Civil Aviation Amendment Regulations 2005 (No. 3)

Select Legislative Instrument 2005 No. 243

I, JOHN LANDY, Administrator 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 20 October 2005

JOHN LANDY
Administrator

By the Administrator’s Command

WARREN TRUSS
Minister for Transport and Regional Services
1 Name of Regulations
These Regulations are the Civil Aviation Amendment Regulations 2005 (No. 3).

2 Commencement
These Regulations commence on 24 November 2005.

3 Amendment of Civil Aviation Regulations 1988
Schedule 1 amends the Civil Aviation Regulations 1988.

Schedule 1 Amendments
(regulation 3)

[1] Subregulation 2 (1), after the definition of night flight
insert
non-controlled aerodrome means an aerodrome at which an air
traffic control service is not operating.
Note A non-controlled aerodrome is also known as a non-towered
aerodrome.

[2] Regulations 166 and 167
substitute

166 Operating in vicinity of a non-controlled aerodrome
(1) For this regulation and regulation 166A, an aircraft is in the vicinity of a non-controlled aerodrome if it is within:
(a) airspace other than controlled airspace; and
(b) a horizontal distance of 10 miles from the aerodrome; and
(c) a height above the aerodrome reference point of the aerodrome that could result in conflict with operations at the aerodrome.
(2) The pilot in command of an aircraft that is being operated in the vicinity of a non-controlled aerodrome must:
   (a) maintain a look-out for other aerodrome traffic to avoid collision; and
   (b) ensure that the aircraft does not cause a danger to other aircraft in the vicinity of the aerodrome; and
   (c) conform with, or avoid, the circuit pattern; and
   (d) unless subregulation (3) or (4) applies — when approaching the aerodrome to land, join the circuit pattern for the direction in which landing is to be undertaken on the upwind, crosswind or downwind leg; and

   Note A circuit pattern has upwind, cross-wind, down-wind, base and final legs.

   (e) after joining the circuit pattern for a landing or after taking off:
      (i) if CASA has directed for the aerodrome that all turns be made in a particular direction — make all turns in compliance with CASA’s directions; or
      (ii) if subparagraph (i) does not apply and visual signals are displayed at the aerodrome indicating a direction to make all turns — make all turns in compliance with the visual signals; or
      (iii) in any other case — make all turns to the left; and
   (f) to the extent practicable, land and take off into the wind; and
   (g) before landing, descend in a straight line starting at least 500 metres from the threshold of the landing runway and at a distance common to the ordinary course of navigation for the aircraft type; and
   (h) after take-off, maintain the same track from the take-off until the aircraft is 500 feet above the terrain unless a change to the track is necessary for terrain avoidance.

   Penalty: 25 penalty units.

(3) The pilot in command of an aircraft may carry out a straight-in approach to a non-controlled aerodrome only if:
   (a) the aircraft is equipped with serviceable radio; and
(b) the pilot broadcasts the intention to do so on the VHF frequency in use at the aerodrome; and
(c) before starting the approach, the pilot determines wind direction and runways in use; and
(d) the pilot carries out all manoeuvring, to establish the aircraft on final approach, at least 5 miles from the threshold of the landing runway intended to be used; and
(e) the pilot gives way to any other aircraft established and flying in the circuit pattern at the aerodrome.

Penalty: 25 penalty units.

(4) The pilot in command of an aircraft may join the circuit pattern at a non-controlled aerodrome on the base leg, for the direction in which landing is to be undertaken, only if:
(a) CASA has given approval to do so; and
(b) details of the approval have been published in AIP.

Penalty: 25 penalty units.

(5) Paragraphs (2) (d) and (3) (b), (c) and (d) do not apply if:
(a) the pilot is conducting an instrument approach in I.M.C.; and
(b) the instrument approach procedure positions the aircraft to join the circuit other than on the upwind, cross-wind or down-wind leg of the circuit pattern.

(6) A pilot in command may operate an aircraft in the vicinity of an uncontrolled aerodrome that is designated under regulation 166A only if:
(a) the aircraft has a serviceable VHF radio; or
(b) the operation is authorised in writing by CASA.

Penalty: 25 penalty units.

(7) The pilot in command of an aircraft must not take the aircraft off from, or land the aircraft on, a part of a non-controlled aerodrome outside the landing area of the aerodrome.

Penalty: 25 penalty units.
(8) An offence against subregulation (2), (3), (4), (6) or (7) is an offence of strict liability.

166A Designation — carriage of radio

(1) CASA may designate a non-controlled aerodrome in the vicinity of which a serviceable aircraft VHF radio must be carried in aircraft.

(2) CASA must ensure that details of a designation under subregulation (1) are published in AIP or NOTAMS.

(3) A pilot in command of an aircraft that is operating in the vicinity of an aerodrome designated under subregulation (1) must broadcast on, and monitor, the VHF frequency in use for the aerodrome when inbound to land, before entering a runway and when in the vicinity of the aerodrome.

Penalty: 25 penalty units.

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

(5) It is a defence to a prosecution under subregulation (4) if the defendant had a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (5) (see subsection 13.3 (3) of the Criminal Code).

167 Operation on or in the vicinity of a controlled aerodrome

(1) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome must:

(a) maintain a lookout for other aerodrome traffic to avoid collision; and

(b) either:

(i) maintain a continuous listening watch on the radio frequency authorised for communications with aerodrome control service at the aerodrome; or

(ii) if that is not possible, keep a watch for any instructions given by visual signals; and
(c) obtain, either by radio or visual signals, prior authorisation from the air traffic control service for the aerodrome for any manoeuvre preparatory to, or associated with, taxiing, landing or taking off of the aircraft; and

(d) unless otherwise instructed by air traffic control:
   (i) to the extent practical, land and take off into the wind; and
   (ii) before landing, descend in a straight line starting at least 500 metres from the threshold of the landing runway and at a distance common to the ordinary course of navigation for the aircraft type; and
   (iii) after take-off, maintain the same track from the take-off until the aircraft is 500 feet above the terrain unless a change to the track is necessary for terrain avoidance; and
   (iv) make all turns to the left when approaching for a landing or after take-off.

Penalty: 25 penalty units.

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

[3] **After regulation 323**

*insert*

323AA **Transitional — certain directions under regulation 166**

A direction issued by CASA in accordance with subparagraph 166 (1) (d) (i) as in force immediately before the commencement of this regulation has effect after the commencement as if it were a direction issued for subparagraph 166 (2) (e) (i) of CAR as in force on and from the commencement of this regulation.

**Note**