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Part 7—Navigation logs

77 Part 7 not to apply to New Zealand AOC holders with ANZA privileges

This Part does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

78 Navigation logs

- (1) The pilot in command of an aircraft shall keep a log of such navigational data as is required to enable him or her to determine the geographical position of the aircraft at any time while the aircraft is in flight.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) The log shall be kept in chronological order and, in the case of an Australian aircraft engaged on an international flight, shall include the following information:
- (a) points of departure and destination;
 - (b) required track;
 - (c) wind velocity used for calculations;
 - (d) headings flown;
 - (e) true airspeed;
 - (f) position lines, fixes and pinpoints obtained;
 - (g) times of alteration of headings;
 - (h) estimated times of arrival at turning points and destination; and
 - (i) such other information relevant to the navigation of the aircraft as CASA directs.
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Part 8—Radio systems for use in, or in connection with, aircraft

83 Transmitting on aeronautical radio frequencies

- (1) A person commits an offence if:
 - (a) the person transmits on a radio frequency of a kind used for the purpose of ensuring the safety of air navigation; and
 - (b) the person is not qualified to transmit on the radio frequency.

Penalty: 50 penalty units.

- (2) For paragraph (1)(b), a person is qualified to transmit on a radio frequency of a kind mentioned in paragraph (1)(a) if the person:
 - (a) holds a flight radiotelephone operator licence within the meaning of subregulation 5.01(1); or
 - (b) is authorised to transmit on the frequency under Part 61, 64 or 65 of CASR; or
 - (c) for a pilot flying a foreign registered aircraft—is authorised (however described) to transmit on the frequency under the law of the aircraft's State of registry.
- (3) An offence against this regulation is an offence of strict liability.

Part 9—Aerodromes

Division 8—Use of aerodromes

92 Use of aerodromes

- (1) A person must not land an aircraft on, or engage in conduct that causes an aircraft to take off from, a place that does not satisfy one or more of the following requirements:
 - (a) the place is an aerodrome established under the Air Navigation Regulations;
 - (b) the use of the place as an aerodrome is authorised by a certificate granted, or registration, under Part 139 of CASR;
 - (c) the place is an aerodrome for which an arrangement under section 20 of the Act is in force and the use of the aerodrome by aircraft engaged in civil air navigation is authorised by CASA under that section;
 - (d) the place (not being a place referred to in paragraph (a), (b) or (c)) is suitable for use as an aerodrome for the purposes of the landing and taking-off of aircraft; and, having regard to all the circumstances of the proposed landing or take-off (including the prevailing weather conditions), the aircraft can land at, or take-off from, the place in safety.

Penalty: 25 penalty units.

- (2) CASA may, in relation to an aerodrome, issue directions relating to the safety of air navigation.
- (3) A person must not contravene a direction.

Penalty: 25 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 9—Removal or marking of obstructions or other hazards

Part 10—Air Traffic Services and other services

Division 1—Air Traffic Services

99AA Air Traffic—Services, directions and instructions

- (3) A pilot in command of an aircraft must not engage in a V.F.R. flight in airspace designated as belonging to Class A airspace without CASA's approval.

Penalty: 50 penalty units.

- (5) CASA may give directions or instructions about the use of a class of airspace, a controlled aerodrome, a control area or a control zone by either or both of the following:
- (a) aircraft engaged in I.F.R. flights;
 - (b) aircraft engaged in V.F.R. flights.

99A Broadcasts to be made at certain aerodromes

- (1) CASA may:
- (a) designate an aerodrome as an aerodrome at which broadcast requirements apply; and
 - (b) designate airspace within defined horizontal and vertical limits as an area in which broadcast requirements apply.
- (3) CASA may give directions specifying:
- (a) the broadcast requirements that apply; and
 - (b) the radio frequency on which broadcasts must be made; at a particular aerodrome, or in a particular area, designated under subregulation (1).
- (4) If CASA gives a direction, it must publish a notice setting out the details of the direction in AIP or NOTAMS.
-

105 Temporary medical unfitness of holder of licence

(1) If:

- (a) the holder of an air traffic controller licence; or
- (b) a person referred to in paragraph 65.035(3)(a) or (d) of CASR;

suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

115 Medical unfitness of holder of licence

Where a person, being:

- (a) the holder of a flight service licence; or
- (b) a person referred to in paragraph 65.050(3)(a) or (d) of CASR;

suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his or her efficiency in performing the duties that he or she is licensed or authorised to perform, he or she shall not, during the period of incapacity, perform those duties.

Division 2—Meteorological services

120 Weather reports not to be used if not made with authority

- (1) The operator or pilot in command of an aircraft must not use weather reports of actual or forecasted meteorological conditions in the planning, conduct and control of a flight if the meteorological observations, forecasts or reports were not made with the authority of:
 - (a) the Director of Meteorology; or
 - (b) a person approved for the purpose by CASA.

Penalty: 5 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Part 11—Conditions of flight

Division 1—General

133 Conditions to be met before Australian aircraft may fly

- (1) Subject to regulation 21.197 of CASR, the pilot in command of an Australian aircraft must not commence a flight if each of the following requirements is not satisfied:
 - (a) the aircraft has a nationality mark and a registration mark painted on, or affixed to, it in accordance with Part 45 of CASR;
 - (c) the flight is not in contravention of any condition that:
 - (i) is set out or referred to in the maintenance release or in any other document approved for use as an alternative to the maintenance release for the purposes of regulation 49, or subregulation 43(10); or
 - (ii) is applicable to the maintenance release by virtue of a direction given under regulation 44;
 - (d) any maintenance that is required to be carried out before the commencement of the flight, or that will be required to be carried out before the expiration of the flight, to comply with any requirement or condition imposed under these Regulations with respect to the aircraft has been certified, in accordance with regulation 42ZE or 42ZN, to have been completed;
 - (e) the aircraft complies with these Regulations in respect of the number and description of, and the holding of licences and ratings by, the operating crew.

Penalty: 50 penalty units.

- (2) Paragraph (1)(d) does not apply to any maintenance that was required to be carried out before the issue of the maintenance release in force, or the last maintenance release that was in force, for the aircraft.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

135A Special flight authorisation

- (1) An aircraft to which regulation 135 applies may be operated without the certificate of airworthiness mentioned in paragraph 135(b) if a special flight authorisation for the operation is issued under this regulation.
 - (2) A person may apply to CASA for a special flight authorisation for an aircraft that possesses the nationality of a Contracting State.
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138 Pilot to comply with requirements etc of aircraft's flight manual etc

- (1) If a flight manual has been issued for an Australian aircraft, the pilot in command of the aircraft must comply with a requirement, instruction, procedure or limitation concerning the operation of the aircraft that is set out in the manual.

Penalty: 50 penalty units.

- (2) If a flight manual has not been issued for an Australian aircraft and, under the relevant airworthiness standards for the aircraft, the information and instructions that would otherwise be contained in an aircraft's flight manual are to be displayed either wholly on a placard, or partly on a placard and partly in another document, the pilot in command of the aircraft must comply with a requirement, instruction, procedure or limitation concerning the operation of the aircraft that is set out:

- (a) on the placard; or
- (b) on the placard or in the other document.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

139 Documents to be carried in Australian aircraft

- (1) Subject to subregulation (2), the pilot in command of an aircraft, when flying, must carry on the aircraft:
 - (a) its certificate of registration;
 - (b) its certificate of airworthiness;
 - (c) if Part 42 of CASR does not apply to the aircraft—unless CASA otherwise approves, its maintenance release and any other document approved for use as an alternative to the maintenance release for the purposes of a provision of these Regulations;
 - (d) unless CASA otherwise approves, the licences and medical certificates of the operating crew;
 - (e) the flight manual (if any) for the aircraft;
 - (f) any licence in force with respect to the radio equipment in the aircraft;
 - (g) if the aircraft is carrying passengers—a list of the names, places of embarkation and places of destination of the passengers;
 - (h) if the aircraft is carrying cargo—the bills of lading and manifests with respect to the cargo.

Penalty: 10 penalty units.

- (2) An aircraft operating wholly within Australian territory is not required, when flying, to carry a document specified in paragraph (1)(a), (b), (f) or (g).
 - (3) An aircraft that is operated under an AOC need not carry its flight manual when flying if it carries on board an operations manual that:
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- (a) contains the information and instructions that are required, under the relevant airworthiness standards for the aircraft, to be included in the flight manual; and
 - (b) does not contain anything that conflicts with the information or instructions.
- (4) An offence against subregulation (1) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) Subregulation (1) does not apply to the pilot in command if the flight was authorised by a special flight permit issued under regulation 21.197 of CASR.
- Note: A defendant bears an evidential burden in relation to the matters in subregulation (5) (see subsection 13.3(3) of the *Criminal Code*).

140 Prohibited, restricted and danger areas

- (4) The pilot in command of an aircraft must not fly the aircraft over a prohibited area.
- Penalty: 25 penalty units.
- (5) The pilot in command of an aircraft must not fly the aircraft over a restricted area if the flight is not in accordance with conditions specified in the notice declaring the area to be a restricted area.
- Penalty: 25 penalty units.
- (6) If the pilot in command of an aircraft finds that the aircraft is over a prohibited area or a restricted area in contravention of subregulation (4) or (5), the pilot must:
- (a) immediately have the aircraft flown to a position where it is not over the area; and
 - (b) when the aircraft reaches a position where it is not over the area, report the circumstances to air traffic control; and
 - (c) land at such aerodrome as is designated by air traffic control and, for that purpose, obey any instructions given by air traffic control as to the movement of the aircraft.
- Penalty: 25 penalty units.
- (7) An offence against subregulation (4), (5) or (6) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

143 Carriage of firearms

- (1) A person, including a flight crew member, must not carry a firearm in, or have a firearm in his or her possession in, an aircraft other than an aircraft engaged in charter operations or regular public transport operations.
- Penalty: 10 penalty units.
- (2) An offence against subregulation (1) is an offence of strict liability.
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Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the person had the written permission of CASA to have the firearm in the aircraft.

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

144 Discharge of firearms in or from an aircraft

- (1) A person, including a flight crew member, must not discharge a firearm while on board an aircraft.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if:

- (a) the person had the written permission of CASA to discharge the firearm while on board the aircraft; and
- (b) the firearm was discharged in accordance with the conditions (if any) specified in the permission.

- (4) It is a defence to a prosecution under subregulation (1) if the person's discharge of the firearm was authorised under regulation 4.59A of the *Aviation Transport Security Regulations 2005*.

Note 1: Regulation 4.59A of the *Aviation Transport Security Regulations 2005* deals with air security officers using weapons on board aircraft to safeguard against unlawful interference with aviation.

Note 2: A defendant bears an evidential burden in relation to the matters in subregulations (3) and (4) (see subsection 13.3(3) of the *Criminal Code*).

Division 2—Flight rules

149 Towing

- (1) The pilot in command of an aircraft commits an offence if:
- (a) he or she permits anything to be towed by the aircraft; and
 - (b) the requirement mentioned in subregulation (1A) is not met.

Penalty: 50 penalty units.

- (1A) For paragraph (1)(b), the requirement is that the towing must be:
- (a) permitted by this regulation; or
 - (b) authorised under Part 61 of CASR.
- (2) Nothing in this regulation shall prevent the reasonable use or display from an aircraft in flight of radio aerials, or any signal apparatus, equipment or article required or permitted to be displayed or used by or from an aircraft in flight in accordance with the rules contained in the provisions of this Division and in the provisions of Parts 12 and 13.
- (3) Instruments for experimental purposes may be towed if the prior approval of CASA has been given.
- (4) An offence against subregulation (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) It is a defence to a prosecution under subregulation (1) if:
- (a) the pilot in command had the written permission of CASA for the towing; and
 - (b) the towing was done in accordance with the directions (if any) specified in the permission.

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

150 Dropping of articles

- (1) Subject to this regulation, the pilot in command of an aircraft in flight shall not permit anything to be dropped from the aircraft.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Nothing in this regulation shall prevent:
- (a) the dropping of packages or other articles or substances:
 - (i) in the course of agricultural operations; or
 - (ii) in the course of cloud seeding operations; or
 - (iii) in the course of firefighting operations; or
 - (iv) to initiate controlled burning; or
 - (v) in the course of search and rescue operations; or

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- (vi) to deliver emergency medical supplies; or
 - (vii) to deliver emergency food supplies; or
 - (viii) in the course of other operations;
in accordance with directions issued by CASA:
 - (ix) to ensure the safety of the aircraft as far as practicable; and
 - (x) to minimise hazard to persons, animals or property;
 - (b) the dropping of ballast in the form of fine sand or water;
 - (c) the use of apparatus solely for the purpose of navigating an aircraft where the approval of CASA to the type of apparatus and the method of use has previously been notified; or
 - (d) in an emergency, the jettisoning of liquid fuel or cargo over areas where hazard to persons or property on the ground or water is not created.

151 Picking up of persons or objects

- (1) The pilot in command of an aircraft in flight must not allow persons or objects to be picked up by the aircraft.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if:
 - (a) CASA gave prior written authority for the person or object to be picked up while the aircraft was in flight; and
 - (b) the person or object was picked up in accordance with the conditions (if any) specified in the authority.

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

152 Parachute descents

- (1) A person must not make a parachute descent if the descent is not:
 - (a) authorised in writing by CASA; and
 - (b) conducted in accordance with the written specifications of CASA.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the parachute descent was a necessary emergency descent.

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

153 Flight under simulated instrument flying conditions

- (1) The pilot must not fly an aircraft under simulated instrument flying conditions if each of the following requirements is not satisfied:
 - (a) fully functioning dual controls are installed in the aircraft;
 - (b) a competent pilot occupies a control seat to act as safety pilot for the person who is flying under simulated instrument conditions and:
 - (i) the safety pilot has adequate vision forward and to each side of the aircraft; or
 - (ii) if the safety pilot's field of vision is limited, a competent observer in communication with the safety pilot occupies a position in the aircraft from which his or her field of vision supplements that of the safety pilot.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

155 Aerobatic manoeuvres

- (1) The pilot in command of an aircraft commits an offence if the pilot conducts an aerobatic manoeuvre at night.

Penalty: 25 penalty units.

- (2) The pilot in command of an aircraft commits an offence if the pilot conducts an aerobatic manoeuvre that is not in VMC.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft commits an offence if:
 - (a) the pilot conducts a particular kind of aerobatic manoeuvre; and
 - (b) neither of the following state that the aircraft may perform that kind of aerobatic manoeuvre:
 - (i) the aircraft's certificate of airworthiness;
 - (ii) the aircraft's flight manual.

Penalty: 25 penalty units.

- (4) A person commits an offence if:
 - (a) the person conducts an aerobatic manoeuvre over a populous area or public gathering; and
 - (b) the person does not have CASA's written permission to do so.

Penalty: 25 penalty units.

- (5) The pilot in command of an aircraft commits an offence if:
 - (a) the pilot conducts an aerobatic manoeuvre; and

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- (b) the pilot does not, before conducting the aerobatic manoeuvre, take any action that is necessary to ensure that each of the following requirements are met:
- (i) any loose articles must be removed from the aircraft or made secure in the aircraft;
 - (ii) all locker and compartment doors of the aircraft must be fastened;
 - (iii) the safety harness or seat belt of any vacant seat must be made secure so as to avoid the fouling of the controls of the aircraft;
 - (iv) the dual controls (if any) of the aircraft must be removed from the aircraft or rendered inoperative, unless the control seats are occupied in accordance with regulation 226 or the dual control seat is vacant;
 - (v) every person in the aircraft must be secured with a correctly adjusted safety harness or seat belt.

Penalty: 25 penalty units.

- (6) An offence against this regulation is an offence of strict liability.

156 Flying over public gatherings

- (1) The pilot in command of an aircraft must not fly the aircraft over a public gathering if:
- (a) the pilot does not have the written permission of CASA for the flight; and
 - (b) the flight is not in accordance with the conditions specified in the permit.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Nothing in subregulation (1) shall apply to an aircraft passing over a public gathering in the process of:
- (a) arriving at or departing from an aerodrome in the course of its normal navigation for so doing; or
 - (b) passing from place to place in the ordinary course of navigation.

157 Low flying

- (1) The pilot in command of an aircraft must not fly the aircraft over:
- (a) any city, town or populous area at a height lower than 1,000 feet; or
 - (b) any other area at a height lower than 500 feet.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A height specified in subregulation (1) is the height above the highest point of the terrain, and any object on it, within a radius of:
- (a) in the case of an aircraft other than a helicopter—600 metres; or
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(b) in the case of a helicopter—300 metres;
from a point on the terrain vertically below the aircraft.

(3A) Paragraph (1)(a) does not apply in respect of a helicopter flying at a designated altitude within an access lane details of which have been published in the AIP or NOTAMS for use by helicopters arriving at or departing from a specified place.

(4) Subregulation (1) does not apply if:

- (a) through stress of weather or any other unavoidable cause it is essential that a lower height be maintained; or
- (b) the aircraft is engaged in private operations or aerial work operations, being operations that require low flying, and the owner or operator of the aircraft has received from CASA either a general permit for all flights or a specific permit for the particular flight to be made at a lower height while engaged in such operations; or
- (c) the pilot of the aircraft is receiving flight training in low-level operations or aerial application operations, within the meaning of Part 61 of CASR; or
- (d) the pilot of the aircraft is engaged in a baulked approach procedure, or the practice of such procedure under the supervision of a flight instructor or a check pilot; or
- (e) the aircraft is flying in the course of actually taking-off or landing at an aerodrome; or
- (f) the pilot of the aircraft is engaged in:
 - (i) a search; or
 - (ii) a rescue; or
 - (iii) dropping supplies;
in a search and rescue operation; or
- (g) the aircraft is a helicopter:
 - (i) operated by, or for the purposes of, the Australian Federal Police or the police force of a State or Territory; and
 - (ii) engaged in law enforcement operations; or
- (h) the pilot of the aircraft is engaged in an operation which requires the dropping of packages or other articles or substances in accordance with directions issued by CASA.

158 Reports at designated points or intervals

- (1) If radio apparatus is fitted to an aircraft, and a Flight Plan has been submitted in respect of the flight, the time and altitude of passing each reporting point designated by air traffic control, together with any other required information, shall be reported by the pilot in command by radio as soon as possible to air traffic control, and, in the absence of designated reporting points, position reports shall be made at intervals specified by air traffic control.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Part 12—Rules of the air

Division 1—General

160 Interpretation

In this Division, an *overtaking aircraft* means an aircraft that approaches another aircraft from the rear on a line forming an angle of less than 70 degrees with the plane of symmetry of the latter, that is to say, an aircraft that is in such a position with reference to another aircraft that at night it would be unable to see either of the forward navigation lights of the other aircraft.

161 Right of way

- (1) An aircraft that is required by the rules in this Division to keep out of the way of another aircraft shall avoid passing over or under the other, or crossing ahead of it, unless passing well clear.
- (2) The pilot in command of an aircraft that has the right of way must maintain its heading and speed, but nothing in the rules in this Division shall relieve the pilot in command of an aircraft from the responsibility of taking such action as will best avert collision.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

162 Rules for prevention of collision

- (1) When 2 aircraft are on converging headings at approximately the same height, the aircraft that has the other on its right shall give way, except that:
 - (a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons;
 - (b) airships shall give way to gliders and balloons;
 - (c) gliders shall give way to balloons; and
 - (d) power-driven aircraft shall give way to aircraft that are seen to be towing other aircraft or objects.
 - (2) When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its heading to the right.
 - (3) An aircraft that is being overtaken has the right-of-way and the overtaking aircraft, whether climbing, descending, or in horizontal flight, shall keep out of the way of the other aircraft by altering its heading to the right, and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from this obligation until it is entirely past and clear.
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- (4) An overtaking aircraft shall not pass the aircraft that it is overtaking by diving or climbing.
 - (5) An aircraft in flight, or operating on the ground or water, shall give way to other aircraft landing or on final approach to land.
 - (6) When two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing, aircraft at the greater height shall give way to aircraft at the lesser height, but the latter shall not take advantage of this rule to cut-in in front of another that is on final approach to land, or overtake that aircraft.
 - (7) Notwithstanding anything contained in subregulation (6), power-driven heavier-than-air aircraft shall give way to gliders.
 - (8) An aircraft that is about to take-off shall not attempt to do so until there is no apparent risk of collision with other aircraft.
 - (9) The pilot in command of an aircraft must give way to another aircraft that is compelled to land.

Penalty: 25 penalty units.

- (10) The pilot in command of an aircraft must comply with the rules in subregulations (1) to (8).

Penalty: 25 penalty units.

- (11) An offence against subregulation (10) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

163 Operating near other aircraft

- (1) The pilot in command of an aircraft must not fly the aircraft so close to another aircraft as to create a collision hazard.

Penalty: 50 penalty units.

- (2) The pilot in command of an aircraft must not operate the aircraft on the ground in such a manner as to create a hazard to itself or to another aircraft.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

163AA Formation flying

- (1) A pilot must not fly an aircraft in formation if each of the following requirements is not satisfied:
 - (a) each of the pilots in command is authorised, under Part 61 of CASR, to fly in formation;
 - (b) the formation is pre-arranged between the pilots in command;
 - (c) the formation flight is conducted either:
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- (i) under the Visual Flight Rules by day; or
 - (ii) under an approval given by CASA.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

163A Responsibility of flight crew to see and avoid aircraft

When weather conditions permit, the flight crew of an aircraft must, regardless of whether an operation is conducted under the Instrument Flight Rules or the Visual Flight Rules, maintain vigilance so as to see, and avoid, other aircraft.

Division 2—Operation on and in the vicinity of aerodromes

Subdivision 1—General

166A General requirements for aircraft on the manoeuvring area or in the vicinity of a non-controlled aerodrome

- (1) The pilot in command of an aircraft commits an offence if:
 - (a) the aircraft is being operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) the pilot engages in conduct; and
 - (c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

- (2) The rules are the following:
 - (a) the pilot must maintain a lookout for other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome to avoid collision;
 - (b) the pilot must ensure that the aircraft does not cause a danger to other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome;
 - (c) if the pilot is flying in the vicinity of the aerodrome, the pilot must:
 - (i) join the circuit pattern for the aerodrome; or
 - (ii) avoid the circuit pattern for the aerodrome;
 - (d) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns in accordance with subregulation (3);
 - (e) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns in accordance with subregulation (3) while the aircraft is flying in the circuit pattern for the aerodrome;
 - (f) subject to subregulation (4), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;
 - (g) the pilot must not:
 - (i) take off from a part of the aerodrome that is outside the landing area of the aerodrome; or
 - (ii) land the aircraft on a part of the aerodrome that is outside the landing area of the aerodrome;
 - (h) if the pilot takes off from, or lands at, the aerodrome, the pilot must take off or land into the wind if, at the time of the take-off or landing:
 - (i) the pilot is not permitted under subregulation (5) to take off or land downwind; and
 - (ii) it is practicable to take off or land into the wind.

- (3) For paragraphs (2)(d) and (e), the turns must be made:
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- (a) if CASA has, under subregulation 92(2), directed that all turns at the aerodrome be made in a particular direction—in accordance with CASA’s directions; or
 - (b) if paragraph (a) does not apply and visual signals are displayed at the aerodrome indicating a direction to make all turns—in accordance with the visual signals; or
 - (c) in any other case—to the pilot’s left.

Note: Directions under subregulation 92(2) are published in the AIP.

- (4) The rule in paragraph (2)(f) does not apply if a change to the track is necessary to avoid the terrain.
- (5) For subparagraph (2)(h)(i), the pilot in command of an aircraft may take off or land downwind at a non-controlled aerodrome if:
 - (a) the aircraft’s flight manual allows the aircraft to take off or land downwind; and
 - (b) after considering any other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome, the pilot believes that it is safe to do so.
- (6) An offence against subregulation (1) in relation to any of paragraphs (2)(a) to (g) is an offence of strict liability.

Note: The pilot in command of an aircraft must comply with the flight manual, or other equivalent document for the aircraft, as required by regulation 138.

166B Carrying out a straight-in approach

- (1) The pilot in command of an aircraft commits an offence if:
 - (a) the pilot carries out a straight-in approach to land at a non-controlled aerodrome; and
 - (b) the pilot engages in conduct; and
 - (c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

- (2) The rules are the following:
 - (a) before starting the approach, the pilot must determine:
 - (i) the wind direction at the aerodrome; and
 - (ii) the runways in use at the aerodrome;
 - (b) the pilot must give way to any other aircraft flying in the circuit pattern for the aerodrome;
 - (c) subject to subregulation (3), the pilot must carry out all manoeuvring, to establish the aircraft on final approach, at least 3 miles from the threshold of the runway that the pilot intends to use for landing.
 - (3) The rule in paragraph (2)(c) does not apply to the pilot if he or she is carrying out the approach:
 - (a) using an instrument approach procedure; and
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(b) in IMC.

- (4) An offence against subregulation (1) in relation to paragraph (2)(a) or (b) is an offence of strict liability.

166C Responsibility for broadcasting on VHF radio

(1) If:

- (a) an aircraft is operating on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
- (b) the aircraft is carrying a serviceable aircraft VHF radio; and
- (c) the pilot in command of the aircraft holds a radiotelephone qualification;

the pilot is responsible for making a broadcast on the VHF frequency in use for the aerodrome in accordance with subregulation (2).

(2) The pilot must make a broadcast that includes the following information whenever it is reasonably necessary to do so to avoid a collision, or the risk of a collision, with another aircraft:

- (a) the name of the aerodrome;
- (b) the aircraft's type and call sign;
- (c) the position of the aircraft and the pilot's intentions.

Note 1: See the AIP for the recommended format for broadcasting the information mentioned in this regulation.

Note 2: For the requirement to maintain a listening watch, see regulation 243.

166E Requirements for operating on or in the vicinity of certified, military, registered or designated non-controlled aerodromes

(1) The pilot in command of an aircraft commits an offence if:

- (a) he or she operates the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome that is:
 - (i) a certified aerodrome; or
 - (ii) a military aerodrome; or
 - (iii) a registered aerodrome; or
 - (iv) specified as a designated non-controlled aerodrome in a legislative instrument issued by CASA under regulation 166D; and
- (b) he or she is not permitted to do so by subregulation (2), (3) or (4).

Penalty: 25 penalty units.

Note 1: For the definitions of *certified aerodrome* and *registered aerodrome*, see the CASR Dictionary.

Note 2: For the definition of *military aerodrome*, see subregulation 2(1).

Aircraft with serviceable radio and pilot with radiotelephone qualification

(2) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:

- (a) the aircraft is carrying a serviceable aircraft VHF radio; and
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- (b) the pilot holds a radiotelephone qualification.

Flight in VMC during the day and in company

- (3) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:
 - (a) either:
 - (i) the aircraft is not carrying a serviceable aircraft VHF radio; or
 - (ii) the pilot does not hold a radiotelephone qualification; and
 - (b) the aircraft is being operated for a flight:
 - (i) that is in VMC; and
 - (ii) that is not a night flight; and
 - (iii) that is undertaken in company with another aircraft; and
 - (c) the other aircraft is carrying a serviceable aircraft VHF radio; and
 - (d) the pilot in command of the other aircraft holds a radiotelephone qualification.

Unserviceable radio

- (4) The pilot in command of an aircraft that is carrying an unserviceable aircraft VHF radio may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1)(a) if:
 - (a) either:
 - (i) the radio became unserviceable during the flight; or
 - (ii) the purpose of the flight is to take the radio to a place where it can be repaired; and
 - (b) for an aircraft that is flying in the vicinity of the aerodrome—the pilot ensures that each of the following are switched on:
 - (i) the aircraft's landing lights (if any);
 - (ii) the aircraft's anti-collision lights (if any);
 - (iii) the aircraft's secondary surveillance radar transponder (if any); and
 - (c) for an aircraft arriving at the aerodrome—the pilot joins the circuit pattern for the aerodrome on the cross-wind leg of the circuit pattern.
 - (5) An offence against subregulation (1) is an offence of strict liability.
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Subdivision 3—Controlled aerodromes, aerodromes at which the operation of aircraft is not restricted to runways, and preventing collisions on water

167 General requirements for aerodrome traffic at controlled aerodromes

- (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 specified in the AIP for communications with the aerodrome control service for the aerodrome; or
 - (ii) if it is not possible to maintain a continuous listening watch as mentioned in subparagraph (i)—keep a watch for any instructions given by visual signals by the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

- (2) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome commits an offence if:
- (a) he or she carries out any manoeuvre preparatory to, or associated with, taxiing, landing or taking off; and
 - (b) he or she has not, before carrying out the manoeuvre, obtained, by radio or visual signals, authorisation to do so from the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft commits an offence if:
- (a) the aircraft is part of the aerodrome traffic at a controlled aerodrome; and
 - (b) the pilot engages in conduct; and
 - (c) the conduct results in the contravention of a rule set out in subregulation (4); and
 - (d) the aerodrome control service for the aerodrome has not instructed or permitted the pilot to engage in that conduct.

Penalty: 25 penalty units.

- (4) The rules are the following:
- (a) subject to subregulation (5), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;
 - (b) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns to the pilot's left;
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- (c) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns to the pilot's left while the aircraft is flying in the circuit pattern for the aerodrome.
- (5) The rule in paragraph (4)(a) does not apply if a change to the track is necessary to avoid the terrain.

168 Aerodromes at which the operation of aircraft is not restricted to runways

- (1) Subject to this regulation, at aerodromes where the operation of aircraft is not restricted to prepared runways, the pilot in command of an aircraft must, as far as possible, observe the following rules when landing and taking off:
- (a) aircraft, when landing, shall land on the right of any aircraft which has already landed or is about to land, or which is taking-off or about to take-off;
 - (b) aircraft, when taking-off, shall take-off on the right of any aircraft which is already taking-off;
 - (c) aircraft, when landing or taking-off, shall leave a reasonable space on the right for other aircraft to land or take-off;
 - (d) aircraft, when manoeuvring on the ground, shall normally do so in the direction of landing, but aircraft may cross the landing area if, in the course of the crossing, all turns are made to the left and the aircraft gives free way to all aircraft landing and taking-off.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) The rules specified in paragraphs (1)(a), (b), (c) and (d) do not apply at an aerodrome at which they would otherwise apply:
- (a) where CASA has directed that those rules are not to apply at that aerodrome;
 - (b) where a person performing duty in air traffic control has, by radio, directed that those rules are not to apply at that aerodrome; or
 - (c) where a right-handed arrow of conspicuous colour is displayed in the signal area or at the end of the runway or strip in use at that aerodrome.
- (3) At an aerodrome at which a ground signal of the kind referred to in paragraph (2)(c) is displayed, aircraft, when landing and taking-off, as far as possible shall observe the rules specified in paragraphs (1)(a), (b) and (c) as if the references in those paragraphs to 'the right' were references to 'the left' and shall observe the rule specified in paragraph (1)(d) as if the reference in that paragraph to 'the left' was a reference to 'the right'.
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169 Preventing collisions on water

(1) The pilot in command of an aircraft in flight, or in the process of manoeuvring near the surface of the water, must, as far as possible:

- (a) keep clear of all vessels; and
- (b) not impede their navigation.

Penalty: 25 penalty units.

(4) Notwithstanding anything contained in the International Regulations for Preventing Collisions at Sea, the pilot in command of an aircraft must observe the following rules with respect to other aircraft and vessels:

- (a) when aircraft, or an aircraft and a vessel are approaching one another and there is a risk of collision, the aircraft shall proceed with careful regard to existing circumstances and conditions including the limitations of the respective craft;
- (b) an aircraft which is converging with another aircraft or a vessel on its right shall give way so as to keep well clear of that aircraft or vessel;
- (c) an aircraft approaching another aircraft or a vessel head-on, or approximately head-on, shall alter its heading to the right so as to keep well clear of that aircraft or vessel;
- (d) an aircraft or vessel which is being overtaken has the right of way, and the one overtaking shall alter its heading to keep well clear of the aircraft or vessel being overtaken.

Penalty: 25 penalty units.

Division 3—Visual flight rules

170 Interpretation

In this Division, *flight level 200*, in relation to a time and place, means such a height above the ground or water that, if an aircraft were flying at that height at that time and place and had an altimeter adjusted to a reading on the sub-scale of 1013.2 millibars, the altimeter would show a height of 20,000 feet.

171 V.F.R. flight

- (1) A flight conducted in accordance with the provisions of this Division is classed as a flight under the Visual Flight Rules.
- (2) Where an aircraft cannot be flown in accordance with the Visual Flight Rules, the pilot in command shall comply with the Instrument Flight Rules contained in Division 4 of this Part or land at the nearest suitable aerodrome.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

172 Flight visibility and distance from cloud

- (1) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height of, or less than, 2 000 feet above ground or water if:
 - (a) the pilot is not able to navigate by reference to the ground or water; and
 - (b) CASA has not directed that the flight may be conducted at a height of 2 000 feet or less.

Penalty: 50 penalty units.

- (2) Subject to subregulation (4), the pilot in command must not conduct a V.F.R. flight if:
 - (a) the flight visibility during that flight is not equal to or greater than the applicable distance determined by CASA; and
 - (b) the vertical and horizontal distances from cloud are not equal to or greater than the applicable distances determined by CASA.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2A) CASA may determine applicable distances for the purposes of subregulation (2).
 - (2B) CASA must notify the distances determined under subregulation (2A) in AIP or NOTAMS.
 - (3) When determining applicable distances, CASA may do so by reference to a class of airspace.
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(4) In spite of subregulation (2), the pilot in command of an aircraft may conduct a special V.F.R. flight if:

- (a) air traffic control gives permission for the flight; and
- (b) the flight is conducted in accordance with any conditions to which the permission is subject.

(5) In this regulation:

special V.F.R. flight means a V.F.R. flight:

- (a) conducted in a control zone; or
- (b) conducted in a control area next to a control zone for the purpose of entering or leaving the zone;

when the flight visibility or distances from cloud are less than the applicable distances determined under subregulation (2).

173 Cruising level to be appropriate to magnetic track

(1) When a V.F.R. flight is conducted at a height of 5,000 feet or more above mean sea level, the pilot in command must, subject to any contrary air traffic control instructions, ensure that the cruising level of the aircraft is appropriate to its magnetic track.

Penalty: 25 penalty units.

(2) When a V.F.R. flight is conducted at a height less than 5,000 feet above mean sea level, the pilot in command must, subject to any contrary air traffic control instructions, ensure that the cruising level of the aircraft is, whenever practicable, appropriate to its magnetic track.

Penalty: 25 penalty units.

(2A) CASA must notify in AIP or NOTAMS the cruising levels appropriate to an aircraft's magnetic track.

(3) The pilot in command of an aircraft must not conduct a V.F.R. flight at a height above flight level 200 if the pilot does not have CASA's approval to conduct the flight at a height above that level.

Penalty: 25 penalty units.

(4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

174 Determination of visibility for V.F.R. flights

(1) Flight visibility shall be determined by the pilot in command from the cockpit of the aircraft while in flight.

(3) Subject to regulation 257, the pilot in command of an aircraft operating under the Visual Flight Rules is responsible for determining the visibility for the take-off and landing of the aircraft.

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- (4) In determining visibility for the purposes of this regulation, the pilot in command shall take into account the meteorological conditions, sun glare and any other condition that may limit his or her effective vision through his or her windscreen.

174A Equipment of aircraft for V.F.R. flight

- (1AA) This regulation does not apply in relation to an aircraft that is registered in New Zealand and is operated under a New Zealand AOC with ANZA privileges.

- (1) CASA may issue instructions specifying:
- (a) the radiocommunication systems; or
 - (b) the radio navigation systems; or
 - (c) the secondary surveillance radar transponder equipment;

that must be carried on, or installed in, an aircraft before it undertakes a V.F.R. flight.

- (1A) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. if the aircraft is not equipped with:
- (a) suitable flight instruments as directed by CASA; and
 - (b) the equipment specified in instructions issued under subregulation (1) in relation to the aircraft.

Penalty: 25 penalty units.

- (1B) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
- (a) served on the person; or
 - (b) published in NOTAMS or AIP.
- (2) Subject to subregulation (4), the pilot in command of an aircraft must not fly the aircraft under the V.F.R. at night if, in addition to the equipment referred to in subregulation (1A), it is not also equipped with:
- (a) a landing light;
 - (b) illumination for all instruments and equipment used by the flight crew, being instruments and equipment that are essential for the safe operation of the aircraft;
 - (c) lights in all passenger compartments;
 - (d) an electric torch for each crew member; and
 - (e) such other equipment as CASA directs in the interests of safety.

Penalty: 25 penalty units.

- (3) In respect of an aircraft that is not equipped as referred to in subregulation (1A), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown under the V.F.R.
- (4) In respect of an aircraft that is not equipped as referred to in subregulation (2), CASA may give permission, subject to such conditions (if any) as are specified in the permission, for the aircraft to be flown at night under the V.F.R.
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- (5) The pilot in command of an aircraft must not fly the aircraft in contravention of a condition of a permission given under this regulation.

Penalty: 25 penalty units.

- (6) An offence against subregulation (1A), (2) or (5) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Part 13—Signals for the control of air traffic

Division 1—Aerodrome traffic

185 Visual signals

- (1) Where control by the means referred to in regulation 184 is not available, the appropriate visual signals prescribed by this Part may be used.
- (2) Nothing in this regulation shall prevent any combination of radiotelephony signals and visual signals being used at any aerodrome, but a visual signal shall not be used in any case where it is possible to use radiotelephony.

186 Pilot in command to maintain look out for visual signals

Where radio communication is being used, the pilot in command of an aircraft shall not thereby be relieved of the responsibility of keeping a look out for any instructions which may be issued by visual means.

187 Light signals

- (1) A light signal directed at a particular aircraft from air traffic control at an aerodrome has, both by day and by night, the meaning specified in relation to the signal in Aeronautical Information Publications.
- (2) Light signals directed from an aircraft to air traffic control at an aerodrome have the following meaning:
 - (a) a green light (made by signalling apparatus or pyrotechnics, but not by navigation lights) means:
 - (i) by day—that the aircraft wishes to land in other than the direction authorised; and
 - (ii) by night—that the aircraft wishes to land, although not compelled to do so;
 - (b) a steady white light directed downward until the landing is made means—acknowledgment of permission to land.

188 Pyrotechnic signals

A pyrotechnic signal made by air traffic control at an aerodrome has the meaning specified in relation to the signal in Aeronautical Information Publications.

189 Ground signals

When displayed at an aerodrome, ground signals shall take the form, and for all aircraft shall have the meaning, specified, in relation to the signal, in Aeronautical Information Publications.

Division 2—Special signals relating to danger areas, prohibited areas and restricted areas

190 Warning signal

For the purpose of warning an aircraft that it is in the vicinity of a danger area, a prohibited area or a restricted area and should take remedial action, the signal used shall be, by day or by night, a series of projectiles, discharged at intervals of 10 seconds each, showing, on bursting, red and green lights or stars.

Division 3—Emergency signals

191 Transmission of signals

- (1) The pilot in command of an aircraft shall transmit or display the signals specified in this Division according to the degree of emergency being experienced.
- (2) The signals specified in relation to each successive degree of emergency may be sent either separately or together for any one degree of emergency.
- (3) Nothing in the rules contained in this Division shall prevent the use by an aircraft in distress of any means at its disposal to attract attention or make known its position for the purpose of obtaining help.

192 Distress signals

- (1) The distress signal shall be transmitted only when the aircraft is threatened with grave and immediate danger and requires immediate assistance.
- (2) In radio telegraphy, the distress signal shall take the form of SOS (... — — —...), sent 3 times, followed by the group DE, sent once, and the call sign of the aircraft, sent 3 times.
- (3) The signal specified in subregulation (2) may be followed by the automatic alarm signal which consists of a series of 12 dashes, sent in one minute, the duration of each dash being 4 seconds, and the duration of the interval between consecutive dashes being one second.
- (4) In radiotelephony, the distress signal shall take the form of the word 'MAYDAY', pronounced 3 times, followed by the words 'THIS IS', followed by the call sign of the aircraft 3 times.
- (5) By other means the distress signal shall take one or more of the following forms:
 - (a) the Morse signal ... — — —... with visual apparatus or with sound apparatus;
 - (b) a succession of pyrotechnical lights, fired at short intervals, each showing a single red light;
 - (c) the two-flag signal corresponding to the letters NC of the International Code of Signals;
 - (d) the distant signal, consisting of a square flag having, either above or below, a ball or anything resembling a ball;
 - (e) a parachute flare showing a red light;
 - (f) a gun or other explosive signal fired at intervals of approximately one minute.

193 Urgency signals

- (1) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice of difficulties which compel it to land without requiring immediate assistance:
 - (a) the repeated switching on and off of the landing lights;
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- (b) the repeated switching on and off of the navigation lights, in such a manner as to be distinctive from the flashing lights described in subregulation 196(2);
 - (c) a succession of white pyrotechnical lights.
- (2) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice that the aircraft has a very urgent message to transmit concerning the safety of a ship, aircraft or vehicle, or of some person on board or within sight:
- (a) in radiotelegraphy, 3 repetitions of the group XXX (— .. — — .. — — .. —), sent with the letters of each group, and the successive groups clearly separated from each other, and sent before the transmission of the message;
 - (b) in radiotelephony, 3 repetitions of the words PAN, PAN, sent before the transmission of the message;
 - (c) a succession of green pyrotechnical lights;
 - (d) a succession of green flashes with signal apparatus.

194 Safety signal

- (1) The safety signal shall be transmitted when an aircraft wishes to transmit a message concerning the safety of navigation or to give important meteorological warnings.
 - (2) The safety signal shall be sent before the call and:
 - (a) in the case of radiotelegraphy shall consist of 3 repetitions of the group TTT (— — —), sent with the letters of each group and the successive groups clearly separated from each other; and
 - (b) in the case of radiotelephony shall consist of the word ‘SECURITY’, repeated 3 times.
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Division 4—Lights to be displayed by aircraft and lights and markings to be displayed on mooring cables

195 Compliance with rules about lights

- (1) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must comply with the rules in this Part requiring lights to be displayed in relation to the aircraft.

Penalty: 25 penalty units.

- (2) At night and in conditions of poor visibility, the operator and the pilot in command of an aircraft must not allow to be displayed other lights that are likely to be mistaken for the lights required to be displayed under this Part.

Penalty: 25 penalty units.

- (3) The operator and the pilot in command of an aircraft must ensure that the lights displayed are not dazzling.

Penalty: 25 penalty units.

- (4) If a light, which the rules of this Part require to be displayed by an aircraft in flight, fails and the light cannot be repaired immediately, the pilot in command of the aircraft must:

- (a) notify air traffic control immediately; or
- (b) if this is not possible, land the aircraft as soon as it can be landed without danger.

Penalty: 25 penalty units.

- (5) An offence against subregulation (1), (2), (3) or (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Part 14—Air service operations

Division 1A—AOCs with ANZA privileges

205 Additional conditions—Australian AOC with ANZA privileges

- (1) For paragraph 28B(1)(e) of the Act, it is a condition for the issue of an Australian AOC with ANZA privileges that CASA must be satisfied that each aeroplane that the applicant proposes to operate under the AOC for ANZA activities in New Zealand complies with the requirements mentioned in subregulation (3).
- (2) For paragraph 28BA(1)(b) of the Act, it is a condition of an Australian AOC with ANZA privileges that each aeroplane operated by the AOC holder under the AOC for ANZA activities in New Zealand must comply with the requirements mentioned in subregulation (3).
- (3) For subregulations (1) and (2), the requirements are that the aeroplane must:
 - (a) either:
 - (i) have a maximum take-off weight of more than 15 000 kg; or
 - (ii) be permitted by its type certificate or foreign type certificate to have a passenger seating capacity of more than 30 seats; and
 - (b) be registered in Australia or New Zealand.

Division 1—General

206 Commercial purposes (Act, s 27(9))

- (1) For the purposes of subsection 27(9) of the Act, the following commercial purposes are prescribed:
- (a) aerial work purposes, being purposes of the following kinds (except when carried out by means of an RPA):
 - (i) aerial surveying;
 - (ii) aerial spotting;
 - (iii) agricultural operations;
 - (iv) aerial photography;
 - (v) advertising;
 - (vi) balloon flying training (within the meaning of subregulation 5.01(1)) for the grant of a balloon flight crew licence or rating;
 - (vii) ambulance functions;
 - (viii) carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);
 - (ix) any other purpose that is substantially similar to any of those specified in subparagraphs (i) to (vii) (inclusive);
 - (b) charter purposes, being purposes of the following kinds:
 - (i) the carriage of passengers or cargo for hire or reward to or from any place, other than carriage in accordance with fixed schedules to and from fixed terminals;
 - (ii) the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally;
 - (c) the purpose of transporting persons generally, or transporting cargo for persons generally, for hire or reward in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.
- (1A) However, the commercial purposes prescribed by subregulation (1) do not include:
- (a) for a limited category aircraft:
 - (i) the conduct of an adventure flight; or
 - (ii) practice in flying the aircraft conducted in support of a special purpose operation mentioned in the aircraft's limited category certificate; or
 - (iii) training conducted in support of a special purpose operation mentioned in the certificate; or
 - (b) carrying out an activity under paragraph 262AP(2)(c) (experimental aircraft—operating limitations).
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207 Requirements according to operations on which Australian aircraft used

- (1) A person must not use an Australian aircraft in a class of operation if CASA has not authorised and approved the particular type of aircraft for that use.

Penalty: 50 penalty units.

- (2) A person must not use an Australian aircraft in a class of operation if the aircraft is not:

- (a) fitted with instruments; and
- (b) fitted with, or carrying, equipment, including emergency equipment;

that CASA has approved and directed.

Penalty: 50 penalty units.

- (3) Where CASA approves or directs that an instrument or item of equipment be fitted or carried on an aircraft, a person must fit, carry or use the instrument or item of equipment on the aircraft only in accordance with the directions (if any) of CASA.

Penalty: 50 penalty units.

- (4) In giving an authorisation, approval or direction for the purposes of this regulation, CASA shall have regard only to the safety of air navigation.

- (5) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

208 Number of operating crew

- (1) The operator of an Australian aircraft must ensure that the minimum operating crew of the aircraft is not less in number than that specified in the certificate of airworthiness of, or the flight manual for, the aircraft, and that it is supplemented by such additional operating crew members, having such qualifications, as CASA considers necessary and directs, having regard to the safety of air navigation.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

209 Private operations

- (1) The operator and the pilot in command of an aircraft engaged in private operations shall comply with the provisions of these Regulations and such additional conditions as CASA from time to time directs in the interest of safety.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
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Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

210B Pilot in command under supervision

- (1) The operator of an aircraft commits an offence if:
 - (a) the operator permits a person to pilot the aircraft as pilot in command under supervision; and
 - (b) the person is not authorised under Part 61 of CASR to pilot the aircraft as pilot in command under supervision.

Penalty: 50 penalty units.

- (2) An offence against this regulation is an offence of strict liability.
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Division 2—Requirements to ensure the safety of commercial operations

219 Route qualifications of pilot in command of a charter aircraft

- (1) A pilot is qualified to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is qualified for the particular route to be flown in accordance with the following requirements:
 - (a) the pilot shall have an adequate knowledge of the route to be flown, the aerodromes which are to be used and the designated alternate aerodromes, including a knowledge of:
 - (i) the terrain;
 - (ii) the seasonal meteorological conditions;
 - (iii) the meteorological, communication and air traffic facilities, services and procedures;
 - (iv) the search and rescue procedures; and
 - (v) the navigational facilities; associated with the route to be flown;
 - (b) if the flight is to be conducted under the Instrument Flight Rules, the pilot shall have demonstrated either in flight or by simulated means that he or she is proficient in the use of instrument approach-to-land systems which he or she may utilise in operations on that route.
- (2) A pilot must not act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

- (3) An operator must not permit a pilot to act in the capacity of pilot in command of an aircraft employed in charter operations if the pilot is not qualified in accordance with subregulation (1).

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

224 Pilot in command

- (1) For each flight the operator shall designate one pilot to act as pilot in command.

Penalty: 5 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) A pilot in command of an aircraft is responsible for:
 - (a) the start, continuation, diversion and end of a flight by the aircraft; and
 - (b) the operation and safety of the aircraft during flight time; and
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- (c) the safety of persons and cargo carried on the aircraft; and
 - (d) the conduct and safety of members of the crew on the aircraft.
- (2A) A pilot in command must discharge his or her responsibility under paragraph (2)(a) in accordance with:
- (a) any information, instructions or directions, relating to the start, continuation, diversion or end of a flight, that are made available, or issued, under the Act or these Regulations; and
 - (b) if applicable, the operations manual provided by the operator of the aircraft.
- (3) The pilot in command shall have final authority as to the disposition of the aircraft while he or she is in command and for the maintenance of discipline by all persons on board.

225 Pilots at controls

- (1) The pilot in command must ensure that 1 pilot is at the controls of an aircraft from the time at which the engine or engines is or are started prior to a flight until the engine or engines is or are stopped at the termination of a flight.
- Penalty: 50 penalty units.
- (2) When, in accordance with these Regulations, 2 or more pilots are required to be on board an aircraft, the pilot in command must ensure that 2 pilots remain at the controls at all times when the aircraft is taking off, landing and during turbulent conditions in flight.
- Penalty: 50 penalty units.
- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

226 Dual controls

- (1) During flight, a person may occupy a control seat of an aircraft equipped with fully or partially functioning dual controls only if:
- (a) the person holds an appropriate pilot licence for the type of aircraft and the class of operations in which the aircraft is flown; or
 - (b) the person is a student pilot assigned for instruction in the aircraft; or
 - (c) the person is authorised by CASA.
- Penalty: 25 penalty units.
- (2) In authorising a person to occupy a control seat in pursuance of subregulation (1), CASA may grant the authority subject to such conditions as CASA considers necessary in the interests of safety.
- (3) A person authorised under paragraph (1)(b) must not contravene a condition subject to which the authority is granted.

Penalty: 25 penalty units.

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- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

227 Admission to crew compartment

- (1) A person may enter the crew compartment of an aircraft during flight only if:
- (a) the person is a member of the operating crew of the aircraft; or
 - (b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

- (1A) A member of the operating crew of an aircraft may permit a person to enter, or remain in, the crew compartment of an aircraft during flight only if:
- (a) the person is a member of the operating crew of the aircraft; or
 - (b) the person is permitted by the pilot in command to enter that compartment.

Penalty: 50 penalty units.

Note 1: Regulation 4.67E of the *Aviation Transport Security Regulations 2005* sets out an offence if the pilot in command of a relevant aircraft permits a person to enter, or remain in, the cockpit of the aircraft and the person is not a person who meets the requirements of that regulation.

Note 2: For the definition of *relevant aircraft*, see regulation 4.66 of the *Aviation Transport Security Regulations 2005*.

228 Unauthorised persons not to manipulate controls

- (1) A person commits an offence if:
- (a) the person manipulates the controls of a registered aircraft during flight; and
 - (b) the person is not:
 - (i) if the aircraft is a balloon—authorised under Part 5 to fly the balloon or perform an activity essential to the balloon’s operation during flight time; or
 - (ii) for an aircraft other than a balloon—authorised under Part 61 of CASR to pilot the aircraft.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

228A Definition of *qualified to taxi an aircraft*

For regulations 229 and 230, a person is *qualified* to taxi an aircraft if:

- (a) the person is authorised to taxi the aircraft under Part 61 or 64 of CASR; or
 - (b) for a foreign registered aircraft—the person is authorised (however described) to taxi or fly the aircraft under the law of the aircraft’s State of registry.
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229 Operation of aircraft on ground—only qualified persons may taxi aircraft

- (1) A person commits an offence if:
 - (a) the person taxis an aircraft; and
 - (b) the person is not qualified to taxi the aircraft.

Penalty: 50 penalty units.

- (2) An offence against this regulation is an offence of strict liability.

230 Starting and running of engines

- (1) A person must not:
 - (a) start the engine of an Australian aircraft; or
 - (b) permit the engine of an Australian aircraft to be run;

if it is not permitted by this regulation.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) The engine may be started or run while the aircraft is inside or outside Australian territory if the control seat is occupied by an approved person or by a person who is qualified to taxi the aircraft.
- (3) If the aircraft is an aeroplane that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run if the control seat is occupied:
 - (a) whether the aircraft is inside or outside Australian territory—by a person who:
 - (i) holds:
 - (A) an aircraft engineer licence that permits him or her to perform maintenance certification for maintenance carried out on the engine; or
 - (B) an airworthiness authority covering the maintenance; and
 - (ii) has sufficient knowledge of the aircraft's controls and systems to ensure the starting or running does not endanger any person or damage the aircraft; or
 - (b) if the aircraft is outside Australian territory—by a person who:
 - (i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or
 - (ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.

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- (4) If the aircraft is a rotorcraft or airship that is having maintenance carried out on it, or that is being used for the provision of maintenance training, the engine may be started or run:
- (a) whether the aircraft is inside or outside Australian territory—by a person authorised, in writing, by CASA or an authorised person to start and run the engine in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or
 - (b) if the aircraft is outside Australian territory—by a person who:
 - (i) if the aircraft is in a Contracting State—may under the law of the Contracting State start or run engines of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires; or
 - (ii) has qualifications that are recognised by CASA as adequate for the purpose of starting or running engines of aircraft of the same type in connection with the carrying out of maintenance, or the provision of maintenance training, as the case requires.
- (5) CASA may approve a person for the purposes of subregulation (2).
- (6) CASA or an authorised person may authorise a person for the purposes of paragraph (4)(a).
- (7) In this regulation:

maintenance training means:

- (a) training for the purpose of obtaining a qualification to carry out maintenance on aircraft; or
- (b) maintenance training, within the meaning given by Part 3 of the CASR Dictionary.

231 Manipulation of propeller

- (1) In spite of regulations 225 and 230 and subregulation (2), the pilot in command of an aircraft which requires an operating crew of only one pilot may manipulate the propeller of the aircraft for the purposes of starting the aircraft if:
- (a) assistance is not readily available for that purpose;
 - (b) adequate provision is made to prevent the aircraft moving forward; and
 - (c) no person is on board the aircraft.
- (2) The registration holder, or operator, or the pilot in command, of an Australian aircraft must not permit a person to manipulate the propeller of the aircraft to start the engine if the registration holder, operator or pilot in command is not satisfied that the person who is to manipulate the propeller knows the correct starting procedures for the aircraft.

Penalty: 25 penalty units.

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

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

232 Flight check system

- (1) The operator of an aircraft shall establish a flight check system for each type of aircraft, setting out the procedure to be followed by the pilot in command and other flight crew members prior to and on take-off, in flight, on landing and in emergency situations.

Penalty: 25 penalty units.

- (2) A flight check system shall be subject to the prior approval of CASA, and CASA may at any time require the system to be revised in such manner as CASA specifies.

- (3) The pilot in command must ensure that the check lists of the procedures are carried in the aircraft and are located where they will be available instantly to the crew member concerned.

Penalty: 10 penalty units.

- (4) The pilot in command shall ensure that the flight check system is carried out in detail.

Penalty: 25 penalty units.

- (5) The operator of an aircraft must not allow the aircraft to be flown if the following requirements have not been satisfied:

- (a) the flight check system has been approved by CASA;
- (b) if CASA has required the system to be revised—the system has been revised in the manner specified by CASA.

Penalty: 25 penalty units.

- (6) An offence against subregulation (1), (3), (4) or (5) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

233 Responsibility of pilot in command before flight

- (1) The pilot in command of an aircraft must not commence a flight if he or she has not received evidence, and taken such action as is necessary to ensure, that:
 - (a) the instruments and equipment required for the particular type of operation to be undertaken are installed in the aircraft and are functioning properly;
 - (b) the gross weight of the aircraft does not exceed the limitations fixed by or under regulation 235 and is such that flight performance in accordance with the standards specified by CASA for the type of operation to be undertaken is possible under the prevailing conditions; and
 - (c) any directions of CASA with respect to the loading of the aircraft given under regulation 235 have been complied with;
 - (d) the fuel supplies are sufficient for the particular flight;
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- (e) the required operating and other crew members are on board and in a fit state to perform their duties;
 - (f) the air traffic control instructions have been complied with;
 - (g) the aircraft is safe for flight in all respects; and
 - (h) the aeronautical data and aeronautical information mentioned in subregulation (1A) is carried in the aircraft and is readily accessible to the flight crew.

Penalty: 50 penalty units.

- (1A) For paragraph (1)(h), the aeronautical data and aeronautical information is the aeronautical data and aeronautical information:
 - (a) that is applicable to the route to be flown and to any alternative route that may be flown on that flight; and
 - (b) that is published:
 - (i) in the AIP; or
 - (ii) by a data service provider; or
 - (iii) by the holder of an approval mentioned in regulation 202.961 or 202.962 of CASR.

- (2) The pilot in command of an aircraft engaged in international air navigation must not commence a flight if the pilot has not completed an approved flight preparation form certifying that the pilot is satisfied of the matters specified in subregulation (1).

Penalty: 5 penalty units.

- (3) An operator must keep a completed flight preparation form for a period of 6 months.

Penalty: 5 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

234 Fuel requirements

- (1) For the purposes of paragraph 98(5A)(a) of the Act, CASA may issue a legislative instrument prescribing requirements relating to fuel for aircraft.
 - (2) Without limiting subregulation (1), the instrument may prescribe:
 - (a) matters that must be considered when determining whether an aircraft has sufficient fuel to complete a flight safely; and
 - (b) the amounts of fuel that must be carried on board an aircraft for a flight; and
 - (c) procedures for monitoring amounts of fuel during a flight; and
 - (d) procedures to be followed if fuel reaches specified amounts during a flight.
 - (3) The pilot in command of an aircraft for a flight commits an offence of strict liability if:
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- (a) the pilot is subject to a requirement under the instrument made for the purposes of subregulation (1) in relation to the flight; and
 - (b) the pilot does not comply with the requirement in relation to the flight.

Penalty: 50 penalty units.

- (4) The operator of an aircraft commits an offence of strict liability if:
 - (a) the operator is subject to a requirement under the instrument made for the purposes of subregulation (1) in relation to a flight of the aircraft; and
 - (b) the operator does not comply with the requirement in relation to the flight.

Penalty: 50 penalty units.

234A Oil requirements

The operator and the pilot in command of an aircraft for a flight each commit an offence of strict liability if, when the aircraft begins the flight, the aircraft is not carrying sufficient oil to complete the flight safely.

Penalty: 50 penalty units.

238 Icing conditions

- (1) The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

239 Planning of flight by pilot in command

- (1) Before beginning a flight, the pilot in command shall study all available information appropriate to the intended operation, and, in the cases of flights away from the vicinity of an aerodrome and all I.F.R. flights, shall make a careful study of:
 - (a) current weather reports and forecasts for the route to be followed and at aerodromes to be used;
 - (b) the airways facilities available on the route to be followed and the condition of those facilities;
 - (c) the condition of aerodromes to be used and their suitability for the aircraft to be used; and
 - (d) the air traffic control rules and procedure appertaining to the particular flight;

and the pilot shall plan the flight in relation to the information obtained.

- (2) When meteorological conditions at the aerodromes of intended landing are forecast to be less than the minima specified by CASA, the pilot in command
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shall make provision for an alternative course of action and shall arrange for the aircraft to carry the necessary additional fuel.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

240 Authority may issue instructions in relation to flight planning

- (1) CASA may, in relation to the planning of flights referred to in subregulation 239(1), issue instructions about:
- (a) the weather reports or forecasts to which a pilot in command must have regard in planning a flight; and
 - (b) the circumstances in which a pilot in command must plan for an alternative course of action (including the use of alternate aerodromes); and
 - (c) the information that the pilot in command must take into account in planning an alternative course of action including:
 - (i) the range and timeliness of the available meteorological information about the aircraft's destination; and
 - (ii) the type and number of radio navigation aids that must be available at the aircraft's destination; and
 - (d) the conditions that an alternate aerodrome must meet before it can be used as an alternate aerodrome.
- (2) If an instruction under subregulation (1) is not issued in the form of a Civil Aviation Order, the instruction does not bind a person until it has been:
- (a) served on the person; or
 - (b) published in NOTAMS or AIP.
- (3) CASA may give permission, subject to the conditions specified in the permission, for a pilot in command to plan a flight without having regard to an instruction under subregulation (1).

241 Flight plans—submission to air traffic control in certain cases

- (1) CASA may, by notice published in Aeronautical Information Publications, declare that flights included in specified classes of flights are flights in respect of which flight plans are required, in the interests of safety and to ensure compliance with the Convention, to be submitted to air traffic control.
- (2) Subject to subregulation (3), the pilot in command of an aircraft must not fly the aircraft on a flight included in a class of flights specified in a notice under subregulation (1) if a flight plan has not been submitted to air traffic control.

Penalty: 5 penalty units.

- (3) CASA may, in a notice under subregulation (1), specify the circumstances in which, and the conditions subject to which, a flight included in a class of flights specified in the notice may be commenced and carried on before the flight plans for the flight are submitted to air traffic control and subregulation (2) does not
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apply to and in relation to the flight of an aircraft that has been commenced in those circumstances and so long as the conditions so specified are complied with.

- (4) The pilot in command of an aircraft that deviates from a flight as specified in the flight plan that has been submitted under this regulation shall report the fact as soon as possible to air traffic control.

Penalty: 5 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

242 Testing of radio apparatus

- (1) Before an aircraft is taxied on the manoeuvring area of an aerodrome for the purpose of moving to the take-off position, the pilot in command shall check that the radio apparatus fitted to the aircraft and to be used in flight is functioning correctly.

Penalty: 25 penalty units.

- (2) If the check indicates any malfunctioning of any portion of the radio apparatus the pilot in command must not fly the aircraft until the apparatus has been certified by a person licensed or approved for the purpose as being in proper working order.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

243 Listening watch

- (1) When an aircraft is equipped with radio apparatus for use during flight, the pilot in command must maintain a listening watch, or must ensure that a listening watch is maintained, at all times commencing immediately prior to the time at which the aircraft commences to move on the manoeuvring area prior to flight and lasting until the aircraft is brought to a stop at the apron or other point of termination of the flight.

Penalty: 25 penalty units.

- (2) Where the means of communication between air traffic control and an aircraft under its control is a voice communication channel, the pilot in command and any other pilot for the time being operating the controls of the aircraft shall personally maintain a listening watch on the appropriate radio frequency.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

244 Safety precautions before take-off

- (1) Immediately before taking-off on any flight, the pilot in command of an aircraft shall:
 - (a) test the flight controls on the ground to the full limit of their travel and make such other tests as are necessary to ensure that those controls are functioning correctly;
 - (b) ensure that locking and safety devices are removed and that hatches, doors and tank caps are secured; and
 - (c) ensure that all external surfaces of the aircraft are completely free from frost and ice.

Penalty: 50 penalty units.

- (2) CASA may give such directions as CASA considers necessary in the interests of safety in respect of the duties and responsibilities of the pilot in command and other persons for tests, checks and other precautions before the despatch of an aircraft on any flight.
- (3) A person must not contravene a direction.

Penalty: 50 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

245 Tests before and during the take-off run

- (1) CASA may give directions specifying the tests to be carried out by the pilot in command of an aircraft before the commencement of, and during, a take-off run in order to be satisfied that the engine and associated items of equipment are functioning correctly within the permissible limits of performance.
- (2) Before the commencement of, and during, a take-off run, the pilot in command of an aircraft shall:
 - (a) carry out all tests required to be carried out in relation to the aircraft under subregulation (1);
 - (b) test all flight instruments, and, in particular, all gyroscopic flight instruments, that it is possible to test so as to ensure that they are functioning correctly;
 - (c) ensure that all gyroscopic flight instruments are correctly set and uncaged; and
 - (d) perform such checks and tests as are required by the flight manual for, or the operations manual of, the aircraft.

Penalty: 25 penalty units.

- (3) If an inspection, check or test made under subregulation (2) indicates any departure from the permissible limits or any malfunctioning in any particular (not being a departure or malfunctioning that is a permissible unserviceability), the
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pilot in command shall not commence the take-off or, if the pilot has commenced the take-off, shall abandon the take-off or take such other action as the pilot considers appropriate to ensure the safety of the aircraft and of persons on board the aircraft.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

246 Movement on manoeuvring area

- (1) Immediately before take-off, the pilot in command shall manoeuvre the aircraft so that he or she is able to observe traffic on the manoeuvring area of the aerodrome and incoming and outgoing traffic, in order that he or she may avoid collision with other aircraft during the take-off.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

247 Meteorological conditions observed en route

- (1) The pilot in command shall report, in the approved form and at such times as requested by a meteorological observer, the meteorological conditions observed *en route*.

Penalty: 5 penalty units.

- (2) When any meteorological condition, hazardous to flight, is encountered *en route*, the pilot in command shall report the condition as soon as possible, giving such details as appear pertinent to the safety of other aircraft.

Penalty: 5 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

248 Reporting of defects

- (1) At the termination of each flight, or in any urgent case, during the currency of the flight, the pilot in command shall report, in the manner and to the persons specified by CASA, all defects in the aircraft, aerodromes, air routes, air route facilities or airway facilities which have come to the pilot's notice.

Penalty: 10 penalty units.

Division 4—General provisions relating to the operation of aircraft

248A Division 4 not to apply to New Zealand AOC holders with ANZA privileges

This Division does not apply in relation to an aircraft operated under a New Zealand AOC with ANZA privileges.

249 Prohibition of carriage of passengers on certain flights

- (1) The pilot in command of an aircraft that carries a passenger must not engage in any of the following types of flying:
 - (a) flying training given to a student pilot;
 - (b) practice of emergency procedures in the aircraft;
 - (c) low flying practice;
 - (d) testing an aircraft or its components, power plant or equipment.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) An aircraft while engaged in flying of the type specified in paragraph (1)(d) may carry engineering and maintenance personnel who are required, as part of their duties, to be present in the aircraft during the flight for the purpose of flight observation or of maintenance of the aircraft, including any aircraft component installed in the aircraft.
- (4) For the purposes of this regulation, the categories of aircraft are as follows:
 - (a) aeroplanes;
 - (b) helicopters;
 - (c) gyroplanes;
 - (d) airships.

250 Carriage on wings, undercarriage etc

- (1) The operator of an aircraft must not permit a person to be carried on:
 - (a) the wings or undercarriage of the aircraft; or
 - (b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or
 - (c) anything attached to the aircraft.

Penalty: 50 penalty units.

- (1A) The pilot in command of an aircraft must not permit a person to be carried on:
 - (a) the wings or undercarriage of the aircraft; or
 - (b) any part of the aircraft that is not designed for the accommodation of the crew or passengers; or
 - (c) anything attached to the aircraft.
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Penalty: 50 penalty units.

- (1B) Subregulations (1) and (1A) do not apply to prevent a member of the crew having temporary access to:
- (a) any part of the aircraft for the purpose of executing repairs or adjustments to the aircraft or its equipment, or doing anything that may be necessary for the safety of the aircraft or any persons or cargo carried in the aircraft; or
 - (b) any part of the aircraft in which goods or stores are being carried and to which proper means of access is provided.
- (2) A person may, with the permission of CASA given in respect of:
- (a) a particular flight;
 - (b) flights of a particular kind; or
 - (c) flights included in a series of flights;

be carried, during a flight in respect of which the permission is given, on or in a part of an aircraft that is not designed for the accommodation of the crew or passengers, or on or in anything attached to an aircraft.

- (3) CASA may, when granting a permission referred to in subregulation (2), specify conditions subject to which a person may be carried.
- (4) A person must not contravene a condition to which a permission is subject.

Penalty: 50 penalty units.

- (5) An offence against subregulation (1), (1A) or (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) It is a defence to a prosecution under subregulation (1) or (1A) if the person had CASA's permission under subregulation (2).

Note: A defendant bears an evidential burden in relation to the matter in subregulation (6) (see subsection 13.3(3) of the *Criminal Code*).

251 Seat belts and safety harness

- (1) Subject to this regulation, seat belts shall be worn by all crew members and passengers:
- (a) during take-off and landing;
 - (b) during an instrument approach;
 - (c) when the aircraft is flying at a height of less than 1,000 feet above the terrain; and
 - (d) at all times in turbulent conditions.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply in relation to an authorised officer of CASA undertaking examinations, inspections or checks of the work of an aircraft's crew or the operation of an aircraft or its equipment under regulation 262.
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(3) CASA may direct that a type of safety harness specified in the direction shall be worn in place of a seat belt in the circumstances set out in the direction.

(4) The pilot in command shall ensure that a seat belt or safety harness is worn at all times during flight by at least one of the pilot crew members.

Penalty: 25 penalty units.

(5) Subject to subregulation (6), the operator of an aircraft shall detail a member of the crew to ensure that a seat belt or safety harness is worn by each occupant of the aircraft during the times specified in subregulation (1) and to ensure that each belt or harness is adjusted to fit the wearer without slack.

Penalty: 10 penalty units.

(6) CASA may, for the purpose of ensuring the safety of air navigation, give directions requiring the owner or operator of an aircraft to install in the aircraft an approved communications system to enable the pilot in command to notify passengers when a seat belt or safety harness is to be worn.

(6A) A person must not contravene a direction.

Penalty: 10 penalty units.

(7) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

(8) An offence against subregulation (1), (4), (5) or (6A) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(9) It is a defence to a prosecution under paragraph (1)(c) if CASA directed that seat belts need not be worn in that circumstance.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (9) (see subsection 13.3(3) of the *Criminal Code*).

252 Provision of emergency systems etc

(1) CASA may give directions with respect to the provision in Australian aircraft of such emergency systems and equipment, and such life-saving equipment, as CASA considers necessary to safeguard the aircraft and persons on board the aircraft.

(1A) A person must not contravene a direction.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(2) In giving a direction under subregulation (1), CASA shall have regard to the type of operation in which the aircraft is to be used.

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- (3) A direction given under this regulation does not have effect in relation to a person until it has been served on the person.

252A Emergency locator transmitters

- (1) The pilot in command of an Australian aircraft that is not an exempted aircraft may begin a flight only if the aircraft:
- (a) is fitted with an approved ELT:
 - (i) that is in working order; and
 - (ii) whose switch is set to the position marked 'armed', if that switch has a position so marked; or
 - (b) carries, in a place readily accessible to the operating crew, an approved portable ELT that is in working order.

Penalty: 25 penalty units.

Note: For the maintenance requirements for emergency locator transmitters, see Part 4A. See also subsection 20AA(4) of the Act.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if:

- (a) the flight is to take place wholly within a radius of 50 miles from the aerodrome reference point of the aerodrome from which the flight is to begin; or
- (b) the flight is, or is incidental to, an agricultural operation; or
- (c) CASA has given permission for the flight under regulation 21.197 of CASR; or
- (d) the aircraft is new and the flight is for a purpose associated with its manufacture, preparation or delivery; or
- (e) the flight is for the purpose of moving the aircraft to a place to have an approved ELT fitted to the aircraft, or to have an approved ELT that is fitted to it repaired, removed or overhauled.

- (3) Subregulation (1) does not apply in relation to a flight by an Australian aircraft if, when the flight takes place:

- (a) an approved ELT fitted to the aircraft, or an approved portable ELT usually carried in the aircraft, has been temporarily removed for inspection, repair, modification or replacement; and
 - (b) an entry has been made in the aircraft's log book, or approved alternative maintenance record, stating:
 - (i) the ELT's make, model and serial number; and
 - (ii) the date on which it was removed; and
 - (iii) the reason for removing it; and
 - (c) a placard stating 'ELT not installed or carried' has been placed in the aircraft in a position where it can be seen by the aircraft's pilot; and
 - (d) not more than 90 days have passed since the ELT was removed.
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253 Emergency and life-saving equipment

- (1) An operator shall not assign a person to act as a crew member of an aircraft, and a person shall not act as a crew member of an aircraft, unless the person is competent in the use of the emergency and life-saving equipment carried in the aircraft.
- (2) An operator shall ensure that crew members are periodically tested as to competency in the use of the emergency and life-saving equipment carried in the aircraft to which they are assigned.

254 Exits and passageways not to be obstructed

- (1) Unless CASA otherwise approves, this regulation applies to all passageways and exits in an aircraft that are for use by passengers or crew.
- (2) When an aircraft is in flight, the pilot in command must ensure that all passageways and exits to which this regulation applies are kept free from obstruction.

Penalty: 10 penalty units.

- (3) When an aircraft is in flight, the pilot in command must ensure that all exits to which this regulation applies are fastened in a way that permits their immediate use in an emergency.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

255 Smoking in aircraft

- (1) Subject to subregulation (1A), a person must not smoke:
 - (a) in a part of an aircraft in which a notice is permanently displayed indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited;
 - (b) anywhere in an aircraft during take-off, landing or refuelling or during a period:
 - (i) in which a notice is temporarily displayed indicating that smoking is prohibited; or
 - (ii) which is specified in a permanently displayed notice as a period during which smoking is prohibited; or
 - (c) in a berth of a sleeper aircraft.

Penalty: 5 penalty units.

- (1A) A person must not smoke in an aircraft toilet.

Penalty: 50 penalty units.

- (2) The owner or operator of an aircraft and the pilot in command shall ensure:
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- (a) that provision is made in the aircraft by which a notice indicating that smoking is prohibited may be displayed during the periods when smoking is prohibited or, where the permission of CASA has been obtained, that a notice is permanently displayed in the aircraft specifying the periods during which smoking is prohibited; and
 - (b) that a notice indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited is displayed:
 - (i) in such parts of the aircraft as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (ii) in the case of a sleeper aircraft, in each of the berths of the aircraft.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft must, if the permission of CASA has not been obtained under paragraph (2)(a) for the display of a permanent notice, ensure that the notice indicating that smoking is prohibited is displayed:
 - (a) during take-off, landing and refuelling;
 - (b) during such periods as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (c) during a period in which the pilot considers that smoking should be prohibited in the interests of safety.

Penalty: 25 penalty units.

- (3A) An offence against subregulation (1), (1A), (2) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) A notice required to be displayed in pursuance of this regulation shall be legible and shall be displayed in a conspicuous place.

256 Intoxicated persons not to act as pilots etc or be carried on aircraft

- (1) A person shall not, while in a state of intoxication, enter any aircraft.

Penalty: 5 penalty units.

- (2) A person acting as a member of the operating crew of an aircraft, or carried in the aircraft to act as a member of the operating crew, shall not, while so acting or carried, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

Penalty: 50 penalty units.

- (3) A person shall not act as, or perform any duties or functions preparatory to acting as, a member of the operating crew of an aircraft if the person has, during the period of 8 hours immediately preceding the departure of the aircraft consumed any alcoholic liquor.

Penalty: 50 penalty units.

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- (4) A person who is on board an aircraft as a member of the operating crew, or as a person carried in the aircraft for the purpose of acting as a member of the operating crew, shall not consume any alcoholic liquor.

Penalty: 50 penalty units.

- (5) A person shall not, while acting in any capacity in either air traffic control or Flight Service, be in a state in which, by reason of his or her having consumed, used, or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his or her capacity so to act is impaired.

Penalty: 50 penalty units.

- (6) A person shall not act in any capacity in either air traffic control or Flight Service if the person has, during the period of 8 hours immediately preceding the commencement of the period of duty in which he or she so acts, consumed any alcoholic liquor.

Penalty: 50 penalty units.

- (7) A person who is on duty in either air traffic control or Flight Service shall not consume any alcoholic liquor.

Penalty for a contravention of this subregulation: 50 penalty units.

- (8) An offence against subregulation (1), (2), (3), (4), (5), (6) or (7) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

256AA Offensive and disorderly behaviour

- (1) A person in an aircraft must not behave in an offensive and disorderly manner.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

256A Carriage of animals

- (1) Subject to subregulation (8), the operator of an aircraft may permit a live animal to be in the aircraft only if:

- (a) the animal is in a container and is carried in accordance with this regulation; or
- (b) the animal is carried with the written permission of CASA and in accordance with any conditions specified in the permission.

Penalty: 25 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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- (2) Subregulation (1) does not apply to a dog accompanying a visually impaired or hearing impaired person as a guide or an assistant if the dog is:
 - (a) carried in the passenger cabin of the aircraft; and
 - (b) placed on a moisture-absorbent mat as near to the person as practicable; and
 - (c) restrained in a way that will prevent the dog from moving from the mat.
 - (3) More than one animal must not be kept in the same container if doing so would be likely to affect adversely the safety of the aircraft.
 - (4) A container must be so constructed that:
 - (a) an animal kept in the container cannot escape from the container; and
 - (b) any water or excreta in the container is not likely to escape from the container in normal flying conditions; and
 - (c) the container will withstand being damaged in a way that may allow an animal, or water or excreta, in the container to escape.
 - (5) A container in which an animal is kept must not be in the passenger cabin of an aircraft.
 - (6) If:
 - (a) an animal is carried in an aircraft in a container; and
 - (b) if the animal is not restrained it could move around inside the container in a way that may alter the distribution of the load of the aircraft; and
 - (c) the safety of the aircraft may be affected adversely by that movement;the animal must be restrained in the container to prevent that movement.
 - (7) The means of restraint must be strong enough to withstand being damaged in a way that may allow the animal to escape.
 - (8) An animal must not be carried on an aircraft if carrying the animal would be likely to affect a person on the aircraft in a way that may affect adversely the safety of the aircraft.
 - (9) In this regulation, *animal* means any member of the animal kingdom other than man.

257 Aerodrome meteorological minima

- (1) CASA may, in respect of an aircraft operation, determine the meteorological minima for the landing or taking-off of an aircraft at an aerodrome.
- (2) A determination under subregulation (1) must be published in AIP or NOTAMS.
- (3) If an element of the meteorological minima for the take-off of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not take-off from that aerodrome.

Penalty: 50 penalty units.

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- (4) If an element of the meteorological minima for the landing of an aircraft at an aerodrome is less than that determined for the aircraft operation at the aerodrome, the aircraft must not land at that aerodrome.

Penalty: 50 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) Subregulation (4) does not apply if an emergency arises that, in the interests of safety, makes it necessary for an aircraft to land at an aerodrome where the meteorological minima is less than that determined for that aircraft operation at that aerodrome.

- (6) This regulation does not prevent a pilot from:

- (a) making an approach for the purpose of landing at an aerodrome; or
- (b) continuing to fly towards an aerodrome of intended landing specified in the flight plan;

if the pilot believes, on reasonable grounds, that the meteorological minima determined for that aerodrome will be at, or above, the meteorological minima determined for the aerodrome at the time of arrival at that aerodrome.

258 Flights over water

- (1) The pilot in command of the aircraft must not fly over water at a distance from land greater than the distance from which the aircraft could reach land if the engine, or, in the case of a multi-engined aircraft, the critical engine (being the engine the non-operation of which when the other engines are in operation gives the highest minimum speed at which the aircraft can be controlled) were inoperative.

Penalty: 10 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) It is a defence to a prosecution under subregulation (1) if the flight was:

- (a) in accordance with directions issued by CASA; or
- (b) in the course of departing from or landing at an aerodrome in accordance with a normal navigational procedure for departing from or landing at that aerodrome.

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

Division 5—Airborne collision avoidance systems—turbine-powered commercial aeroplanes

302 Production of licences

- (1) Any person required under these Regulations to be the holder of a licence, other than a flight crew licence, shall, on demand by an authorised person, produce the licence for inspection by the authorised person.

Penalty: 5 penalty units.

- (2) The owner or pilot in command of any aircraft shall, on demand, produce or cause to be produced for inspection by an authorised person, any certificates, licences, log books or other documents relating to the aircraft and, if it carries passengers or cargo, the list of names of the passengers or the bills of lading and the manifest, as the case may be.

Penalty: 5 penalty units.

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

309 Powers of pilot in command

- (1) The pilot in command of an aircraft, with such assistance as is necessary and reasonable, may:
- (a) take such action, including the removal of a person from the aircraft or the placing of a person under restraint or in custody, by force, as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft; and
 - (b) detain the passengers, crew and cargo for such period as the pilot considers reasonably necessary to ensure compliance with the Act or these Regulations in or in relation to the aircraft.
- (2) A person who, on an aircraft in flight, whether within or outside Australian territory, is found committing, or is reasonably suspected of having committed, or having attempted to commit, or of being about to commit, an offence against the Act or these Regulations may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a constable and shall be dealt with in the same manner as a person so arrested by a constable.
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