; and
 - (b) give way to preceding aircraft in a take-off sequence and ensure that his or her aircraft does not infringe the graded runway strip in front of the preceding aircraft during its take-off run; and

-
- (c) keep well clear of any aircraft being overtaken; and
 - (d) give way to aircraft on the right when aircraft are on a converging course; and
 - (e) stop, or alter course to the right so as to remain clear, when 2 aircraft are approaching head on or approximately so.

Penalty: 25 penalty units.

Note An aircraft on water must comply with the requirements of the International Regulations for Prevention of Collisions at Sea — see regulation 169 of CAR 1988.

- (4) For paragraphs (3) (a) and (b), ***graded runway strip*** includes any area delineated by gable or cone markers.
- (5) Strict liability applies to a contravention of subregulation (1) or (3).

91.220 Operating on or in vicinity of non-controlled aerodrome

- (1) The pilot in command of an aircraft taking off or landing at a non-controlled aerodrome must:
 - (a) if the aircraft is equipped with serviceable radio — establish communications and maintain a listening watch on the frequency assigned for communications at the aerodrome in accordance with requirements published in the AIP; and
 - (b) obtain, by any means available to the pilot including visual inspection from the aircraft, current aerodrome information about aerodrome traffic, runway serviceability and surface wind direction; and
 - (c) comply with any special procedures and operating limitations for the aerodrome; and
 - (d) comply with any relevant visual signals at the aerodrome; and
 - (e) if practicable, land and take off into wind; and
 - (f) avoid conflicting with other aircraft in the circuit area; and

-
- (g) subject to subregulations (2), (3) and (4) — at a land aerodrome, make all turns to the left when less than 1 500 feet above the elevation of the aerodrome and within 3 nautical miles of the aerodrome; and
 - (h) at a water aerodrome or water alighting area, make turns as required by the aerodrome operator or otherwise as appropriate to the circumstances; and
 - (i) if making a straight-in approach, align with the runway at a minimum distance of 4 nautical miles.

Penalty: 15 penalty units.

- (2) Despite paragraph (1) (g), the pilot in command of an aircraft may make a turn to the right if:
 - (a) right-hand circuits are specified for the runway in use; or
 - (b) right-hand circuits are dictated by areas of reduced visibility; or
 - (c) the aircraft is making an approach in conditions less than VMC; or
 - (d) the aircraft is a rotorcraft and is being operated in accordance with Part 133 or a location-specific procedure; or
 - (e) the aircraft is entering the upwind, crosswind or downwind leg of the circuit.
- (3) Despite paragraph (1) (g), the pilot in command of a radio-equipped aircraft may turn after take-off contrary to the direction of turn normally appropriate for the runway if:
 - (a) the turn is not begun before the runway end is passed; and
 - (b) there is no conflicting traffic before the turn is begun; and
 - (c) other operations in the vicinity of the aerodrome will not be disrupted; and
 - (d) the pilot broadcasts his or her intention before starting the turn; and
 - (e) if the aircraft has serviceable landing and anti-collision lights, they are switched on.

-
- (4) Despite paragraph (1) (g), the pilot in command of an aircraft may carry out a straight-in approach, or otherwise not conform to the standard circuit pattern for the aerodrome concerned, only if:
- (a) the aircraft is equipped with serviceable radio; and
 - (b) he or she announces the intention of doing so on the VHF frequency in use at the aerodrome; and
 - (c) where the aircraft has serviceable landing and anti-collision lights, they are switched on.

Penalty: 15 penalty units.

Note See generally Advisory Circular 91.220.

- (5) Strict liability applies to a contravention of subregulation (1) or (4).

91.225 Safety during take-off and landing

- (1) The pilot in command of an aircraft may take off or land an aircraft at a landing area only if the landing area is adequate for the safe operation of the aircraft.

Penalty: 25 penalty units.

Note See Advisory Circulars 91.220 and 91.225.

- (2) The pilot in command of an aircraft must comply with the procedures published in the AIP applicable to maintaining separation from other aircraft during take-off and landing.

Penalty: 25 penalty units.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).
- (4) Nothing in these Regulations confers on a pilot the right to take off or land at any place other than a public aerodrome without the approval of the owner or controlling authority of the place.

91.230 Where flying training may be carried out

- (1) A person may engage in low flying or aerobatic flying in a flying training area for the purpose of flying training only in accordance with an authorisation issued under Part 11.

Penalty: 50 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.235 Approval to taxi aircraft

- (1) A person may taxi an aircraft only if he or she is authorised to do so under Part 61 or 66.

Penalty: 25 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.240 Starting and ground running of aircraft engines

- (1) A person in charge of an aeroplane may start its engine or engines, or allow its engine or engines to run on the ground, only if:

- (a) he or she is not prohibited from doing so by regulation 91.245; or
- (b) a flight control seat is occupied by a person qualified under Part 61 or 66 to taxi the aeroplane, or an appropriately qualified LAME; or
- (c) a person competent to control the engine or engines is in a control seat or at the aircraft, and the aircraft:
 - (i) is secured from moving; or
 - (ii) if it is a seaplane, is in a place where it will not endanger people or property if it moves.

Penalty: 50 penalty units.

- (2) A person in charge of an aeroplane that has an engine running may permit anybody to be on board only if a person on board occupies a flight control seat and either:

- (a) that person is qualified to pilot or taxi the aeroplane or is a suitably qualified engineer; or

-
- (b) the aeroplane is not being hot refuelled and is secured from moving, and that person is competent to control the engine or engines; or
 - (c) if it is a seaplane, it is in a place where it will not endanger people or property if it moves.

Penalty: 50 penalty units.

- (3) A person in charge of a rotorcraft may allow its engine or engines to be run on the ground with a rotor engaged without a pilot endorsed on the type of rotorcraft occupying a control seat only if:
 - (a) the engine is running in accordance with procedures specified in the operator's operations manual; or
 - (b) the rotorcraft is on a stable surface and:
 - (i) wind is not likely to cause an unsafe situation; and
 - (ii) the rotorcraft is fitted with a skid landing gear, or the wheels are chocked and the park brake set; and
 - (iii) the rotorcraft is fitted with a serviceable device capable of preventing movement of the cyclic and collective controls, and that device is applied; and
 - (iv) if a person other than a pilot endorsed on that type of rotorcraft occupies a flight control seat fitted with fully or partly functioning controls, or is seated in a position where he or she is able to interfere with the controls — the controls are locked and the pilot is satisfied that the person will not interfere with the controls; and
 - (v) the rotorcraft's pilot stays close to it.

Penalty: 50 penalty units.

Note See regulation 91.590 and Advisory Circular 91.240.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

91.245 Loading or unloading with engines running

- (1) When an aeroplane is loading or unloading passengers through an aerobridge, an engine of the aeroplane may be run only if a pilot who is qualified to fly the aeroplane or operate the engine is occupying a control seat.
- (2) When an aeroplane is loading or unloading passengers otherwise than through an aerobridge, an engine of the aeroplane may be run only if a pilot qualified to fly the aeroplane or operate the engine is occupying a control seat and:
 - (a) either:
 - (i) he or she has a view of the propeller or engine intake, or both or all of the propellers or engine intakes; or
 - (ii) a responsible person can see both the pilot and the passengers, and has an instant means of communicating with the pilot; and
 - (b) if any passenger is on board, or within 15 metres of, the aeroplane:
 - (i) each adult passenger has been given adequate instructions to ensure that they will not be struck by a propeller, buffeted by jet blast or drawn into an engine intake; and
 - (ii) any passenger who is not an adult is escorted by a responsible adult while within 15 metres of the aeroplane; and
 - (c) nobody other than a passenger, a member of the aircraft's crew or a person engaged in loading or unloading the aeroplane is within 15 metres of the aeroplane.

Note See also regulation 91.475.

- (3) In subregulations (1) and (2):
aerobridge includes a moveable enclosed walkway or steps.
- (4) If an engine of an aeroplane is run in contravention of subregulation (1) or (2), the aeroplane's pilot in command is guilty of an offence punishable by a maximum fine of 50 penalty units.

-
- (5) If an aeroplane's engine is running during ground operations involving loading or unloading of cargo, the aeroplane's pilot in command must ensure that:
- (a) a control seat of the aeroplane is occupied by a pilot qualified to fly the aeroplane or to operate the engine; or
 - (b) all of the following conditions are satisfied:
 - (i) the aeroplane's park brakes are applied, or its wheels are chocked;
 - (ii) the engine power lever is friction-locked at ground idle; and
 - (iii) in the case of an in-line-thrust aeroplane — the rear engine is shut down; and
 - (iv) everybody involved with the loading and unloading of the aeroplane has been briefed to comply with safe operational procedures; and
 - (v) nobody other than its crew and those engaged in loading or unloading the aeroplane is on board or within 15 metres of the aeroplane.

Penalty: 50 penalty units.

Note See also subregulation (2) if both passengers and cargo are being loaded or unloaded.

- (6) Subject to subregulation 91.240 (3), an engine or rotor of a rotorcraft may be run while the rotorcraft is being loaded or unloaded only if a pilot who is qualified to fly the rotorcraft as pilot or copilot is occupying a control seat that gives a view of the loading approach area.
- (7) If an engine or rotor of a rotorcraft is run in contravention of subregulation (6), the rotorcraft's pilot in command is guilty of an offence punishable by a maximum fine of 50 penalty units.
- Note* See generally Advisory Circular 91.240.
- (7) Strict liability applies to a contravention of subregulation (1), (2), (5), (6) or (7).

91.250 Compliance with ATC clearances and instructions

- (1) The pilot in command of an aircraft operating at an aerodrome at which an ATC tower is in operation may do any of the following things:
- (a) taxiing;
 - (b) entering an active runway;
 - (c) taking off or landing;
- only if:
- (d) he or she has obtained ATC clearance to do so; or
 - (e) a special procedure applicable to the aerodrome allows him or her to do so.

Penalty: 50 penalty units.

- (2) The pilot in command of an aircraft may enter, or operate in, controlled airspace only if:
- (a) he or she has obtained ATC clearance to do so; or
 - (b) a provision of the AIP allows him or her to do so.

Penalty: 50 penalty units.

- (3) Subject to subregulations (5) and (7), if an aircraft enters, or operates in, controlled airspace, the aircraft's pilot in command must comply with an ATC clearance or instruction if the operation concerned is not an operation under the VFR for which a provision of the AIP makes ATC clearance unnecessary.

Penalty: 50 penalty units.

- (4) Subject to subregulations (5) and (7), the pilot in command of an aircraft operating in accordance with an ATC route clearance may deviate from the route only if the deviation is approved by ATC.

Penalty: 25 penalty units.

-
- (5) In spite of subregulations (3) and (4), in an emergency involving the safety of the aircraft, or in response to the commands of an approved ACAS system, the pilot in command of an aircraft may manoeuvre contrary to an ATC clearance to the extent necessary to ensure the safety of the aircraft.
- (6) If the pilot in command of an aircraft deviates from an ATC clearance in accordance with subregulation (5), he or she must, as soon as possible:
- (a) tell ATC of the deviation; and
 - (b) resume compliance with ATC instructions.

Penalty: 5 penalty units.

- (7) Nothing in this regulation requires the pilot in command of an aircraft to accept an ATC clearance if he or she considers that:
- (a) it may be unsafe to attempt to comply with the clearance; or
 - (b) he or she cannot comply with the clearance.
- (8) Strict liability applies to a contravention of subregulation (1), (2), (3), (4) or (6).

Note In an emergency, the pilot of an aircraft may act in contravention of this Part to any extent necessary to preserve the safety of the aircraft or anybody on board — see regulation 91.080. However, the action must be reported to CASA — see regulation 91.125.

91.255 Compliance with ATC light signals

- (1) The pilot in command of an aircraft must comply with any light signals given by ATC in accordance with the AIP.

Penalty: 10 penalty units.

- (2) Nothing in this regulation requires the pilot in command of an aircraft to accept an ATC clearance given by light signal if he or she considers that:
- (a) it may be unsafe to attempt to comply with the clearance; or
 - (b) he or she cannot comply with the clearance.

-
- (3) Strict liability applies to a contravention of subregulation (1).

91.260 Compliance with prohibited and restricted airspace procedures

- (1) The pilot in command of an aircraft may operate the aircraft in a prohibited area or restricted area only in accordance with:
- (a) the conditions specified in the notice declaring the area to be a prohibited or restricted area; or
 - (b) an approval by the agency controlling the area.

Penalty: 25 penalty units.

- (2) If the pilot in command of an aircraft becomes aware that the aircraft is in a prohibited or restricted area without approval, the pilot must leave the area as soon as possible and, if the aircraft is equipped with radio, tell ATS.

Penalty: 25 penalty units.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.265 Compliance with airspace rules and procedures

- (1) The pilot in command of an aircraft must comply with the rules and procedures published in the AIP and applicable to the class of airspace in which the aircraft is operating.

Penalty: 50 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.270 Compliance with cruising levels

- (1) Subject to subregulations (2) and (3), the pilot in command of an aircraft must comply with the cruising levels published in the AIP under the rules applicable to the flight.

Penalty: 50 penalty units.

-
- (2) Subregulation (1) does not apply to an aircraft if ATC has instructed its pilot in command, or cleared the aircraft, to operate otherwise than in compliance with those cruising levels.
 - (3) Subregulation (1) does not apply to an aircraft outside controlled airspace if its pilot in command is unable to comply with those cruising levels.
 - (4) Strict liability applies to a contravention of subregulation (1).

91.275 Minimum height for flight under IFR

- (1) The lowest safe altitude (*LSALT*) for a flight under the IFR is:
 - (a) if a lowest safe altitude for the intended route or route segment is shown on an approved chart — that lowest safe altitude; or
 - (b) if the intended route, route segment or area of operations is within a sector, grid or area for which a lowest safe altitude is shown on an approved chart — that lowest safe altitude; or
 - (c) the altitude worked out by a method set out in the operator's operations manual; or
 - (d) the altitude worked out by a method published in the AIP.
- (2) The pilot in command of an aircraft operating under the IFR must establish the LSALT for all routes and route segments for the flight.

Penalty: 50 penalty units.

- (3) The pilot in command of an IFR flight may permit the aircraft to fly below the relevant route, area or sector LSALT only:
 - (a) during the take-off phase of flight; or
 - (b) when proceeding in accordance with an instrument departure or approach procedure approved for the aerodrome; or
 - (c) when visually manoeuvring to land (in accordance with a procedure published in the AIP) following an instrument approach procedure approved for the aerodrome; or

-
- (d) when using approved night-vision-enhancement equipment or approved rotorcraft lighting equipment; or
 - (e) when being radar vectored; or
 - (f) by day in VMC.

Penalty: 50 penalty units.

- (4) Strict liability applies to a contravention of subregulation (2) or (3).

91.280 Minimum height for flight under the VFR by night

- (1) The pilot in command of a flight under the VFR at night may fly below the safety height calculated in accordance with the relevant standard published in the AIP only:
 - (a) when taking off or landing; or
 - (b) when being radar vectored; or
 - (c) when using approved night-vision-enhancement equipment or approved rotorcraft lighting equipment.

Penalty: 25 penalty units.

- (2) The LSALT shown for the intended route or segment on an approved chart may be used to establish a safety height for the flight.
- (3) Strict liability applies to a contravention of subregulation (1).

91.285 Minimum operating heights

- (1) The pilot in command of an aircraft may fly below the height specified, for the aircraft's location, in subregulation (2) only:
 - (a) when taking off or landing; or
 - (b) when engaged in a missed approach or practice emergency procedure at a landing area; or
 - (c) when engaged in a practice forced landing procedure, subject to having the permission of the owner or controlling authority of the area over which the practice is carried out; or
 - (d) when operating in an approved low flying area; or

-
- (e) if permitted to do so by another provision of these Regulations.

Penalty: 50 penalty units.

Note See regulation 91.080 relating to deviations in emergencies.

- (2) The height is:
- (a) if the aircraft is over a city, town or populous area — 1 000 feet above:
- (i) in the case of a seaplane flying within safe gliding distance of open water suitable for a forced landing — the highest surface feature or obstacle within a horizontal radius of 300 metres of the point on the surface immediately below the seaplane; or
 - (ii) in the case of any other aeroplane — the highest surface feature or obstacle within a horizontal radius of 600 metres of the point on the surface immediately below the aeroplane; or
 - (iii) in the case of a rotorcraft — the highest surface feature or obstacle within a horizontal radius of 300 metres of the point on the surface immediately below the rotorcraft; and
- (b) if the aircraft is over a moderately populated, developed or utilised area — 500 feet above the highest surface feature or obstacle within a horizontal radius of 300 metres of the point on the surface immediately below the aircraft; and
- (c) if the aircraft is over a sparsely populated area, and is not engaged in a task authorised by the owner or controlling authority of the land or water over which the flight is being conducted — 500 feet if the point on the ground vertically below the aircraft is within 150 metres of any person, vessel, vehicle, structure or livestock.
- (3) For subregulation (2):
- (a) a ***populous area*** is one characterised by urbanisation in the form of streets, clustered houses, shopping centres, car parking areas, industrial areas, and the like; and

(b) a *moderately populated area* is one characterised by small farms and land holdings, frequent farmsteads, agriculture, sealed roads, power-line networks, farmed land, coastal waters within 5 km of shore areas with frequent towns and villages, estuaries and lakes with extant or frequent passage of water traffic, national parks, nature reserves, and the like; and

(c) a *sparsely populated area* is one characterised by rangeland grazing, desert, uncultivated landscape, wilderness, infrequent homesteads, large land holdings, extensive uncleared land, salt lakes, navigable tracts of water without visible or frequent water traffic, and the like.

(4) If an aircraft:

(a) is not engaged in an operation mentioned in a paragraph of subregulation (1); but

(b) is engaged in a task authorised by the owner or controlling authority of the land or water over which the flight is being conducted;

its pilot in command may fly the aircraft at less than 500 feet above an obstruction only if:

(c) he or she is trained for low flight in accordance with Part 61; and

(d) the only persons on board are crew members.

Penalty: 50 penalty units.

(5) Strict liability applies to a contravention of subregulation (1) or (4).

91.290 IFR approach and departure procedures

(1) The pilot in command of an aircraft departing from or approaching an aerodrome in IMC must comply with an approved departure or approach procedure relevant to the circumstances of the flight and any related ATC clearance.

Penalty: 50 penalty units.

-
- (2) Subject to compliance with any relevant ATC clearance, the pilot in command of an aircraft may omit part or all of an instrument approach or departure procedure if in the circumstances a visual arrival or departure can safely be flown in compliance with:
- (a) normal operational standards for visual flight; or
 - (b) a relevant procedure published in the AIP.
- (3) The pilot in command of an aircraft may continue a straight-in instrument approach:
- (a) in the case of a precision approach, beyond the final approach point; or
 - (b) in the case of a non-precision approach, below 1 000 feet above the aerodrome;
only if:
 - (c) there is no reported RVR or visibility for the aerodrome; or
 - (d) the reported RVR or visibility is not less than the minimum specified in AIP for the aerodrome and the approach being conducted.

Penalty: 50 penalty units.

- (4) If after passing the final approach point (in the case of a precision approach) or descending below 1 000 feet above the aerodrome (in the case of a non-precision approach), the reported visibility or controlling RVR falls below the minimum specified for the approach, the pilot in command may continue the approach to the specified minimum for the approach being conducted.
- (5) In subregulations (3) and (4):
reported means currently reported, for the aerodrome concerned, by ATC or an approved meteorological reporting facility.
- (6) Subregulation (3) does not prevent the pilot in command of an aircraft continuing an instrument approach beyond the final approach point, or 1 000 feet above the aerodrome, in the circumstances mentioned in that subregulation if:
- (a) the operation is carried out for training purposes; and

-
- (b) at the time the aircraft is not carrying any passenger; and
 - (c) the pilot in command does not intend to land the aircraft.

- (7) The pilot in command must not take off or land an aircraft when any meteorological element at the aerodrome or landing place concerned is below the relevant minimum for the aerodrome or landing place published in the AIP.

Penalty: 50 penalty units.

- (8) The pilot in command of an aircraft must not use, at night or in IMC, an instrument departure or approach procedure that is not approved.

Penalty: 50 penalty units.

- (9) Strict liability applies to a contravention of subregulation (1), (3), (7) or (8).

91.295 Submission of flight plans

- (1) This regulation applies to a flight of an aircraft if CASA has published a notice in AIP specifying classes of flights in respect of which a flight plan must be filed, and the flight is in a class so specified.
- (2) The pilot in command of an aircraft may commence a flight to which this regulation applies only if:
 - (a) a flight plan for the flight has been submitted to air traffic services; and
 - (b) the flight plan complies with any applicable requirements specified in AIP.

Penalty: 5 penalty units.

- (3) If during such a flight of an aircraft its pilot in command deviates from the flight plan filed for the flight, he or she must report the fact as soon as possible to air traffic services.

Penalty: 5 penalty units.

- (4) Strict liability applies to a contravention of subregulation (2) or (3).

91.300 Simulated failure of flight instruments in IMC or at night during training

- (1) Subject to subregulation (2), the pilot in command of an aircraft operating in IMC or at night may fail, authorise the failure of, or simulate the failure of:
- (a) an attitude indicator; or
 - (b) a gyro compass; or
 - (c) an airspeed indicator; or
 - (d) an altimeter;
- only if:
- (e) the operation being carried out is being carried out for the sole purpose of training or checking; and
 - (f) he or she, or an approved testing officer who is conducting a flying skills test of the pilot in command, is seated at a fully-functioning set of controls and has a clear view of a serviceable instrument of the same kind.

Penalty: 25 penalty units.

- (2) Subregulation (1) does not prevent the pilot in command from carrying out an approved procedure to diagnose or isolate a failure of an instrument or instrument system.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (2) — see the *Criminal Code*, s 13 (3).

- (3) Strict liability applies to a contravention of subregulation (1).

91.305 Simulation of engine emergencies in IMC or at night during training

- (1) In this regulation:

simulate failure of an engine means:

- (a) for a turbojet or turbofan engine — reduce its thrust to the flight idle setting; or
- (b) for an engine of any other type — without shutting the engine down, select a power setting that produces drag approximately the same as that resulting from a windmilling propeller, or a feathered propeller.

-
- (2) The pilot in command of an aircraft may shut down a serviceable engine, or (in the case of a multi-engined aircraft) feather the propeller of, or simulate the failure of, a serviceable engine, only:
- (a) during an operation that is being carried out for the sole purpose of training or checking; and
 - (b) if no passengers are on board.

Penalty: 50 penalty units.

- (3) The pilot in command of a multi-engined aircraft may shut down a serviceable engine, or feather the propeller of a serviceable engine, during flight in IMC or at night only in accordance with an appropriate procedure (that is, a procedure specified in an approved operations manual or in the pilot's operating handbook for the aircraft) applicable in the circumstances.

Penalty: 50 penalty units.

- (4) The pilot in command of a single-engined aircraft must not simulate failure of the engine during flight in IMC.

Penalty: 50 penalty units.

- (5) Subject to subregulation (6), the pilot in command of a single-engined aircraft must not simulate failure of its engine during flight at night.

Penalty: 50 penalty units.

- (6) For the purpose of conducting a practice night gliding approach, an instructor or authorised check pilot may simulate failure of the engine, commencing at a point not below 1 500 feet AGL at a position from which a forced landing to a lighted runway might reasonably be made, during night VMC pilot training.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (6) — see the *Criminal Code*, s 13 (3).

-
- (7) The pilot in command of a multi-engine aeroplane may simulate failure of an engine during flight in IMC or at night only if:
- (a) subregulation (8) allows him or her to do so; or
 - (b) the aeroplane is established at or above the enroute, area or sector LSALT; or
 - (c) the aeroplane is being operated:
 - (i) at night in VMC; and
 - (ii) within the circling area of an aerodrome; and
 - (iii) at a height above 1 000 feet AGL while in the condition of simulated engine failure.

Penalty: 50 penalty units.

- (8) This subregulation allows a check pilot or flying instructor in command of a multi-engine aeroplane to simulate failure of an engine to carry out:
- (a) an asymmetric circuit and landing in night VMC, if the simulation is initiated at or above circuit height, and not below 1 000 feet AGL; or
 - (b) an asymmetric instrument approach and missed approach, if:
 - (i) the sequence is initiated above the initial approach altitude; and
 - (ii) the flight can be conducted with visual reference to the terrain when below a height of 1 000 feet above the relevant minima (according to the chart in use for the approach).
- (9) The pilot in command of a rotorcraft may initiate an autorotation or simulated emergency sequence in night VMC if:
- (a) the pilot under instruction is appropriately briefed before the exercise; and
 - (b) the sequence is conducted under the supervision of a check pilot or flying instructor; and
 - (c) the training is conducted at an aerodrome with omnidirectional runway lighting; and
 - (d) the rotorcraft is at or above 1 000 feet AGL; and

-
- (e) either:
- (i) in the case of a single-engined rotorcraft, power termination of the autorotation is initiated so that full power is available before the rotorcraft goes below 100 feet AGL if required; or
 - (ii) in the case of a multi-engined rotorcraft, the sequence is initiated either before the decision point, or above 500 feet AGL in the climb.

Penalty: 50 penalty units.

- (10) Strict liability applies to a contravention of subregulation (2), (3), (4), (5), (7) or (9).

91.310 Simulated instrument flight

- (1) A pilot may simulate instrument flight conditions in flight by restricting his or her field of view outside the cockpit only if the following conditions are satisfied:
- (a) there are 2 pilots each seated at a fully-functioning set of controls;
 - (b) the pilot whose field of view is not deliberately restricted has sufficient field of view to ensure that the simulated instrument flight is carried out safely;
 - (c) for an aircraft that is required to be flown by 2 pilots, the pilot mentioned in paragraph (b) is qualified to fly the aircraft.
- (2) A pilot who contravenes subregulation (1) commits an offence punishable by a maximum fine of 25 penalty units.
- (3) Strict liability applies to a contravention of subregulation (1).

91.315 Use of radio

- (1) A person may transmit on an aeronautical radio frequency only:
- (a) if he or she is appropriately qualified to do so; or
 - (b) in an emergency.

Penalty: 25 penalty units.

-
- (2) The pilot in command of a radio-equipped aircraft must make broadcasts and reports as required for the safety of air traffic:
 - (a) in the circumstances specified in the AIP; and
 - (b) in any other circumstances in which doing so is necessary to the safety of flight.

Penalty: 50 penalty units.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.320 Radio failure

- (1) The pilot in command of an aircraft that suffers radio failure at a time when radio is required must comply with the relevant procedures published in the AIP.

Penalty: 10 penalty units.

- (2) Strict liability applies to a contravention of subregulation (1).

91.325 Flight in icing conditions

- (1) An aircraft's pilot in command may operate it where he or she knows or expects icing conditions exist only if the aircraft is certificated and equipped to operate in those conditions.

Penalty: 25 penalty units.

- (2) An aircraft's pilot in command may operate it in icing conditions at night only if it is equipped with appropriate lights or other means to show or detect the formation of ice.

Penalty: 10 penalty units.

Note An experimental aircraft may be operated in icing conditions even if it is not equipped nor certified to do so — see regulation .

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.330 Operations with inoperative or unserviceable instruments or equipment

- (1) The operator of an aircraft may permit it to be operated with an inoperative or unserviceable instrument, or an inoperative or unserviceable item of equipment, if:
 - (a) the instrument or equipment is not required by the aircraft's type certificate or by any requirement applicable to the operation; and
 - (b) where the instrument or equipment is of a kind normally used in flight, it is placarded as unserviceable; and
 - (c) any cockpit control is appropriately placarded.
- (2) If an aircraft is permitted to be operated with an inoperative or unserviceable instrument or item of equipment, but:
 - (a) the instrument or item is required by:
 - (i) the aircraft's type certificate; or
 - (ii) a requirement applicable to the operation; or
 - (b) if the instrument or item is of a kind normally used in flight — it is not placarded as unserviceable; or
 - (c) the cockpit control for the instrument or item is not appropriately placarded;

its operator is guilty of an offence punishable by a maximum fine of 50 penalty units.
- (3) Despite subregulation 91.555 (2), the operator of an aircraft may permit it to be operated with specified instruments or equipment inoperative if the flight is conducted in accordance with:
 - (a) a MEL approved for the operator and the aircraft; or
 - (b) a special flight permit issued by CASA or an AER.
- (4) If the operator of an aircraft releases it for flight as permitted by subregulation (3), the operator must conduct the flight as required by the MEL or special flight permit, as the case requires.

Penalty: 50 penalty units.

-
- (5) The pilot in command of an aircraft that has an inoperative or unserviceable instrument or an inoperative or unserviceable item of equipment, and has been released for flight under subregulation (1) or (3), may operate the aircraft only if it is safe to do so having regard to the circumstances of the flight.

Penalty: 50 penalty units.

- (6) Strict liability applies to a contravention of subregulation (2) or (4) or (5).

91.335 Documents to be carried

- (1) The pilot in command of an aircraft must ensure that the aircraft has on board the documents required by subregulations (2), (4) and (5).

Penalty: 10 penalty units.

- (2) This subregulation requires the aircraft to carry:
- (a) its certificate of registration; and
 - (b) its certificate of airworthiness or special flight permit or certificate; and
 - (c) subject to subregulation (3), the current medical certificate and flight crew licence for each member of its flight crew; and
 - (d) its flight and technical record; and
 - (e) its flight manual or an approved alternative document (if any).
- (3) For operations within Australian territory, legible copies of:
- (a) the pilot's current medical certificate; and
 - (b) flight crew licences;
- may be carried in place of the originals.
- (4) If the flight is not wholly within Australian territory, this subregulation requires the aircraft to carry:
- (a) a list of the passenger's names, places of embarkation and places of destination; and
 - (b) if cargo is carried, a cargo manifest; and
 - (c) the aircraft's radio station licence or equivalent document.

-
- (5) Subject to subregulations (7) and (8), this subregulation requires the aircraft to carry documents and charts (or approved alternative publications) as set out in table 91.335.
- (6) For items 2 and 8 of the table, a topographical chart is an acceptable topographical chart if:
- (a) for IFR operations — it is designed for use in air navigation, with elevations in feet, covering the route and any likely alternate routes or landing areas plus a buffer of at least 20 nautical miles around the projected flight path; and
 - (b) for VFR operations in controlled airspace — it is either:
 - (i) a VTC or VNC that covers the area related to the planned flight plus a buffer of at least 20 nautical miles including any likely alternate routes or landing areas; or
 - (ii) a topographical chart in accordance with paragraph (c), and an ERC or TAC that the pilot can interpret and integrate with the topographical chart; and
 - (c) for VFR operations in Class G airspace — it is a topographical chart that:
 - (i) depicts topographical and human-made features with sufficient detail and accuracy to ensure that visual in-flight navigation, tracking and regular position-fixing can be maintained from take-off to landing; and
 - (ii) is of a scale practical for the planned speed of the flight; and
 - (iii) covers the planned flight plus a buffer of at least 20 nautical miles around the projected flight path, including any likely alternate routes or landing areas.
- (7) If an aircraft is required by this regulation to carry a document or chart that is published in the AIP, the aircraft need not carry the document or chart if there is no version of the document or chart relevant to the area in which the aircraft is operating.

-
- (8) An aircraft that is operating within 20 nautical miles of its point of departure, or within a designated training or operational area related to the point of departure, need not carry a document required by this regulation if a relevant operations manual so allows and its pilot in command is:
- (a) a flight instructor or a pilot in training carrying out a flight of less than 2 hours duration; or
 - (b) a pilot carrying out low-level agricultural, stock mustering, or fire-protection operations.
- (9) Strict liability applies to a contravention of subregulation (1).

Table 91.335 Documents and charts that must be carried

Column 1 Item	Column 2 Kind of document, chart or other publication	When it must be carried, and what kind is required
1	DAP charts	If the flight is an IFR flight
2	Enroute charts	(a) for IFR operations: (i) ERC or TAC appropriate to the route or area with adequate buffers for emergency and diversion; and (ii) if the aircraft would be unable to maintain LSALT in the event of an engine failure — an acceptable topographic chart; or (b) for VFR operations in controlled airspace: (i) VTC or VNC; or (ii) ERC or TAC and an acceptable topographical chart or a chart produced specifically for aviation use printed with current airspace boundaries and heights; or (c) for VFR operations in Class G airspace but within 20 nautical miles of controlled airspace — an ERC or an acceptable topographical chart of scale 1:250 000 or greater, marked with current airspace boundaries relevant to the flight
3	ERSA	If: (a) the flight goes beyond 20 nautical miles from the point of departure; or (b) the flight enters controlled airspace other than at the point of departure; or (c) the flight enters an area subject to special procedures published in ERSA; unless exempted by a relevant operations manual

Column 1 Item	Column 2 Kind of document, chart or other publication	When it must be carried, and what kind is required
4	NOTAMs	If: <ul style="list-style-type: none"> (a) the flight is an IFR flight; or (b) the flight is a day or night VFR flight: <ul style="list-style-type: none"> (i) in other than Class G airspace; or (ii) in an MBZ; or (iii) operating at a certified or registered aerodrome that has an instrument approach or departure procedure; <p>except that, if the aircraft is operating within 20 nautical miles of its point of departure, or within a designated training area related to the point of departure, it need not carry NOTAMs if its pilot in command has studied the current NOTAMs</p>
5	TAC	If the flight is an IFR flight
6	VTC	If the flight is a day VFR or night VFR flight
7	Aviation weather forecast	If the flight is an IFR flight, or is a VFR flight operating in other than Class G airspace
8	Acceptable topographical chart	If the flight is a day VFR flight and goes more than 20 nautical miles from the point of departure, except that, if the pilot is a student pilot, an acceptable topographical chart must be carried if the flight goes beyond 5 nautical miles from the point of departure

91.340 Production of documents and records

- (1) CASA may direct a person who holds a flight crew licence or a certificate of validation to produce:
 - (a) his or her licence; or
 - (b) his or her medical certificate; or
 - (c) his or her personal logbook;

for inspection at a specified reasonable place.

-
- (2) If CASA directs a person to produce documents under subregulation (1), the person must produce the documents at the specified place within:

- (a) 14 days; or
- (b) if the person is a member of the flight crew of an aircraft that, when the direction is given, is operating internationally, 28 days.

Penalty: 25 penalty units.

- (3) If there is reason to believe that a pilot intends to begin a flight for which he or she cannot produce evidence that he or she holds a necessary licence, rating or endorsement, CASA may direct him or her:

- (a) not to undertake the flight; or
- (b) that he or she may undertake the flight only subject to a restriction or condition;

until he or she produces to CASA evidence that he or she holds the necessary licence, rating or endorsement.

- (4) The pilot must comply with the direction, or with the restriction or condition, as the case may be.

Penalty: 25 penalty units.

- (5) CASA may request an operator, in writing, to produce any documents and records related to flight operations or maintenance at a specified reasonable place.

- (6) The operator must comply with the request within 14 days.

Penalty: 10 penalty units.

- (7) The pilot in command of an aircraft must, if requested to do so by an authorised person, produce to that person the documents required by regulation 91.335 to be carried.

Penalty: 10 penalty units.

- (8) Strict liability applies to a contravention of subregulation (2), (4), (6) or (7).

91.345 Carrying people on or in certain parts of aircraft prohibited

- (1) Subject to subregulation (2), the pilot in command of an aircraft may permit a person to be carried on or in a part of the aircraft that is not designed to accommodate crew or passengers only if CASA so approves.

Penalty: 50 penalty units.

- (2) A member of the crew of an aircraft may be carried temporarily:
- (a) in a part of the aircraft for the purpose of:
 - (i) carrying out repairs or adjustments to the aircraft or its equipment; or
 - (ii) doing anything for the safety of the aircraft or any person or cargo carried in it; or
 - (b) in a part of the aircraft where goods or stores are being carried that has a proper means of access.
- (3) Strict liability applies to a contravention of subregulation (1).

91.350 Alcohol and other drugs — crew members

- (1) A crew member of an aircraft must not be in a state in which, because of having consumed, used or absorbed any substance (including, but not limited to, an alcoholic beverage, a drug, or a pharmaceutical or medicinal preparation, but not including a medication approved for the purposes of Part 67) his or her physical or mental capacity to act as a crew member is impaired.

Penalty: 50 penalty units.

- (2) A person must not act as, or perform any duty or function preparatory to acting as, a crew member of an aircraft if the person has consumed any alcohol (whether or not an alcoholic beverage) during the period of 8 hours ending immediately before he or she begins to perform those duties or functions.

Penalty: 50 penalty units.

-
- (3) A crew member of an aircraft in flight must not consume any alcohol (whether or not an alcoholic beverage) while performing duty as a crew member.

Penalty: 50 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

91.355 Alcohol and other drugs — passengers

- (1) A person may consume an alcoholic beverage on board an aircraft only if:

- (a) a cabin crew member has served the beverage to the person; or
(b) if no cabin crew member is on board — the pilot in command allows the person to consume the beverage.

Penalty: 5 penalty units.

- (2) A crew member of an aircraft must not provide or serve an alcoholic beverage to a person on board the aircraft if there are reasonable grounds to believe that the person is affected by alcohol or a drug to an extent that may cause the person to present a hazard to the aircraft or to anybody on board it.

Penalty: 15 penalty units.

- (3) A crew member of an aircraft must not allow a person to board the aircraft if there are reasonable grounds to believe that the person is affected by alcohol or a drug to an extent that may present a hazard to the aircraft or to anybody on board it.

Penalty: 15 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

91.360 Operations over the high seas

- (1) Annex 2, *Rules of the Air*, to the Chicago Convention applies to the operation of an Australian aircraft over the high seas.

Note For how to obtain copies of the Annexes to the Chicago Convention, see the Readers Guide to these Regulations.

- (2) If an Australian aircraft is operated over the high seas in contravention of that Annex, the aircraft's pilot in command and any other member of its crew responsible for the contravention are each guilty of an offence punishable by a maximum fine of 5 penalty units.
- (3) Strict liability applies to a contravention of subregulation (2).

91.365 Fuel and oil for aircraft

- (1) The aircraft operator and the pilot in command of an aircraft must take all reasonable steps to ensure that fuel, lubricating oil, and other lubricants with which the aircraft is replenished comply with:
- (a) the specification in the aircraft's flight manual; or
 - (b) the recommendation of the aircraft and engine manufacturers

Penalty: 10 penalty units.

- (2) When an aircraft is being fuelled, its operator, its pilot in command, the fuel supplier, the person managing the fuelling operation, and the person responsible for fuelling the aircraft must each take all reasonable steps:
- (a) to prevent contaminated, degraded or inappropriate fuel or lubricant from being used to replenish the aircraft; and
 - (b) to ensure that the aircraft is replenished with the amounts of fuel and lubricants ordered by the person responsible for ordering the replenishment; and
 - (c) to ensure that no person is endangered, and no fire hazard created, by the operation.

Penalty: 25 penalty units.

-
- (3) The operator and the pilot in command of an aircraft (other than an aircraft mentioned in subregulation 91.371 (1)) are each guilty of an offence if the aircraft is not refuelled.

Penalty: 25 penalty units.

- (4) The operator of an aircraft, its pilot in command, and the person responsible for fuelling it must each comply with the rules in regulation 91.370.

Penalty: 10 penalty units.

- (5) Despite subregulation (4), a person may, in an emergency, take action that would otherwise contravene subrule 2.9 in regulation 91.370 if necessary to preserve the safety of an aircraft or a person.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (5) — see the *Criminal Code*, s 13 (3).

- (6) The aircraft operator, the pilot in command and the person responsible for fuelling an aircraft must take into account safety guidance in CASA Advisory Circular 91.365 or any other documented procedures approved by CASA.

Note See generally Advisory Circular 91.180.

- (7) Strict liability applies to a contravention of subregulation (1), (2), (3) or (4).

91.370 Rules for fuelling aircraft

- (1) The rules are as follows:

Rule 1 Compliance with fuel safety instructions

- 1.1** The aircraft operator, the pilot in command and the person responsible for fuelling an aircraft must take into account safety instructions about fuelling given in writing by any of the following:

- (a) the distributor of the fuel;
- (b) the operator of the aircraft;
- (c) the manufacturers of the aircraft and the fuelling equipment;

-
- (d) the person or organisation responsible for fuelling the aircraft.

1.2 The aircraft operator, the pilot in command, and the person responsible for fuelling the aircraft must comply with any relevant safety and aircraft-specific procedures in:

- (a) the aircraft operator's operations manual; and
- (b) the aircraft's flight manual; and
- (c) the fuelling organisation's fuelling manual.

Rule 2 Safety generally during fuelling operations

2.1 The aircraft operator and the person responsible for refuelling an aircraft must ensure that the fuelling of the aircraft is not started or continued at a time when anybody is smoking within 15 metres of the aircraft or the fuelling equipment, or is otherwise creating a fire hazard.

2.2 If the person responsible for fuelling an aircraft becomes aware that a fire hazard has arisen within 15 metres of the fuelling equipment or the aircraft during the fuelling operation, the person must stop the fuelling and secure the area of the operation against the fire hazard.

2.3 The person responsible for fuelling an aircraft must ensure that fire extinguishers, of a type and capacity suitable for extinguishing fuel and electrical fires, are readily accessible and are within 15 metres of the fuelling point.

Note See subregulation (2) in regard to the type of extinguisher required to be used within Australia.

2.4 The aircraft operator, the person responsible for fuelling the aircraft and anybody servicing an aircraft must take all reasonable steps to ensure that footwear and clothing worn by anybody on the apron within 6 metres of the aircraft's fuel filling points or fuel vents, or the fuelling equipment, are of a non-sparking type that does not present a fuel vapour ignition hazard in that environment.

-
- 2.5 The aircraft operator, the person responsible for fuelling the aircraft and anybody servicing an aircraft must take all reasonable steps to ensure that nobody carries anything that presents an ignition hazard within 6 metres of the aircraft's fuel filling points or fuel vents, or the fuelling equipment.
- 2.6 The person responsible for fuelling the aircraft must not remove a fuel tank cap before the aircraft and all the fuelling equipment to be used have been electrically bonded together to ensure that all of them are at the same electrical potential.
- 2.7 The aircraft operator and the person responsible for fuelling the aircraft must take all reasonable steps to ensure that all devices capable of emitting radio-frequency energy (other than devices designed or certificated to an industry standard for use in fuelling zones) are turned off when within 6 metres of the aircraft's fuel filling points or fuel vents, or the fuelling equipment.
- 2.8 Despite subrule 2.7, a mobile telephone may be operated within the aircraft's cabin if:
- (a) the pilot in command gives permission; and
 - (b) the aircraft is connected to an aerobridge; and
 - (c) all other exits are closed.
- 2.9 The aircraft operator and the person responsible for fuelling the aircraft must ensure that nobody acting under the instructions of either of them operates, or switches on or off, any equipment that is not:
- (a) part of the aircraft or the fuelling equipment; or
 - (b) equipment designed for use in fuelling operations; or
 - (c) equipment that performs an aircraft servicing function and has been assessed by the operator as safe for use close to fuelling operations;
- within 15 metres of the aircraft, or the fuelling equipment, during the fuelling operation.

Note In an emergency, a person may take action that would otherwise contravene this subrule — see subregulation 91.365 (4).

-
- 2.10** The aircraft operator, the person responsible for fuelling the aircraft and anybody fuelling an aircraft must stop the fuelling operation if anybody, or any equipment, is causing, or is likely to cause, a safety hazard in relation to the fuelling operation.
- 2.11** If an APU is fitted to an aircraft being fuelled, and is required to be in operation during the fuelling, the aircraft operator and the person responsible for fuelling the aircraft must ensure that:
- (a) the APU is started before filler caps are removed or fuelling equipment is connected, or otherwise in accordance with an approved procedure; and
 - (b) the APU is operated only in accordance with an approved procedure and the aircraft manufacturer's instructions.
- 2.12** If a GPU is to be operated near an aircraft being fuelled while equipment or vehicles related to fuelling are connected to the aircraft or are within 6 metres of the GPU, the aircraft operator and the person responsible for fuelling the aircraft must ensure that, before the GPU is connected to, disconnected from, or otherwise operated in relation to, the aircraft:
- (a) the person in charge of the fuelling operation has been warned that the GPU is operating; and
 - (b) the operator of the aircraft has ensured that it is safe to operate the GPU under the circumstances; and
 - (c) the GPU is operated strictly in accordance with the manufacturer's instructions.
- (2) For rule 2.3, an extinguisher must comply with Australian Standard AS/NZS 1841 if the fuelling is being carried out in Australia.

91.371 Hot refuelling generally

- (1) This regulation applies to:
 - (a) turbine-engined aeroplanes; and
 - (b) rotorcraft.
- (2) A requirement in this regulation for particular information to be in an aircraft's flight manual is satisfied if the information is in:
 - (a) a placard in the aircraft's cockpit; or

-
- (b) another document that is kept in the aircraft and is accessible to the aircraft's crew.
- (3) An aircraft's operator may authorise the hot refuelling of the aircraft only if the operator is satisfied that the refuelling can be carried out safely and, in particular, has taken into account:
- (a) the configuration of the aircraft and its engine or engines; and
 - (b) the location of the components of the aircraft's fuel system; and
 - (c) the refuelling system or systems to be used and its or their components; and
 - (d) the aircraft's flight manual or another document mentioned in paragraph (2) (a) or (b).

Penalty: 25 penalty units.

- (4) The operator of an aircraft that authorises hot refuelling of the aircraft must ensure that the operator's operations manual, the aircraft's flight manual or written instructions to the aircraft's crew set out:
- (a) the operational circumstances in which hot refuelling may take place; and
 - (b) the procedures to be followed during hot refuelling; and
 - (c) any instructions about monitoring fuel quality for paragraph 91.372 (11) (c).

Penalty: 10 penalty units.

- (5) In the case of an operations manual, the operator must set out the matters referred to in subregulation (4) separately for each type of aircraft to which the operations manual applies.

Penalty: 10 penalty units.

- (6) The operator of an aircraft is guilty of an offence if a person who takes part in hot refuelling of the aircraft is not trained in, and familiar with, the procedures to be followed during:
- (a) hot refuelling; and
 - (b) any emergency that may occur in relation to the refuelling.

Penalty: 10 penalty units.

-
- (7) Strict liability applies to a contravention of subregulation (3), (4), (5) or (6).

91.372 Hot refuelling — pilot in command’s responsibilities

- (1) A requirement in this regulation for particular information to be in an aircraft’s flight manual is taken to be satisfied if the information is in:
- (a) a placard in the aircraft’s cockpit; or
 - (b) another document that is kept in the aircraft and is accessible to the aircraft’s crew.
- (2) The pilot in command of an aircraft is guilty of an offence if the aircraft is hot refuelled and:
- (a) the operator has not given authority, generally or for the specific occasion, for the hot refuelling; or
 - (b) the operator’s operations manual does not include procedures for hot refuelling aircraft of the type concerned.

Penalty: 10 penalty units.

- (3) Before allowing the hot refuelling of an aircraft to commence, the pilot in command must ensure that the refuelling is carried out in accordance with the procedures in:
- (a) the aircraft’s operator’s operations manual; or
 - (b) the aircraft’s flight manual; or
 - (c) a document mentioned in paragraph 91.371 (2) (a) or (b);
or
 - (d) written instructions to the aircraft’s crew;
as the case requires.

Penalty: 25 penalty units.

- (4) The pilot in command of the aircraft must ensure that, while hot refuelling is being carried out:
- (a) the requirements of regulation 91.240 are satisfied; and
 - (b) the following conditions are satisfied:
 - (i) the aeroplane has its park brake applied, or its wheels are chocked;

-
- (ii) the engine power lever is friction-locked at ground idle; and
 - (iii) in the case of an in-line-thrust aeroplane — the rear engine is shut down; and
 - (iv) if the aircraft is not connected to an aerobridge, the door or doors on the refuelling side of the aircraft remain closed; and
 - (v) everybody involved with the hot refuelling has been briefed to comply with safe operational procedures.

Penalty: 50 penalty units.

- (5) The pilot in command must ensure that, while hot refuelling is being carried out:
 - (a) if passengers remain on board, the requirements of regulation 91.475 are satisfied; and
 - (b) if loading or unloading passengers or cargo — the requirements of regulation 91.245 are satisfied; and
 - (c) for a rotorcraft that is carrying a passenger or passengers:
 - (i) a passenger remains on board only if the passenger's condition, age or disability makes it inadvisable for him or her to disembark; or
 - (ii) its passengers remains on board only if, in the opinion of the pilot in command, it is safer for them to remain on board rather than to disembark.

Penalty: 50 penalty units.

- (6) While a person in charge of the aircraft is at the aircraft's controls, communication between that person and the person on the ground in charge of the refuelling must be maintained by means of an electronic communication system or by visual contact and an agreed system of signals.

Penalty: 10 penalty units.

- (7) The aircraft's pilot in command and the person in charge of the refuelling are each guilty of an offence if the aircraft is hot refuelled and they did not agree, before hot refuelling was commenced, how much fuel was to be loaded.

Penalty: 5 penalty units.

-
- (8) The aircraft's pilot in command is guilty of an offence if the aircraft is hot refuelled and more fuel is loaded than was agreed to be loaded.

Penalty: 5 penalty units.

- (9) The person in charge of the refuelling is guilty of an offence if:
- (a) the aircraft is hot refuelled using an open system of refuelling; and
 - (b) there is no means of quickly cutting off the fuel supply at the point of entry into the fuel tank of the aircraft.

Penalty: 10 penalty units.

- (10) The pilot in command of an aircraft that has been hot refuelled must inspect and test the aircraft's fuel system for the presence of water or foreign matter:
- (a) if paragraph (b) does not apply — before the aircraft's next flight; or
 - (b) if the conditions in subregulation (11) are satisfied — immediately after the refuelling (whether or not hot refuelling) next after the end of each 5-hour period of continuous operation.

Penalty: 10 penalty units.

Note See regulation 91.180.

- (11) The conditions are the following:
- (a) the aircraft is continuously in operation (that is, its engine or engines is or are running continuously) for at least 5 hours;
 - (b) during that period, either:
 - (i) the aircraft is engaged in aerial work operations; or
 - (ii) the aircraft is engaged in private operations, and CASA has authorised its operator to hot refuel under the conditions set out in this subregulation;
 - (c) either:
 - (i) the supplier of the fuel used by the aircraft during that period has a fuel quality audit program the reports from which are checked by the operator; or

-
- (ii) the operator has a system for monitoring the quality of the fuel used by the aircraft.
- (12) Strict liability applies to a contravention of subregulation (2), (3), (4), (5), (6), (7), (8), (9) or (10).

91.375 Fuel management

- (1) Before an aircraft commences a flight, its pilot in command of an aircraft must plan the flight in such a way as to ensure that enough fuel will remain in the aircraft's tanks after landing to allow it to fly for at least 30 minutes (or, for a rotorcraft, 20 minutes) at normal cruise power under ISA conditions at 1 500 feet above the place of intended arrival.

Penalty: 10 penalty units.

Note See generally Advisory Circular 91.180.

- (2) Strict liability applies to a contravention of subregulation (1).

91.380 Competence of crew to use emergency equipment

- (1) If the operator or the pilot in command of an aircraft assigns a person to act as a crew member of the aircraft, and the person is not competent in the operation and use of any emergency and lifesaving equipment on board the aircraft that is relevant to his or her duties, the operator or pilot in command commits an offence punishable by a maximum fine of 10 penalty units.

Note A person who is not competent in the use of lifesaving and emergency equipment is not to be counted as a crew member for the purpose of deciding whether the aircraft is carrying a sufficient number of cabin crew — see subregulation (2).

- (2) Strict liability applies to a contravention of subregulation (1).

91.385 Loading of aircraft

- (1) The operator and pilot in command of an aircraft must ensure that the aircraft is loaded in accordance with the loading instructions for the aircraft issued by its manufacturer.

Penalty: 10 penalty units.

-
- (2) Strict liability applies to a contravention of subregulation (1).

91.390 Cargo to be restrained

- (1) This regulation applies to cargo except cargo of the following kinds:
- (a) assisting animals carried in the passenger cabin of an aircraft;
 - (b) carry-on baggage;
 - (c) passenger service equipment (within the meaning given by regulation 91.400);
 - (d) cargo about to be dropped from the aircraft that is carrying it.
- (2) The pilot in command of an aircraft must ensure that cargo to which this regulation applies is carried:
- (a) in a compartment occupied by a person; or
 - (b) behind, and on the same deck as, a compartment referred to in paragraph (a);
- is restrained at all times during flight by approved equipment that prevents the cargo, or any part of it, from moving during the aircraft's maximum acceleration or deceleration in accordance with the certificated flight and emergency landing loads applicable to the aircraft type.
- Penalty: 10 penalty units.
- (3) The pilot in command of the aircraft must ensure that cargo to which this regulation applies (other than cargo to which subregulation (2) applies) is restrained at all times during flight by approved equipment that prevents the cargo, or any part of it, from moving during the maximum acceleration or deceleration to be expected in flight, or in a heavy landing.
- Penalty: 10 penalty units.
- (4) Strict liability applies to a contravention of subregulation (2) or (3).

-
- (5) In this regulation:

compartment includes the interior space of a non-compartmentalised fuselage.

91.395 Stowage and restraint of carry-on baggage

- (1) In this regulation:

carry-on baggage does not include carry-on baggage that is unlikely to cause injury, damage an aircraft, or obstruct aisles or exits, if displaced.

- (2) During take-off and departure and approach and landing, and at any other time during a flight if the aircraft's pilot in command so directs, carry-on baggage on an aircraft:

- (a) must be stowed in approved places; and
- (b) must be restrained by approved equipment that prevents it from moving during the aircraft's maximum acceleration or deceleration (in accordance with the certificated flight and emergency landing loads applicable to the aircraft type).

- (3) If subregulation (2) is contravened, the aircraft's operator and its pilot in command are each guilty of an offence punishable by a maximum fine of 10 penalty units.

- (4) A person on board an aircraft must comply with a direction of a member of the aircraft's crew in relation to the stowage or securing of carry-on baggage.

Penalty: 10 penalty units.

- (5) Strict liability applies to a contravention of subregulation (2) or (4).

91.400 Stowage and restraint of passenger service equipment

- (1) In this regulation:

passenger service equipment includes:

- (a) serving trolleys; and

-
- (b) containers and packages holding, or used to hold, food or beverages; and
 - (c) food service utensils; and
 - (d) eating utensils.
- (2) The pilot in command of an aircraft must ensure that, whenever the aircraft is taking off or landing, passenger service equipment:
- (a) is stowed in an approved place; and
 - (b) is restrained by approved equipment that prevents it from moving during the aircraft's maximum acceleration or deceleration (determined in accordance with the certificated flight and emergency landing loads applicable to the aircraft type).

Penalty: 10 penalty units.

- (3) The pilot in command must ensure that, at any other time when it is necessary in the interests of safety to stow and secure the equipment, it is stowed and secured in the way required by subregulation (2).

Penalty: 10 penalty units.

- (4) A person must comply with any direction given by a member of an aircraft's crew in relation to the securing or stowage of passenger service equipment on the aircraft.

Penalty: 10 penalty units.

- (5) Strict liability applies to a contravention of subregulation (2), (3) or (4).

91.405 Cargo not to be carried in certain places

- (1) The operator and the pilot in command of an aircraft must ensure that cargo is not carried in a place where:
- (a) it may damage, obstruct or cause failure of any control, electrical wiring or pipeline, or any other aircraft equipment essential to the safe operation of the aircraft; or

-
- (b) the weight of the cargo exceeds the load limitations for the floor structure or any other load bearing components of the aircraft (as set out in the aircraft flight manual or on placards); or
 - (c) it obstructs an aisle.

Penalty: 10 penalty units.

- (2) Subject to subregulation (3), the operator and the pilot in command of an aircraft must ensure that cargo carried in an aircraft does not obstruct an emergency exit, or access to an emergency exit.

Penalty: 10 penalty units.

- (3) Subregulation (2) is not contravened by the carriage of cargo in a place where it obstructs an emergency exit if:
 - (a) the emergency exit sign for that exit is covered or otherwise obscured; and
 - (b) without counting that emergency exit there are still enough emergency exits, of the correct types (according to the applicable airworthiness standard), for the number of people carried on the aircraft and their distance, when seated, from a useable exit.
- (4) Strict liability applies to a contravention of subregulation (1) or (2).

91.410 Carriage of cargo in cargo compartments

- (1) If cargo is carried in a cargo compartment the design of which requires a crew member to enter it to extinguish any fire that occurs during flight, the cargo must be loaded so as to allow a crew member to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

Note Cargo compartments that require the physical entry of a crew member to extinguish a fire are referred to as cargo compartments Class A and Class B in ICAO Document 9481 — AN/928, *Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods*.

-
- (2) If cargo is loaded on an aircraft in contravention of subregulation (1), the aircraft's operator and its pilot in command are each guilty of an offence punishable by a maximum fine of 10 penalty units.
 - (3) Strict liability applies to a contravention of subregulation (1).

91.415 Carriage of cargo on unoccupied seats

- (1) The pilot in command of an aircraft may permit cargo to be carried on an unoccupied seat only if:
 - (a) the cargo's weight is evenly distributed over the seat; and
 - (b) the cargo weighs no more than:
 - (i) 77 kilograms; or
 - (ii) if the seat manufacturer authorises a greater weight, that weight; and
 - (c) the cargo is restrained in accordance with regulation 91.390; and
 - (d) it is carried in accordance with regulation 91.405; and
 - (e) neither the cargo nor its means of restraint interferes with the safe operation of the aircraft.

Penalty: 10 penalty units.

- (2) The pilot in command of an aircraft with an MTOW of more than 5 700 kilograms must not permit cargo to be carried on a control seat.

Penalty: 10 penalty units.

- (3) Strict liability applies to a contravention of subregulation (1) or (2).

91.420 Place of carriage of cargo to contain loading instructions

- (1) The operator and the pilot in command of an aircraft must ensure that cargo is carried only:
 - (a) in a place that is placarded and approved for stowage of cargo; or:

(b) if regulation 91.415 so allows — on a seat.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to cargo that:
- (a) is passenger's carry-on baggage; and
 - (b) weighs no more than 9 kilograms; and
 - (c) is stowed under a seat in a compartment designed for that purpose.
- (3) Strict liability applies to a contravention of subregulation (1).

91.425 Crew members at duty stations

- (1) The pilot in command of an aircraft must ensure that each required flight crew member is at his or her duty station during take-off and landing.

Penalty: 50 penalty units.

- (2) The pilot in command of an aircraft must ensure that:
- (a) at least 1 appropriately qualified pilot is seated at the controls, and properly restrained, from the time the aircraft first moves for the purpose of flight until it stops moving at the end of the flight; and
 - (b) each flight crew member keeps his or her seat belt fastened when at his or her duty station; and
 - (c) subject to subregulation (3), each flight crew member wears full safety harness (if fitted at his or her duty station):
 - (i) during take-off or landing; and
 - (ii) in turbulence; and
 - (iii) in an emergency.

Penalty: 50 penalty units.

- (3) In spite of paragraph (2)(c), the pilot in command may authorise a flight crew member to release the crew member's shoulder harness if the shoulder harness interferes with the crew member's essential duties.

-
- (4) Subject to subregulation (5) or Part 133 or 136, each crew member (other than a flight crew member) on an aircraft must be seated at his or her duty station, with his or her seat belt (or, if a full safety harness is fitted at his or her duty station, the harness) fastened:
- (a) during movement of the aircraft on the surface;
 - (b) during take-off and landing;
 - (c) at any other time during flight that the pilot in command directs.

Penalty: 50 penalty units.

- (5) While the aircraft is moving on the surface, a crew member may leave his or her duty station, or unfasten his or her seat belt or shoulder harness, if necessary to perform:
- (a) a duty related to the safety of the aircraft or any of its occupants; or
 - (b) in the case of an air transport operation, a duty specified in the operator's operations manual.
- (6) If an aircraft operator's operations are of a kind for which a cabin crew must be carried, the operator must establish procedures for:
- (a) the safety of cabin crew members; and
 - (b) continuing or ceasing cabin service; during turbulence or when turbulence is expected.

Penalty: 50 penalty units.

- (7) If these Regulations require an operator to provide an operations manual, the operator must incorporate those procedures in that manual.

Penalty: 50 penalty units.

- (8) Strict liability applies to a contravention of subregulation (1), (2), (4), (6) or (7).

91.430 Briefing of passengers

- (1) The operator of an aircraft must ensure that its passengers are given a safety briefing before take-off about the following:
 - (a) when, and the places where, smoking is prohibited;
 - (b) the use and adjustment of seat belts;
 - (c) where the emergency exits are and how they are used;
 - (d) where any evacuation slides are, and how they are used;
 - (e) in the case of a pressurised aircraft that is to operate above FL 250:
 - (i) where the supplemental oxygen dispensing equipment is, and how to use it; and
 - (ii) the need to use the equipment if the cabin depressurises;
 - (f) in the case of an unpressurised aircraft that is to operate above FL 150:
 - (i) where the supplemental oxygen dispensing equipment is, and how to use it; and
 - (ii) when it will be necessary to use the equipment;
 - (g) how to stow carry-on baggage and personal effects securely;
 - (h) where any escape path lighting system is, and how to use it;
 - (i) if any passenger-operated special survival equipment is carried in accordance with regulation 91.675, where it is and how to use it;
 - (j) if any life jackets or life rafts are carried, where they are and how to use them (including a warning that life jackets must not be inflated inside the aircraft);
 - (k) the limitations on the use of portable electronic devices.

Penalty: 10 penalty units.

- (2) If a passenger is seated in a control seat, the aircraft's pilot-in-command must brief the passenger:
 - (a) on each of the matters mentioned in subregulation (1); and
 - (b) not to touch any control or switch with a hand or foot.

Penalty: 10 penalty units.

-
- (3) The briefing must be given either:
- (a) orally, by:
 - (i) a member of the aircraft's flight crew or cabin crew;
or
 - (ii) another person who has received the same training about the aircraft's emergency equipment, and the procedures for its use, as a member of the flight crew or cabin crew; or
 - (b) by means of audio or audio-visual equipment.

Penalty: 10 penalty units.

- (4) If the briefing is given by means of audio-visual equipment:
- (a) it must be presented in such a way that the passengers seated furthest from the screen are able to see and recognise the smallest important elements on the screen;
and
 - (b) it must include only information relevant to the briefing.

Penalty: 10 penalty units.

- (5) Strict liability applies to a contravention of subregulation (1), (2), (3) or (4).

91.435 Additional briefing for persons with reduced mobility

- (1) For the purposes of this regulation, a person is a person with reduced mobility if his or her mobility is reduced by physical incapacity (sensory or locomotor), intellectual disability, age, illness or any other cause.
- (2) To avoid doubt, a person with a visual impairment is a person with reduced mobility for this regulation if the impairment would be likely to interfere with his or her ability to find and use an exit in an emergency.

-
- (3) The operator of an aircraft must ensure that a passenger who is a person with reduced mobility, and any passenger accompanying such a passenger, is given information, before take-off, about what to do if an emergency evacuation of the aircraft is necessary.

Penalty: 10 penalty units.

- (4) The information must be given in a way that is appropriate to the needs of the passenger with reduced mobility.

Penalty: 5 penalty units.

- (5) The person giving the information must ask the passenger with reduced mobility, and anyone accompanying the passenger, about the best way of helping the passenger.

Penalty: 5 penalty units.

- (6) Strict liability applies to a contravention of subregulation (3), (4) or (5).

91.440 Passenger seats — general

- (1) An aircraft operator, and the pilot in command of an aircraft, must ensure that, during the periods specified in subregulation 91.450 (1), each of the aircraft's seats is occupied by no more than:
- (a) 1 adult; or
 - (b) 1 child; or
 - (c) 1 adult and 1 infant.
- (2) Subject to subregulation (3), each seat back must be in the upright position, with any attachment to the seat (such as a table or footrest) stowed, during the periods specified in subregulation 91.450 (1).
- (3) A seat may remain reclined if:
- (a) the seat is occupied; and
 - (b) it is desirable, because of the illness or incapacity of the person occupying the seat, for it to remain reclined; and
 - (c) the seat is facing the front of the aircraft; and

-
- (d) there is no-one occupying the seat (if any) behind the seat; and
 - (e) if reclined, the seat will not impede any other person from leaving the aircraft in an emergency evacuation.

Note It is an offence to fail to comply with a direction of an aircraft's pilot in command — see regulation .

- (4) If subregulation (1) or (2) is contravened, the pilot in command of the aircraft and the operator are each guilty of an offence punishable by a maximum fine of 5 penalty units.
- (5) Strict liability applies to a contravention of subregulation (1) or (2).
- (6) If practicable, a person with reduced mobility (within the meaning given by regulation 91.435) must not be seated next to an emergency exit.

91.445 Restraint of infants*[Reserved]*

91.450 Passenger seat belts

- (1) The pilot in command of an aircraft must direct its passengers to fasten their seat belts:
 - (a) while the aircraft is moving on the surface; and
 - (b) during take-off and landing; and
 - (c) at all times, if seated at a control seat; and
 - (d) at any other time during flight when he or she considers it necessary in the interests of safety.

Penalty: 10 penalty units.

- (2) Subject to subregulation (4), if the pilot in command directs that seat belts are to be fastened:
 - (a) each passenger who is not an infant must occupy a passenger seat and must ensure that his or her seat belt is properly adjusted and securely fastened; and
 - (b) each passenger who is responsible for a child must ensure that the child is properly secured.

Penalty: 10 penalty units.

-
- (3) If an aircraft has a sign or signs showing the words ‘Fasten Seat Belts’ that can be illuminated by the aircraft’s pilot, and a pilot of the aircraft illuminates the sign or signs, the aircraft’s pilot in command is taken to have directed the aircraft’s passengers that seat belts must be fastened.
- (4) Subregulation (2) does not apply to a passenger if:
- (a) Part 133 or 136 permits otherwise; or
 - (b) the passenger is engaged in a parachute operation under Part 105; or
 - (c) the passenger is being carried as permitted under regulation 91.455.
- (5) If a harness or shoulder strap is provided at a seat, a passenger occupying the seat may, at a time when seat belts are to be worn, leave the harness or shoulder strap unfastened only if the aircraft’s pilot in command so permits.
- Penalty: 10 penalty units.
- (6) The operator of an aircraft for which 1 or more cabin crew members are required to be carried must detail a cabin crew member to ensure that each passenger properly wears a seat belt or safety harness when the pilot in command directs that seat belts are to be fastened.
- Penalty: 10 penalty units.
- (7) Subject to subregulation (8), the operator of an aircraft in which it is not possible to see all the passenger seats from the pilot in command’s duty station must provide as many signs, operable by the pilot in command, as are necessary to warn all passengers and cabin crew members when seat belts must be fastened.
- Penalty: 10 penalty units.
- (8) If the aircraft is engaged in an operation other than an air transport operation, and is equipped with an approved public address system for use by the pilot in command, the aircraft need not have the signs.
- (9) Strict liability applies to a contravention of subregulation (1), (2), (5), (6) or (7).

91.455 Carriage of sick or injured passengers

- (1) The operator and the pilot in command of an aircraft carrying a sick or injured passenger must take all reasonable precautions to ensure that the carriage of the passenger will not endanger other people in the aircraft.

Penalty: 10 penalty units.

- (2) A sick or injured person may be carried on a stretcher or in an infant transport unit if the stretcher or unit and the person are each properly secured during flight.
- (3) Strict liability applies to a contravention of subregulation (1).

91.460 Certain activities not to be carried out by aircraft carrying passengers or certain crew members

- (1) The pilot in command of an aircraft that is carrying a passenger, or a crew member other than a flight crew member, must not:
 - (a) permit flying training to be given on the aircraft to a person who has not passed a general flying progress test; or
 - (b) permit emergency situations to be simulated (other than verbally); or
 - (c) permit the aircraft to engage in low flying practice; or
 - (d) subject to subregulation (3), permit the aircraft, or any of its components, power units or equipment to be tested other than during the course of checks associated with the normal day-to-day operation of the aircraft.

Penalty: 50 penalty units.

- (2) Paragraph (1) (d) does not apply if the only other persons on board the aircraft are engineering or maintenance personnel who are required, as part of their duties, to be on board the aircraft during the test.
- (3) Strict liability applies to a contravention of subregulation (1).

(4) In this regulation:

flight crew member includes:

- (a) a person who is in the aircraft for the purpose of:
 - (i) giving or receiving flying or flight engineer training; or
 - (ii) practising for the issue or renewal of a flight crew licence or rating; or
 - (iii) being tested for the issue or renewal of a flight crew licence or rating; and
- (b) a person authorised by the aircraft's operator to conduct an audit of the operation that is going on, or to supervise it; and
- (c) a person authorised by CASA under Part 119 to undertake audits, examinations, inspections or checks of the work of the crew.

91.465 Smoking in aircraft

- (1) A person on board an aircraft must not smoke if the aircraft's pilot in command directs the person not to smoke, or directs the aircraft's passengers generally not to smoke.

Penalty: 25 penalty units.

- (2) For subregulation (1), the pilot in command of an aircraft is taken to have directed all the aircraft's passengers not to smoke if a 'no smoking' sign is displayed in the aircraft's passenger cabin.
- (3) The operator of an aircraft in which it is not possible to see all the passenger seats from the pilot in command's duty station must provide as many 'no smoking' signs, operable by the pilot in command, as are necessary to warn when smoking is not permitted.

Penalty: 10 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1) or (3).

91.470 Offensive or disorderly behaviour

- (1) A person must not behave, on an aircraft, in an offensive or disorderly manner if by doing so he or she endangers the safety of the aircraft or its occupants.

Penalty: 50 penalty units.

- (2) The operator or the pilot in command of an aircraft may prohibit a person from boarding the aircraft if there are reasonable grounds to believe that the person is likely to behave in an offensive or disorderly manner that is likely to endanger the safety of the aircraft or its occupants.
- (3) Without limiting the meaning of *offensive or disorderly manner* in subregulations (1) and (2), a person behaves in such a manner if he or she:
- (a) assaults, intimidates or threatens another person (whether the assault, intimidation or threat is verbal or physical, and whether or not a weapon or object is used); or
 - (b) intentionally damages or destroys property.
- (4) Strict liability applies to a contravention of subregulation (1).

91.475 Protection of passengers during fuelling — aircraft generally

- (1) In this regulation:

fuelling includes defuelling.

safety supervisor means a person who:

- (a) is a crew member of the aircraft trained in the use of emergency equipment and associated procedures for the aircraft; and
- (b) is recognisable by, or has been introduced to, the passengers, as such a person.

- (2) An aircraft must not be fuelled while passengers are on board, or entering or leaving the aircraft, if the fuel involved is Avgas or a wide-cut type, or a mixture of Avgas and a wide-cut type.

Note In relation to fuelling generally, see Advisory Circular 91.365. See also regulations 91.365 and 91.370.

-
- (3) An aircraft may be fuelled while passengers are on board, or entering or leaving the aircraft, only if:
- (a) subject to subregulation (4), at least 1 safety supervisor for every 72, or part of 72, passengers is on duty in the aircraft during fuelling, is prepared to initiate an immediate emergency evacuation, and:
 - (i) supervises the passengers; and
 - (ii) ensures that the aisles and exits are unobstructed; and
 - (b) communication is maintained between the ground crew supervising the fuelling and the safety supervisor or safety supervisors on board the aircraft so that it can be evacuated quickly if necessary; and
 - (c) if more than 2 safety supervisors are on board the aircraft, a means of communication among them is established; and
 - (d) the operator nominates a safety supervisor to perform the following tasks during refuelling:
 - (i) ensure the safety of the passengers;
 - (ii) maintain discipline inside the aircraft;
 - (iii) supervise any necessary evacuation of the aircraft;
 - (iv) ensure that the aircraft's 'fasten seat belt' signs are turned off;
 - (v) ensure that the aircraft's 'no smoking' signs are switched on (or are otherwise illuminated) so as to denote that there is to be no smoking on the aircraft, and that no one aboard the aircraft smokes;
 - (vi) ensure that the aircraft's emergency lights (if any) are armed or illuminated and designated emergency exits are available for use;
 - (vii) if fuel vapour is detected inside the aircraft, ensure that fuelling is stopped immediately; and
 - (e) the areas outside the aircraft that would be used if the aircraft were to be evacuated are kept clear; and
 - (f) subject to subregulation (5), the aircraft's engines are shut down; and

(g) if the aircraft's operator is required by Part 119, 133 or 136 to have an operations manual, that manual sets out the responsibilities of, and procedures to be followed to satisfy the requirements of this regulation, by:

- (i) members of the crew; and
- (ii) safety supervisors; and
- (iii) if the aircraft operator's operations manual requires a qualified engineer to be on duty in the aircraft during refuelling, that engineer.

(4) In the case of an aircraft not required by these Regulations to carry a cabin crew member, the safety supervisor otherwise required by paragraph (3) (a) to be on duty in the aircraft must be near the aircraft in a position from which he or she can adequately monitor passenger safety and quickly evacuate the aircraft if necessary.

(5) In spite of paragraph (3) (f), an aircraft's engine may be running if the requirements of regulations 91.371 and 91.372 are satisfied.

(6) If subregulation (2), (3) or (4) is contravened, the operator of the aircraft concerned is guilty of an offence punishable by a maximum fine of 25 penalty units.

(7) The aircraft's operator and the person responsible for fuelling the aircraft must ensure that fuelling stops immediately if it becomes unsafe to continue.

Penalty: 25 penalty units.

(8) Strict liability applies to a contravention of subregulation (2), (3), (4) or (7).

91.480 Protection of passengers during stops other than fuelling stops — aircraft generally

(1) In this regulation:

safety supervisor has the same meaning as in regulation 91.475.

-
- (2) During a transit stop at which any passengers remain on board, but the aircraft is not fuelled:
 - (a) there must be at least 1 safety supervisor on duty for each 72, or part of 72, passengers in the aircraft to ensure that the aisles and exits are unobstructed and to enable it to be evacuated quickly if necessary; and
 - (b) the areas outside the aircraft that would be used if it were to be evacuated are kept clear; and
 - (c) subject to any other provision of this Part, or a provision of Part 133 or 136 — if the operator's operations manual includes procedures for an engine to be running during transit stops and an engine is so running, a member of the aircraft's flight crew or a suitably qualified engineer is on duty on its flight deck; and
 - (d) the operator's operations manual sets out the responsibilities of the persons mentioned in paragraphs (a) and (c) and the procedures they must follow.
 - (3) In the case of an aircraft not required by these Regulations to carry a cabin crew, the safety supervisor otherwise required by paragraph (2) (a) to be on duty in the aircraft must be near the aircraft in a position from which he or she can quickly evacuate the aircraft if necessary.
 - (4) If subregulation (2) or (3) is contravened, the operator of the aircraft concerned is guilty of an offence punishable by a maximum fine of 25 penalty units.
 - (5) Strict liability applies to a contravention of subregulation (2) or (3).

91.485 Reduced vertical separation minima (RVSM) operations

- (1) An aircraft may be operated in airspace designated as RVSM airspace only if it is equipped with:
 - (a) 2 independent altitude measurement systems; and
 - (b) a secondary surveillance radar transponder that has an altitude-reporting system that can be switched to operate from either of the altitude measurement systems; and
 - (c) an altitude alert system; and

(d) an automatic altitude control system.

Penalty: 15 penalty units.

- (2) The operator of an aircraft that operates in airspace designated as RVSM airspace must have:
- (a) a program for the continued airworthiness, for operations in RVSM airspace, of the aircraft to ensure that it will continue to meet the requirements of the ICAO RVSM Manual while it is used in those operations; and
 - (b) a training program for the members of the flight crew of the aircraft to ensure that the members are adequately trained to carry out operations in RVSM airspace.

Penalty: 15 penalty units.

- (3) An aircraft operator that holds an RVSM operational approval may permit an aircraft operated by the operator to begin a flight during which the aircraft may fly in RVSM airspace only if:
- (a) the approval covers the aircraft; and
 - (b) if the aircraft is an Australian aircraft, an RVSM airworthiness approval is in force for the aircraft; and
 - (c) if the aircraft is a foreign aircraft, an RVSM foreign airworthiness approval is in force for the aircraft; and
 - (d) the aircraft is equipped with the equipment mentioned in paragraph (2) (b); and
 - (e) the equipment is functioning properly; and
 - (f) each member of the flight crew of the aircraft has satisfactorily completed the training program mentioned in paragraph (2) (c).

Penalty: 15 penalty units.

- (4) Strict liability applies to a contravention of subregulation (1), (2) or (3).

-
- (5) An aircraft operator that holds an RVSM operational approval must comply with the requirements for monitoring height-keeping in RVSM operations mentioned in the Pacific RVSM Minimum Monitoring Requirements issued by the Asia Pacific Approvals Registry and Monitoring Organisation and approved by decision of the Council of the International Civil Aviation Organisation, as in force from time to time.

91.490 Required navigation performance (RNP) operations

Reserved

91.495 Basic area navigation (B-RNAV) operations

Reserved

91.500 Minimum navigation performance standards (MNPS) operations



Annex C

Consultative Draft of Subpart D of Proposed Civil Aviation Safety Regulation (CASR) Part 91

Note: Subpart D is new and was not part of the CASR Part 91 NPRM release. This will be separately released as an addendum to CASR Part 91 that is to be released later in the year.

It is proposed that CASR Part 91 will outline specific regulations applicable to foreign registered aircraft.

The proposed draft Subpart D to CASR Part 91 is incorporated into this Annex C for comment by respondents to this NPRM.



INTENTIONALLY LEFT BLANK

Part 91 General operating and flight rules

Subpart 91.D Foreign civil and State aircraft — general

91.501 Requirements for foreign registered civil aircraft

- (1) The operator and the pilot in command of a foreign registered civil aircraft must ensure that the aircraft does not fly into, within or from Australian territory if the aircraft does not comply with the requirements of the Chicago Convention relating to each of the following:
 - (a) the nationality mark and registration mark of the aircraft;
 - (b) its certificate of airworthiness;
 - (c) the number and description of, and the holding of licences and ratings by, the operating crew of the aircraft;
 - (d) the documents to be carried by the aircraft;
 - (e) the flight and any manoeuvre of the aircraft;
 - (f) the provision of radio equipment on the aircraft.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note 1 CASA publishes in the AIP any differences between the requirements of these Regulations relating to the flight and manoeuvring of aircraft and the requirements of Annex 2 to the Chicago Convention.

Note 2 Under sections 25, 26 and 27A of the Act a range of conditions may be imposed by CASA on the operation of foreign registered aircraft in Australian territory.

91.502 Foreign state aircraft

- (1) A state aircraft other than an Australian military aircraft must not fly over or land on Australian territory without an express invitation from, or the express permission of, CASA to do so.
- (2) An aircraft that flies over or lands on Australian territory on an invitation or with a permission mentioned in subregulation (1) is exempt from these Regulations except to the extent (if any) specified in the invitation or permission.

91.503 Damage etc to foreign registered civil aircraft

- (1) If a foreign registered civil aircraft is in Australian territory and is found to have suffered major damage or to have developed a major defect, CASA may direct that the aircraft must not fly.
- (2) If CASA gives a direction under subregulation (1) and the aircraft possesses the nationality of a Contracting State, CASA must give to the appropriate authority of the Contracting State notice of the action taken by CASA and a report of the damage or defect.
- (3) CASA may, unless CASA considers that it would be detrimental to the safety of air navigation to do so, revoke a direction given under subregulation (1) in respect of an aircraft possessing the nationality of a Contracting State if the appropriate authority of the Contracting State notifies CASA that the authority:
 - (a) has revoked any suspension of the certificate of airworthiness of the aircraft that the authority had imposed; or
 - (b) considers that the damage or defect giving rise to the direction is not of such a nature as to prevent the aircraft from fulfilling the minimum safety requirements adopted under the Chicago Convention; or
 - (c) considers that, in the circumstances of the case, the aircraft should be permitted to fly without passengers to a place where the necessary repairs or modifications can be made.

-
- (4) In revoking a direction given under subregulation (1), CASA may give a further direction imposing such conditions on the operation of the aircraft as are notified to CASA by the appropriate authority mentioned in subregulation (3).
- (5) A direction given under this regulation does not have effect in relation to a person until it has been served:
- (a) on the person; or
 - (b) if the direction cannot be served on the person — by affixing the direction to the aircraft to which it relates.
- (6) A person must not fly an aircraft in contravention of a direction, or any condition imposed by a direction, given under subregulation (1) or (4).

Penalty: 50 penalty units.

- (7) For subregulation (6), strict liability applies to the physical element that a direction was given, or that a condition was imposed by a direction given, under subregulation (1) or (4), as the case requires.

INTENTIONALLY LEFT BLANK

DRAFT ONLY