

# EXPOSURE DRAFT



EXPOSURE DRAFT

## Civil Aviation Legislation Amendment (Part 131) Regulations 2019

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

Dated 2019

David Hurley  
Governor-General

By His Excellency's Command

Michael McCormack [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional  
Development

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## 1 Name

This instrument is the *Civil Aviation Legislation Amendment (Part 131) Regulations 2019*.

## 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1, Parts 1 and 2	25 March 2021.	25 March 2021
3. Schedule 1, Part 3	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Civil Aviation Act 1988*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Part 1 Main amendments

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## Schedule 1—Amendments

### Part 1—Main amendments

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#### 1 After Part 129

Insert:

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### 131.005 Application of Part 131

- (1) This Part (other than Subpart 131.Z) applies in relation to Part 131 aircraft.
- (2) A **Part 131 aircraft** is any of the following:
  - (a) a manned free balloon;
  - (b) a hot air airship.
- (3) Subpart 131.Z applies in relation to a tethered gas balloon that:
  - (a) is capable of carrying 1 or more persons; and
  - (b) is intended for tethered flight only.

### 131.010 Key definitions for Part 131

In these Regulations:

**Part 131 ASAO** means an ASAO whose approved functions include administering a Part 131 recreational activity.

**Part 131 pilot authorisation** means:

- (a) a commercial pilot (balloon) licence; or
- (b) a CAR certificate of validation; or
- (c) an authorisation from a Part 131 ASAO that authorises the holder to operate a Part 131 aircraft; or
- (d) a flight radiotelephone operator licence.

**Part 131 recreational activity** means:

- (a) operating a Part 131 aircraft other than for a balloon transport operation; or
- (b) an activity or operation prescribed by the Part 131 Manual of Standards.

### 131.015 Definition of *balloon transport operation*

An operation is a **balloon transport operation** if the operation is:

- (a) a passenger transport operation conducted using a Part 131 aircraft that is a registered aircraft or a foreign registered aircraft; and
- (b) conducted for hire or reward; and
- (c) undertaken wholly within Australia; and
- (d) not undertaken as part of a flight into or out of Australian territory.

### 131.020 Definitions of *balloon transport AOC* and *balloon transport operator*

- (1) A **balloon transport AOC** means an AOC that authorises the operation of a Part 131 aircraft for a balloon transport operation.

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- (2) A **balloon transport operator** means a person who holds a balloon transport AOC.

## 131.025 Definition of *specialised balloon operation*

An operation is a **specialised balloon operation** if the operation:

- (a) is conducted using a Part 131 aircraft; and
- (b) is not a balloon transport operation; and
- (c) involves one or more of the following:
  - (i) specialised instruments, indicators, items of equipment or systems being fitted to, or carried on, the aircraft;
  - (ii) carrying or towing a load outside the aircraft;
  - (iii) operating the aircraft for the sole purpose of advertising or making a film or television production;
  - (iv) a flight into or out of Australian territory;
  - (v) an activity prescribed by the Part 131 Manual of Standards for the purposes of this subparagraph.

## 131.030 Definition of *significant change*

A **significant change**, for a balloon transport operator, means:

- (a) a change in relation to any of the following:
  - (i) the location and operation of the operator's main operating bases, including the opening or closing of main operating bases;
  - (ii) the operator's key personnel;
  - (iii) a person authorised to carry out the responsibilities of any of the key personnel if the position holder is absent from the position or cannot carry out the responsibilities of the position;
  - (iv) the formal reporting lines for a managerial or operational position with safety functions and responsibilities that reports directly to any of the key personnel;
  - (v) the operator's process for making changes that relate to the safe conduct and management of the operator's balloon transport operations;
  - (vi) the kinds of balloon transport operations the operator is authorised to conduct under the operator's balloon transport AOC;
  - (vii) the operator's areas of operation, including beginning to operate in a new area;
  - (viii) the classes of Part 131 aircraft used in the operator's balloon transport operations, including the addition of a new class; or
- (b) a change in relation to any of the following that does not maintain or improve, or is not likely to maintain or improve, aviation safety:
  - (i) the plans, processes, procedures, programs and systems for the safe conduct and management of the operator's balloon transport operations;
  - (ii) the qualifications, experience and responsibilities required by the operator for any of the operator's key personnel;
  - (iii) any other aeronautical or aviation safety related services provided to the operator by third parties;

- (iv) any change to the registration of a Part 131 aircraft used in the operator's balloon transport operations;
- (v) any leasing or other arrangements for the supply of a Part 131 aircraft used in the operator's balloon transport operations; or
- (c) a change required to be approved by CASA under these Regulations, other than a change that results in the reissue or replacement of an instrument previously issued by CASA in which the conditions or other substantive content of the instrument are unchanged.

## **131.035 Approvals by CASA for Part 131**

- (1) If a provision of this Part refers to a person holding an approval under this regulation, the person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, CASA must grant the approval.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation for either of the following provisions:
  - (a) paragraph 131.145(2)(a);
  - (b) paragraph 131.155(2)(a).

## **131.040 Prescribed purpose—balloon transport operations**

For the purposes of subsection 27(9) of the Act, the flying or operation of a Part 131 aircraft for a balloon transport operation is a prescribed purpose.

## **131.045 Prescribed position—safety manager**

- (1) A balloon transport operator must have a safety manager.
- (2) For the purposes of paragraph (e) of the definition of *key personnel* in subsection 28(3) of the Act, the position of safety manager is prescribed for balloon transport operators.

## **131.050 Required material—reference library**

- (1) For the purposes of paragraph 28BH(2)(b) of the Act, the following material is required for a balloon transport operator:
  - (a) the civil aviation legislation that is relevant to the operator's balloon transport operations;
  - (b) the parts of the AIP that are relevant to the operations;
  - (c) all information about the flight operations of each class of Part 131 aircraft operated by the operator for the operations that is necessary to ensure the safe conduct of the operations;
  - (d) any other publications, information or data required for the reference library by the operator's exposition.
- (2) To avoid doubt, if material is required under subregulation (1), the requirement is taken to be satisfied if an electronic copy of the material is readily available.

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## **131.055 Issue of Manual of Standards for Part 131**

For the purposes of subsection 98(5A) of the Act, CASA may issue a Manual of Standards for this Part prescribing matters:

- (a) required or permitted by these Regulations to be prescribed by the Part 131 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

## **Subpart 131.B—Operator certification and management**

### **Division 131.B.1—Requirement for certification for balloon transport operations**

#### **131.060 Balloon transport AOC required to conduct balloon transport operations**

- (1) A person contravenes this subregulation if:
  - (a) the person conducts a balloon transport operation; and
  - (b) the person does not hold a balloon transport AOC that authorises the person to conduct the operation.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.065 Compliance with balloon transport AOC**

- (1) A person contravenes this subregulation if:
  - (a) the person conducts a balloon transport operation; and
  - (b) the person:
    - (i) holds a balloon transport AOC that authorises the person to conduct the balloon transport operation; but
    - (ii) conducts the operation in a way that contravenes the AOC.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.070 Compliance with conditions of balloon transport AOC**

- (1) A balloon transport operator contravenes this subregulation if the operator contravenes a condition of the operator's balloon transport AOC.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **Division 131.B.2—Balloon transport AOCs**

#### **131.075 Application for balloon transport AOC**

- (1) A person may apply to CASA for the issue of a balloon transport AOC.
- (2) The application must include the following:
  - (a) the applicant's name (including any operating or trading name), contact details and ABN (if any);

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- (b) if the address of the applicant's operational headquarters is different from the applicant's mailing address—the address of the applicant's operational headquarters;
- (c) if the applicant is an individual—a statement that the individual is, or proposes to be, the applicant's chief executive officer;
- (d) if the applicant is a corporation—the name of each of the directors of the corporation;
- (e) if the applicant is a corporation registered in Australia that has an ACN—its ACN and the address of its registered office;
- (f) if the applicant is a corporation not registered in Australia—the place it was incorporated or formed;
- (g) details of the balloon transport operations covered by the application;
- (h) a written undertaking that, if CASA issues the certificate, the organisation established by the applicant to conduct the applicant's proposed balloon transport operations (the *applicant's organisation*) will:
  - (i) be capable of operating in accordance with its exposition and the civil aviation legislation; and
  - (ii) operate in accordance with its exposition and the civil aviation legislation.

Note: For additional rules in relation to AOCs, see Division 2 of Part III of the Act.

- (3) The application must be:
  - (a) accompanied by a copy of the applicant's proposed exposition; and
  - (b) signed by the person appointed, or proposed to be appointed, as the chief executive officer of the applicant's organisation.

### 131.080 Conditions for issue of balloon transport AOC

- (1) It is a condition for the issue to the applicant of a balloon transport AOC that CASA is satisfied of each of the following:
  - (a) the applicant's proposed exposition complies with regulation 131.195;
  - (b) the applicant can conduct balloon transport operations safely and in accordance with its exposition and the civil aviation legislation;
  - (c) if the applicant is an individual—the applicant:
    - (i) is a fit and proper person to be issued a balloon transport AOC; and
    - (ii) is, or proposes to be, the chief executive officer of the organisation established, or proposed to be established, by the applicant to conduct the applicant's proposed balloon transport operations;
  - (d) if the applicant is a corporation—each director of the corporation is a fit and proper person to be a director of a corporation that is issued a balloon transport AOC;
  - (e) each of the applicant's proposed key personnel:
    - (i) is a fit and proper person to be appointed to the position; and
    - (ii) has the qualifications and experience required under Division 131.B.4 for the position; and
    - (iii) has the additional qualifications and experience required by CASA under regulation 131.175 for the position (if any); and
    - (iv) has the qualifications and experience required by the applicant under subparagraph 131.195(1)(e)(i) for the position (if any);

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- (f) the applicant's arrangements for managing the continuing airworthiness of each class of Part 131 aircraft the applicant proposes to operate in its balloon transport operations comply with Part 4 of CAR.

Note: These matters are in addition to the matters specified in section 28 (CASA must issue AOC if satisfied about certain matters) of the Act.

- (2) For the purposes of paragraph (1)(b), without limiting the matters that CASA may consider, CASA must consider the following:
  - (a) the applicant's proposed exposition;
  - (b) whether the applicant can comply with the proposed exposition;
  - (c) the content of the undertaking mentioned in paragraph 131.075(2)(h);
  - (d) details of, and reasons for, any suspension or cancellation of:
    - (i) a civil aviation authorisation issued to the applicant; or
    - (ii) an equivalent authorisation issued to the applicant under the law of a foreign country or by a multinational aviation authority;
  - (e) the suitability of the applicant's corporate and organisational structures for the operations;
  - (f) any other information:
    - (i) accompanying the application; or
    - (ii) in any other document given to CASA by the applicant for the application, including any document requested by CASA in relation to the application.
- (3) For the purposes of paragraphs (1)(c) to (e), the matters CASA may consider in deciding whether a person is a fit and proper person include the following:
  - (a) the person's criminal record (if any), whether in Australia or a foreign country;
  - (b) the person's bankruptcy (if any), whether in Australia or a foreign country;
  - (c) the person's history (if any) of serious behavioural problems;
  - (d) any information held or obtained by CASA that the person has contravened:
    - (i) the civil aviation legislation; or
    - (ii) another law, whether in Australia or a foreign country, relating to transport (including aviation) safety or safety in any other safety-critical industry;
  - (e) the person's demonstrated attitude towards compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety;
  - (f) the record of compliance with regulatory requirements, in Australia or a foreign country, relating to transport (including aviation) safety of any corporation or other body in which the person:
    - (i) is or was a director or partner (however described); or
    - (ii) holds or held a position equivalent to any of the applicant's key personnel;
  - (g) for any corporation in which the person is or was a director, or holds or held a position equivalent to any of the applicant's key personnel, in Australia or a foreign country—the following records:
    - (i) the corporation's criminal record (if any);

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- (ii) the corporation's record of insolvency, receivership or winding up (if any);
- (iii) the corporation's record (if any) as a body subject to investigation or comment by a statutory authority that regulates the share dealings by, or financial affairs of, corporations;
- (h) any other matter relating to the fitness of the person to:
  - (i) for an applicant—hold a balloon transport AOC; or
  - (ii) for a director or proposed director—be a director of a corporation that holds a balloon transport AOC.

## 131.085 Approval of exposition

If CASA issues a balloon transport AOC to an applicant, CASA is taken to have also approved the applicant's proposed exposition.

## 131.090 Conditions of balloon transport AOCs

- (1) For the purposes of paragraph 28BA(1)(b) of the Act, each of the following is a condition of a balloon transport AOC issued to an operator:
  - (a) the operator must comply with each direction given to the operator, or obligation imposed on the operator, by CASA under a provision of these Regulations;
  - (b) each of the operator's key personnel must comply with:
    - (i) each provision of this Part that applies to the person; and
    - (ii) each direction given to the person, or obligation imposed on the person, by CASA under a provision of these Regulations; and
    - (iii) each other provision of the civil aviation legislation that applies to the operator's operations under the AOC;
  - (c) each of the positions of the operator's key personnel must be filled;
  - (d) each of the operator's personnel must comply with each provision of the civil aviation legislation that applies to the operator's operations under the AOC;
  - (e) if the operator is an individual—the individual must be the chief executive officer of the operator's organisation;
  - (f) the positions of chief executive officer and safety manager may be occupied by the same person only:
    - (i) in an unforeseen circumstance; and
    - (ii) for the period mentioned in subregulation (2);
  - (g) the positions of head of flying operations and safety manager may be occupied by the same person:
    - (i) if there is an unforeseen circumstance—for the period mentioned in subregulation (2); or
    - (ii) if the operator holds an approval under regulation 131.035 for the positions to be occupied by the same person—for the period specified in the approval;
  - (h) for each Part 131 aircraft operated by the operator under the AOC, the operator must:
    - (i) be the registered operator of the aircraft; or



- (ii) hold an approval under regulation 131.035 for this subparagraph for the aircraft.
- (2) For the purposes of subparagraphs (1)(f)(ii) and (g)(i), the period is:
  - (a) no more than 7 consecutive days for each unforeseen circumstance; or
  - (b) if the operator holds an approval under regulation 131.035 in relation to an unforeseen circumstance—the period mentioned in the approval for the unforeseen circumstance.

## **Division 131.B.3—Changes relating to balloon transport operators**

### **131.095 Changes of name etc.**

- (1) A balloon transport operator contravenes this subregulation if the operator:
  - (a) makes a change mentioned in subregulation (2); and
  - (b) does not, before making the change:
    - (i) amend the operator’s exposition to reflect the change; and
    - (ii) give CASA written notice of the change and a copy of the amended part of the exposition clearly identifying the change.
- (2) For the purposes of paragraph (1)(a), the changes are the following:
  - (a) a change to the operator’s name (including any operating or trading name) or contact details;
  - (b) if the address of the operator’s operational headquarters is different from the operator’s mailing address—a change to the address of the operator’s operational headquarters.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.100 Application for approval of significant changes**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change other than a significant change mentioned in subregulation (2); and
  - (b) CASA has not approved the significant change.
- (2) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a significant change that is the permanent appointment, or the acting appointment (for a period of greater than 35 days), as any of the operator’s key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 131.195(1)(e)(iv); and
  - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.
- (3) An application for approval of a significant change must:
  - (a) be in writing; and
  - (b) set out the change; and

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(c) be accompanied by a copy of the part of the operator's exposition affected by the change, clearly identifying the change.

- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **131.105 Approval of significant changes**

- (1) CASA may approve a significant change for a balloon transport operator only if satisfied that the requirements mentioned in section 28 of the Act and subregulation 131.080(1) will continue to be met.
- (2) If CASA approves the significant change, CASA is taken to have also approved the changes to the operator's exposition covered by the application for the change.

## **131.110 Changes must be made in accordance with process in exposition**

- (1) A balloon transport operator contravenes this subregulation if:
- (a) the operator makes a change; and
  - (b) the change is not made in accordance with the process included in the operator's exposition in accordance with paragraph 131.195(1)(m).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.115 CASA directions relating to exposition or key personnel**

- (1) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to a balloon transport operator, direct the operator to change its exposition:
- (a) to remove particular information, procedures or instructions from the exposition; or
  - (b) to include particular information, procedures or instructions in the exposition; or
  - (c) to revise or vary the information, procedures or instructions in the exposition.
- (2) CASA may, by written notice given to a balloon transport operator, direct the operator to remove any of the operator's key personnel from the person's position if satisfied that the person is not:
- (a) carrying out the responsibilities of the position; or
  - (b) if the person is the chief executive officer—properly managing matters for which the person is accountable.
- (3) A notice under this regulation must state the period within which the direction must be complied with.
- (4) A balloon transport operator contravenes this subregulation if:
- (a) CASA gives the operator a direction under this regulation; and

- (b) the operator does not comply with the direction within the period stated in the notice.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

## **Division 131.B.4—Organisation and personnel**

### **131.120 Organisation and personnel**

- (1) A balloon transport operator must maintain an organisational structure that effectively manages its balloon transport operations, taking into account the size, nature and complexity of the operations.
- (2) A balloon transport operator contravenes this subregulation if any of the operator's key personnel carries out a responsibility of the person's position in a way that contravenes the operator's exposition or this Part.
- (3) A person commits an offence if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### **131.125 Key personnel cannot carry out responsibilities**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator becomes aware that any of its key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 35 days; and
  - (b) the operator does not tell CASA of that fact within the time mentioned in subregulation (2).
- (2) For the purposes of paragraph (1)(b), the time is:
  - (a) if there is not another person authorised to carry out the responsibilities for all or part of the period—24 hours after the operator becomes aware of the matter; and
  - (b) if there is another person authorised to carry out the responsibilities for all or part of the period—3 days after the operator becomes aware of the matter.
- (3) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.130 Familiarisation training for key personnel**

A balloon transport operator must ensure that, before a person appointed as any of the operator's key personnel begins to carry out the responsibilities of the position, the person has completed any training that is necessary to familiarise the person with the responsibilities.

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## **131.135 Chief executive officer—experience**

- (1) The chief executive officer of a balloon transport operator must have the experience required under subregulation (2).
- (2) The experience required is:
  - (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
- (3) The experience is the following:
  - (a) sufficient relevant experience in organisational, operational, financial and people management of balloon transport operations to capably lead, manage and set standards to enable the operator to conduct safe operations in accordance with the operator’s exposition and the civil aviation legislation;
  - (b) a satisfactory record in the conduct or management of balloon transport operations.

## **131.140 Chief executive officer—responsibilities and accountabilities**

- (1) The chief executive officer of a balloon transport operator’s organisation is responsible for the following:
  - (a) ensuring that, for the safe conduct of the operator’s balloon transport operations in accordance with the operator’s balloon transport AOC and exposition and the civil aviation legislation, the operator:
    - (i) has sufficient suitably experienced, qualified and competent personnel; and
    - (ii) has a suitable management structure; and
    - (iii) is adequately financed and resourced;
  - (b) ensuring that the operator:
    - (i) complies with the civil aviation legislation; and
    - (ii) implements and manages the operator’s safety management system; and
    - (iii) has procedures that ensure that all of the operator’s personnel understand the operator’s safety policy; and
    - (iv) has an organisational structure that ensures that the safety manager is independent and not subject to undue influence; and
    - (v) sets and maintains standards for flight and ground operations; and
    - (vi) tells CASA if the operator becomes aware that a leasing, financing or other arrangement for the supply of a Part 131 aircraft that the operator operates under the operator’s balloon transport AOC may affect the operator’s safe conduct of the operator’s balloon transport operations; and
    - (vii) for each Part 131 aircraft that is a registered foreign aircraft (if any) used in the operator’s balloon transport operations—maintains the aircraft in accordance with the law of the country in which the aircraft is registered;
  - (c) establishing and regularly reviewing the operator’s safety performance indicators and targets;

- (d) ensuring that the operator's exposition is monitored and managed for continuous improvement;
  - (e) ensuring that training and checking of the operator's operational safety-critical personnel (other than flight crew) conducted by or for the operator are conducted in accordance with the operator's exposition;
  - (f) ensuring that key personnel satisfactorily carry out the responsibilities of their positions in accordance with the operator's exposition and the civil aviation legislation.
- (2) The chief executive officer of a balloon transport operator's organisation is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

### **131.145 Head of flying operations—qualifications and experience**

- (1) The head of flying operations of a balloon transport operator must:
- (a) hold a commercial (balloon) pilot licence endorsed for the classes of Part 131 aircraft to be used in the operator's balloon transport operations; and
  - (b) have the experience required under subregulation (2); and
  - (c) have a satisfactory record in the conduct or management of balloon transport operations; and
  - (d) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's balloon transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The experience required is:
- (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—both of the following:
    - (i) at least 250 hours flight time as the pilot in command of a Part 131 aircraft;
    - (ii) at least 2 years' experience in the conduct of Part 131 aircraft operations.
- (3) CASA may, by written notice given to the head of flying operations, or proposed head of flying operations, of a balloon transport operator, direct the person to undertake an assessment mentioned in subregulation (4).
- (4) The assessment:
- (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the head of flying operation's or proposed head of flying operation's suitability as head of flying operations for the operator; and
  - (b) may include a free flight assessment in a Part 131 aircraft.

### **131.150 Head of flying operations—responsibilities**

- (1) The head of flying operations of a balloon transport operator must safely manage the flying operations of the operator.
- (2) Without limiting subregulation (1), the responsibilities of the head of flying operations include the following:

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- (a) monitoring and maintaining, and reporting to the chief executive officer on, the operator's compliance with the provisions of the civil aviation legislation and the operator's exposition that apply to flying operations;
- (b) ensuring that the operator's flight crew members are provided with the information and documentation necessary to properly carry out their responsibilities;
- (c) ensuring the proper allocation and deployment of the operator's Part 131 aircraft, and the operator's personnel, for use in the operator's balloon transport operations;
- (d) ensuring that the operator complies with section 28BH (Reference library) of the Act in relation to flight crew members.

## **131.155 Head of training and checking—qualifications and experience**

- (1) The head of training and checking of a balloon transport operator must:
  - (a) be authorised under these Regulations to operate the Part 131 aircraft used to conduct the operator's balloon transport operations; and
  - (b) have the experience required under subregulation (2); and
  - (c) have a satisfactory record in the conduct or management of balloon transport operations; and
  - (d) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's balloon transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The experience required is:
  - (a) if the operator holds an approval under regulation 131.035—the experience mentioned in the approval; or
  - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (3)(a) and (b).
- (3) The experience is the following:
  - (a) at least 250 hours of flight time in a Part 131 aircraft as pilot in command;
  - (b) at least 6 months' experience in the conduct or management of balloon transport operations conducted under an AOC or equivalent foreign authorisation.
- (4) CASA may, by written notice given to the head of training and checking, or proposed head of training and checking, of a balloon transport operator, direct the person to undertake an assessment mentioned in subregulation (5).
- (5) The assessment:
  - (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate the head of training or checking's or proposed head of training or checking's suitability as head of training and checking for the operator; and
  - (b) may include assessment in a Part 131 aircraft.

## **131.160 Head of training and checking—responsibilities**

- (1) The head of training and checking of a balloon transport operator must safely manage the training and checking activities of the operator for the operator's flight crew.

- (2) Without limiting subregulation (1), the responsibilities of the head of training and checking include the following:
  - (a) ensuring that the operator complies with each provision of the civil aviation legislation that relates to the qualifications, training or checking of the operator's flight crew;
  - (b) reporting to the head of flying operations on the operator's compliance with the provisions mentioned in paragraph (a);
  - (c) ensuring that training and checking of flight crew conducted by or for the operator is conducted in accordance with the operator's exposition;
  - (d) if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct recurrent training or checking for the operator's flight crew:
    - (i) ensuring that each person who conducts the recurrent training or checking for the Part 142 operator is authorised under these Regulations to conduct the activities involved in the recurrent training or checking; and
    - (ii) telling the Part 142 operator, in writing, of any change in the balloon transport operator's exposition relating to the training and checking activities the Part 142 operator conducts under the contract.

## **131.165 Safety manager—experience**

A safety manager required under regulation 131.045 for a balloon transport operator must have:

- (a) sufficient relevant safety management experience to capably lead, manage and set standards to enable the operator to safely implement the operator's safety management system in accordance with the operator's exposition; and
- (b) a satisfactory record in the conduct or management of balloon transport operations; and
- (c) sufficient safety and regulatory knowledge to enable the operator to conduct the operator's balloon transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.

## **131.170 Safety manager—responsibilities**

- (1) A safety manager required under regulation 131.045 for a balloon transport operator must manage the operator's safety management system.
- (2) Without limiting subregulation (1), the responsibilities of the safety manager include:
  - (a) managing the operation of the safety management system including managing corrective, remedial and preventative action in relation to the system; and
  - (b) regularly reporting to the chief executive officer on the effectiveness of the safety management system; and
  - (c) managing the maintenance and continuous improvement of the following:
    - (i) the safety management system;
    - (ii) the fatigue risk management system (if any).

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## 131.175 Key personnel—additional qualification and experience requirements

- (1) This regulation applies to:
  - (a) an applicant for a balloon transport AOC; and
  - (b) a balloon transport operator.
- (2) CASA may, by written notice given to the applicant or operator, direct that any of the key personnel of the applicant or operator must have stated additional qualifications or experience to those otherwise required under this Part.
- (3) If CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to a person who is, or is proposed to be, any of the key personnel of the applicant or operator, direct the person:
  - (a) to undertake a stated examination; or
  - (b) to be interviewed by CASA; or
  - (c) to complete a stated training course.
- (4) In deciding whether to give a direction under this regulation, CASA must have regard to, but is not limited to considering, the following:
  - (a) the need to ensure that the applicant or operator can conduct balloon transport operations safely and in accordance with its exposition and the civil aviation legislation;
  - (b) the nature and complexity of the operations;
  - (c) the leadership, management and standards-setting skills required by the person for the operations;
  - (d) how recently the person has used the person's aviation skills;
  - (e) whether the person is able to exercise the privileges of each civil aviation authorisation held by the person.

## Division 131.B.5—Systems

### 131.180 Safety management system requirements

- (1) A balloon transport operator must have a safety management system that is appropriate for the size, nature and complexity of the operator's balloon transport operations.
- (2) The safety management system must include the following matters:
  - (a) a statement of the operator's safety policy and objectives, including details of the following:
    - (i) the management commitment to, and responsibility for, safety;
    - (ii) the safety accountabilities of managers (including key personnel);
    - (iii) the appointment of safety management personnel;
    - (iv) coordination of an emergency response plan;
    - (v) safety management system documentation;
  - (b) a safety risk management process, including:
    - (i) hazard identification processes; and
    - (ii) safety risk assessment and mitigation processes;
  - (c) a safety assurance system, including details of processes for:
    - (i) safety performance monitoring and measurement; and



- (ii) management of change; and
- (iii) continuous improvement of the safety management system;
- (d) a safety training and promotion system, including details of the following:
  - (i) safety management system training and education;
  - (ii) safety management system safety communication.

## **131.185 Training and checking system**

- (1) A balloon transport operator must have a training and checking system.
- (2) The training and checking system must include the following in relation to flight crew:
  - (a) a description of how training and checking, including recurrent training and line checking, is conducted by or for the operator;
  - (b) an auditable system for maintaining records of the results of training and checking;
  - (c) procedures that ensure that each of the operator's flight crew:
    - (i) completes training and checking in accordance with the training and checking system; and
    - (ii) is supervised effectively during training and checking;
  - (d) a description of how the operator assesses the competence of a flight crew member to perform the duties assigned to the member for a flight;
  - (e) if the operator has a contract with a person for the person to conduct training or checking for the operator:
    - (i) details of the person; and
    - (ii) details of the training or checking covered by the contract; and
    - (iii) details of how the operator ensures that the person is complying with the operator's training and checking system.

## **131.190 Fatigue management system**

A balloon transport operator must have a system for managing crew fatigue that complies with the requirements prescribed by the Part 131 Manual of Standards.

## **Division 131.B.6—Expositions for balloon transport operators**

### **131.195 Content of exposition**

- (1) An exposition for a balloon transport operator must include the following:
  - (a) the operator's name (including any operating or trading name), contact details and ABN (if any);
  - (b) the address of:
    - (i) the operator's operational headquarters; and
    - (ii) each of the operator's main operating bases; and
    - (iii) each of the operator's operational facilities;
  - (c) a description and diagram of the operator's organisational structure showing formal reporting lines, including the formal reporting lines for each of the key personnel;

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- (d) if the operator is a corporation—a description of the operator’s corporate structure;
- (e) for each of the key personnel, the following information:
  - (i) the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Division 131.B.4 for the position;
  - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in Division 131.B.4 for the position;
  - (iii) the name of the person appointed to the position;
  - (iv) the name of each person authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities;
  - (v) a description of how the operator will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
- (f) each matter (if any) for which the chief executive officer is responsible and accountable in addition to the matters mentioned in regulation 131.140;
- (g) an outline of the balloon transport operations conducted by the operator under the operator’s balloon transport AOC including the areas of operation;
- (h) details of each plan, process, procedure, program and system implemented by the operator to safely conduct and manage the operator’s balloon transport operations in compliance with the civil aviation legislation;
- (i) for each Part 131 aircraft registered in Australia—its class and model and registration mark;
- (j) for each Part 131 aircraft that is a foreign registered aircraft—its class and model, nationality and registration mark;
- (k) a description of the arrangements for managing the continuing airworthiness of the operator’s Part 131 aircraft;
- (l) a description of any leasing or other arrangements for the supply of Part 131 aircraft as the arrangements relate to the operational control or continuing airworthiness of the aircraft, or to any other safety matter;
- (m) a description of the operator’s process for making changes, including:
  - (i) identifying changes that are significant changes; and
  - (ii) identifying changes that are not significant changes; and
  - (iii) telling CASA and the operator’s personnel of the changes;
- (n) a description of anything else required to be approved by CASA under these Regulations in relation to the operations mentioned in paragraph (g);
- (o) any other matter required to be included in the exposition under these Regulations.

Note: The plans, processes, procedures, programs and systems mentioned in paragraph (h) may be set out in one or more operator manuals.

- (2) A balloon transport operator contravenes this subregulation if the operator’s exposition does not comply with subregulation (1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **131.200 Compliance with exposition by operator**

- (1) A balloon transport operator contravenes this subregulation if the operator does not meet a requirement of the operator's exposition.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.205 Providing personnel with exposition**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) a person who is a member of the operator's personnel is subject to a requirement under the operator's exposition; and
  - (b) the operator does not make the part of the exposition that relates to the requirement available to the person before the person first begins carrying out the person's duties relating to the requirement.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.210 Compliance with exposition by personnel**

- (1) A member of a balloon transport operator's personnel contravenes this subregulation if:
  - (a) the member is subject to a requirement under the operator's exposition in relation to the safe conduct of the operator's balloon transport operations; and
  - (b) the member does not meet the requirement.
- (2) A balloon transport operator contravenes this subregulation if:
  - (a) a member of the operator's personnel is subject to a requirement under the operator's exposition in relation to the safe conduct of the operator's balloon transport operations; and
  - (b) the member does not meet the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **Division 131.B.7—Records and documents**

### **131.215 Personnel training and checking records—making records**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) a person who is a member of the operator's personnel undertakes an activity, obtains a qualification or certificate or gains flying experience; and

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- (b) the activity, qualification, certificate or flying experience is mentioned for the person in subregulation (2); and
  - (c) the following records are not made within 21 days after the person undertakes the activity, obtains the qualification or certificate or gains the flying experience:
    - (i) when the activity was undertaken, the qualification or certificate obtained or the flying experience gained;
    - (ii) if the activity was training or a check, flight test, flight review or assessment of competency—whether the training, check, flight test, flight review or assessment was successfully completed.
- (2) The activities, qualifications, certificates and flying experience for the person are the following:
- (a) for a flight crew member of the operator’s personnel:
    - (i) training, or a check, flight test, flight review or assessment of competency under Subpart 131.N; or
    - (ii) a qualification or certificate under Subpart 131.N; or
    - (iii) flying experience under Subpart 131.N; or
    - (iv) training or education in the operator’s safety management system;
  - (b) for a cabin crew member of the operator’s personnel:
    - (i) training, or a check or assessment of competency, under Subpart 131.P; or
    - (ii) training or education in the operator’s safety management system;
  - (c) for an air crew member of the operator’s personnel:
    - (i) training, or a check or assessment of competency, under Subpart 131.P; or
    - (ii) training or education in the operator’s safety management system;
  - (d) for a member of the operator’s operational safety-critical personnel (other than a flight crew or cabin crew member)—training or education in the operator’s safety management system;
  - (e) for a member of the operator’s personnel who performs ground support duties—any training;
  - (f) for a member of the operator’s personnel not mentioned in paragraph (a), (b), (c), (d) or (e)—training or education in the operator’s safety management system.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.220 Personnel training and checking records—availability of records**

- (1) A balloon transport operator contravenes this subregulation if:
  - (a) the operator makes a record about a person under regulation 131.215; and
  - (b) the person requests that the record be made available to the person; and
  - (c) the operator does not make the record available to the person within 7 days after receiving the request.
- (2) A balloon transport operator contravenes this subregulation if:

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- (a) a record is made under regulation 131.215; and
  - (b) the operator receives a request from another balloon transport operator for a copy of the record; and
  - (c) the operator holds a written authority from the person to whom the record relates to provide a copy of the person's records to another balloon transport operator if requested; and
  - (d) the operator does not give a copy of the record to the other balloon transport operator within 7 days after receiving the request.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## 131.225 Copies of balloon flight crew licences and medical certificates

- (1) A balloon transport operator contravenes this subregulation if:
- (a) a person who is a flight crew member of the operator's personnel exercises a privilege of the person's balloon flight crew licence for the operator; and
  - (b) the operator does not have the following:
    - (i) a copy of the person's balloon flight crew licence;
    - (ii) a copy of the person's medical certificate.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## 131.230 Retention periods for personnel records

- (1) A balloon transport operator contravenes this subregulation if:
- (a) the operator is required, under this Part, to make or have a record of a kind mentioned in column 1 of an item of the following table about a person who is a member of the operator's personnel; and
  - (b) the operator does not keep the record for at least the period mentioned in column 2 of the item.

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### Retention periods—personnel records

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Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
1	A record required under regulation 131.215 for a flight crew member	The period beginning when the record is created and ending 5 years after the member ceases to be a member of the operator's personnel
2	A record required under regulation 131.215 for a cabin crew member	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
3	A record required under regulation 131.215 for an air crew member	The period beginning when the record is created and ending 5 years

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**Retention periods—personnel records**

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Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
		after the member ceases to be a member of the operator's personnel
4	A record required under regulation 131.215 for a member of the operator's personnel who performs ground support duties	The period beginning when the record is created and ending 1 year after the member ceases to be a member of the operator's personnel
5	A copy of a flight crew member's balloon flight crew licence and medical certificate required by regulation 131.225	The period during which the member is exercising the privileges of the licence for the operator

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- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 131.235 Retention periods for flight-related documents

- (1) A balloon transport operator contravenes this subregulation if:
- (a) under this Part, a document mentioned in subregulation (2) is required for a flight of a Part 131 aircraft conducted under the operator's balloon transport AOC; and
  - (b) the operator does not keep the document for at least 3 months after the end of the flight.
- (2) The documents are the following for the flight:
- (a) any operational flight plan;
  - (b) any authorised weather forecasts;
  - (c) the authorised aeronautical information;
  - (d) a weight and loading document;
  - (e) a passenger list;
  - (f) a notice of action, taken in an emergency by the pilot flying the Part 131 aircraft, that involves a contravention of these Regulations.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### Division 131.B.8—Miscellaneous offences

#### 131.240 Dealings in relation to cancelled, suspended, varied, pending or refused civil aviation authorisations

*Requirement for approval*

- (1) A balloon transport operator contravenes this subregulation if:

- (a) the operator enters into an agreement with another person; and
- (b) the operator does an act mentioned in subregulation (2), (4), (6) or (8); and
- (c) the operator does not hold an approval under regulation 131.035 to do the act.

*Acts in relation to cancelled authorisations*

- (2) For the purposes of paragraph (1)(b), the acts are the following:
  - (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which was authorised by a cancelled authorisation;
  - (b) to employ a person, in connection with a balloon transport operation, who was, at the time of the cancellation of a cancelled authorisation, employed in connection with an operation that was authorised by the cancelled authorisation;
  - (c) to conduct an operation, or part of an operation, that was authorised by a cancelled authorisation.

*Acts in relation to suspended or varied authorisations*

- (3) Subregulation (4) applies in relation to an authorisation that has been suspended or varied other than on the application or request of the holder of the authorisation.
- (4) For the purposes of paragraph (1)(b), the acts are the following:
  - (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which:
    - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
    - (ii) is no longer authorised by the authorisation as suspended or varied;
  - (b) to employ a person, in connection with a balloon transport operation, who was, at the time of the suspension or variation, employed in connection with an operation that:
    - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
    - (ii) is no longer authorised by the authorisation as suspended or varied;
  - (c) to conduct an operation, or part of an operation, that:
    - (i) was, immediately before the suspension or variation, authorised by the authorisation; but
    - (ii) is no longer authorised by the authorisation as suspended or varied.

Note: See section 28BB (CASA may impose and vary AOC conditions) of the Act in relation to varying AOC conditions.

*Pending applications for authorisations*

- (5) Subregulation (6) applies in relation to an application for a civil aviation authorisation that has not been finally determined by CASA.
- (6) For the purposes of paragraph (1)(b), the acts are the following:
  - (a) to use, in a balloon transport operation, a Part 131 aircraft the operation of which would be authorised by the authorisation;

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- (b) to employ, in a balloon transport operation, a person employed, or proposed to be employed, in connection with an operation that would be authorised by the authorisation;
- (c) to conduct an operation, or part of an operation, that would be authorised by the authorisation.

*Application for authorisation refused*

- (7) Subregulation (8) applies in relation to an application for a civil aviation authorisation that has been refused by CASA.
- (8) For the purposes of paragraph (1)(b), the acts are the following:
  - (a) to use, in a balloon transport operation, a Part 131 aircraft the use of which would have been authorised by the authorisation;
  - (b) to employ, in a balloon transport operation, a person employed, or proposed to be employed, in connection with an operation that would have been authorised by the authorisation;
  - (c) to conduct an operation, or part of an operation, that would have been authorised by the authorisation.
- (9) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

- (10) In this regulation:

***cancelled authorisation*** means a civil aviation authorisation that has been cancelled otherwise than on the application or request of the holder of the authorisation.

***employ*** includes engage, whether by contract or other arrangement.

## **131.245 Maximum period for use of foreign registered Part 131 aircraft in Australian territory**

- (1) A balloon transport operator contravenes this subregulation if, in any 12 month period, the operator uses a Part 131 aircraft that is a foreign registered aircraft to conduct balloon transport operations for a total of more than the number of days mentioned in subregulation (2).
- (2) The number of days is:
  - (a) 90; or
  - (b) if the operator holds an approval under regulation 131.035 in relation to the Part 131 aircraft—the number mentioned in the approval for the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.



## Subpart 131.D—Operational procedures

### 131.250 Carriage of documents

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, when the aircraft begins the flight, a document prescribed by the Part 131 Manual of Standards is not carried on the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### 131.255 Electronic documents

To avoid doubt, if a document is required to be carried on a flight of an aircraft under this Subpart, that requirement is taken to be satisfied if an electronic copy of the document is carried on the flight.

Note: Electronic copies may not satisfy the requirements of the law of a foreign country for flights that begin or end at an aerodrome outside Australian territory.

### 131.260 Matters to be checked before take-off

- (1) The Part 131 Manual of Standards may prescribe requirements relating to checks to be carried out on Part 131 aircraft prior to take-off.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, when the aircraft takes off for the flight, a check prescribed by the Part 131 Manual of Standards has not been carried out.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

### 131.265 Fuel and ballast requirements

- (1) The Part 131 Manual of Standards may prescribe requirements relating to fuel and ballast for Part 131 aircraft, including (but not limited to) the following:
  - (a) matters that must be considered when determining whether a Part 131 aircraft has sufficient fuel or ballast to complete a flight safely;
  - (b) the amounts of fuel or ballast that must be carried on board a Part 131 aircraft for a flight;
  - (c) procedures for monitoring amounts of fuel or ballast during a flight of a Part 131 aircraft;
  - (d) procedures to be followed if fuel or ballast reaches specified amounts during a flight of a Part 131 aircraft.
- (2) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.

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- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

#### **131.270 Balloon flight planning and notification requirements**

- (1) The Part 131 Manual of Standards may prescribe requirements (the *balloon flight planning and notification requirements*) relating to flight plans and notifications for flights of Part 131 aircraft.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if a balloon flight planning and notification requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

#### **131.275 Flights at night**

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
  - (a) the aircraft is flown at night; and
  - (b) the operator or pilot in command does not hold an approval under regulation 131.035 to fly the aircraft at night.
- (2) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if:
  - (a) the aircraft is flown at night; and
  - (b) the pilot in command does not hold an authorisation from a Part 131 ASAO to fly the aircraft at night.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

#### **131.280 Flights over water**

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
  - (a) the aircraft is flown over water at a distance from land greater than 200 metres; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) The pilot in command of a Part 131 aircraft for a flight that is not a balloon transport operation contravenes this subregulation if:
  - (a) the aircraft is flown over water at a distance from land greater than 1 kilometre; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.

- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **131.285 Flights over populous areas, public gatherings and other areas**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flown over a populous area or a public gathering; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flown other than over a populous area or a public gathering; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

### **131.290 Specialised balloon operations**

- (1) The operator of a Part 131 aircraft for a flight that involves a specialised balloon operation contravenes this subregulation if the requirement in subregulation (2) is not met for the flight.
- (2) The requirement is that the operator must hold:
- (a) for a specialised balloon operation (other than an operation referred to in subparagraph 131.025(c)(ii) (which deals with operations involving carrying or towing a load outside an aircraft)—an approval under regulation 131.035 to conduct the specialised balloon operation; or
  - (b) for an operation referred to in subparagraph 131.025(c)(ii)—an authorisation from a Part 131 ASAO that authorises the operation.
- (3) The pilot in command of a Part 131 aircraft for a flight that involves a specialised balloon operation contravenes this subregulation if the requirement in subregulation (4) is not met for the flight.
- (4) The requirement is that the pilot in command must hold:
- (a) for a specialised balloon operation referred to in subparagraph 131.025(c)(i) or (iv) (which deal with operations involving specialised equipment or international operations)—a Part 131 pilot authorisation that authorises the pilot to conduct the specialised balloon operation; or
  - (b) for a specialised balloon operation referred to in subparagraph 131.025(c)(ii) (which deals with operations involving carrying or towing a load outside an aircraft)—an authorisation from a

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Part 131 ASAO that authorises the pilot to conduct the specialised balloon operation; or

- (c) for a specialised balloon operation referred to in subparagraph 131.025(c)(iii) (which deals with media or advertising operations)—a commercial (balloon) pilot licence; or
- (d) for a specialised balloon operation referred to in subparagraph 131.025(c)(v) (which deals with prescribed operations)—the licence or authorisation prescribed by the Part 131 Manual of Standards for the operation for the purposes of this paragraph.

- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

### **131.295 Additional requirements for specialised balloon operations**

- (1) The Part 131 Manual of Standards may prescribe additional requirements relating to flights of Part 131 aircraft involving specialised balloon operations.
- (2) To avoid doubt, the Part 131 Manual of Standards may prescribe different requirements for different kinds of specialised balloon operations referred to in regulation 131.025.
- (3) The operator of a Part 131 aircraft for a flight involving a specialised balloon operation contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (4) The pilot in command of a Part 131 aircraft for a flight involving a specialised balloon operation contravenes this subregulation if:
  - (a) the pilot in command is subject to a requirement mentioned in subregulation (1) for the flight; and
  - (b) the requirement is not met for the flight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 50 penalty units.

### **131.300 Additional right of way rules**

- (1) The pilot in command of a Part 131 aircraft contravenes this subregulation if:
  - (a) the aircraft is in the vicinity of another Part 131 aircraft; and
  - (b) the aircraft is higher than the other aircraft; and
  - (c) the pilot in command contravenes the right of way rule mentioned in subregulation (2).
- (2) The right of way rule is that a higher aircraft must give way to a lower aircraft.
- (3) Subregulation (2) does not apply if the other aircraft is a hot air airship.

- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

## **131.305 Operations at non-controlled aerodromes**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is operated at, or within the vicinity of, an aerodrome of a kind prescribed by the Part 131 Manual of Standards; and
  - (b) circumstances prescribed by the Part 131 Manual of Standards apply in relation to the operation of the aircraft; and
  - (c) a requirement prescribed by the Part 131 Manual of Standards for operating an aircraft at, or within the vicinity of, an aerodrome of that kind, in those circumstances, is not met for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.310 Operation of Part 131 aircraft while tethered**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is tethered to the ground for the flight; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards is not met for the flight.

Note: See Subpart 131.Z for rules to apply to permanently tethered gas balloons.

- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.315 Keeping documents with a person on the ground during flight**

- (1) A balloon transport operator's exposition must include procedures for keeping the documents prescribed by the Part 131 Manual of Standards accessible to a person on the ground for the duration of a flight of a Part 131 aircraft.
- (2) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if a procedure mentioned in subregulation (1) is not complied with for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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## 131.320 Recording and reporting information

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the recording, retaining and reporting of information for a flight of a Part 131 aircraft, including (but not limited to) the following information:
  - (a) flight time;
  - (b) fuel usage;
  - (c) passenger lists;
  - (d) aircraft defects;
  - (e) flight incidents.
- (2) Without limiting subregulation (1), the Part 131 Manual of Standards may prescribe different requirements:
  - (a) for Part 131 aircraft that are operated under a balloon transport AOC; and
  - (b) for Part 131 aircraft that are not operated under a balloon transport AOC.
- (3) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if:
  - (a) a requirement mentioned in subregulation (1) applies for the flight; and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence if the person contravenes subregulation (3).  
Penalty: 50 penalty units.

## 131.325 Restraint of cargo

- (1) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
  - (a) the aircraft is landing; and
  - (b) any cargo carried on the aircraft is not restrained or securely stowed.
- (2) A person commits an offence if the person contravenes subregulation (1).  
Penalty: 50 penalty units.

## 131.330 Dropping things from aircraft

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
    - (a) a thing is dropped from the aircraft; and
    - (b) the safety of the aircraft, or of any person or property, is likely to be endangered as a result of the thing being dropped.

Note: Part 105 applies in relation to parachute descents undertaken from Part 131 aircraft.
  - (2) Subregulation (1) does not apply in relation to a thing of a kind prescribed by the Part 131 Manual of Standards.
  - (3) A person commits an offence of strict liability if the person contravenes subregulation (1).  
Penalty: 50 penalty units.
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Note: A defendant bears an evidential burden in relation to the matters in subregulation (2): see subsection 13.3(3) of the *Criminal Code*.

## **131.335 Pilots must be authorised**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight, the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the flight must be conducted by at least one pilot who holds a Part 131 pilot authorisation that authorises the pilot to conduct the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.340 Passengers—safety briefings and instructions**

- (1) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, before the aircraft takes off for the flight, a passenger is not given a safety briefing and instructions that include each of the matters prescribed by the Part 131 Manual of Standards for the flight.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if:
  - (a) during the flight circumstances prescribed by the Part 131 Manual of Standards apply; and
  - (b) a passenger is not given a safety briefing and instructions that include each of the matters prescribed by the Part 131 Manual of Standards for those circumstances.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **131.345 Passengers—compliance with safety directions**

- (1) A passenger on a Part 131 aircraft for a flight contravenes this subregulation if:
  - (a) an instruction mentioned in subregulation 131.340(1) or (2) is given to the passenger; and
  - (b) the passenger does not comply with the direction.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.350 Carriage of infants**

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
  - (a) an infant is carried on the aircraft during the flight; and

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(b) the operator does not hold an approval under regulation 131.035 to carry an infant on the aircraft during the flight.

- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## 131.355 Carriage of persons requiring assistance

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if:
- (a) a passenger is carried on the flight who is likely to require assistance; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not met for the flight.

- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## 131.360 Training flight limitations etc.

- (1) The pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight:
- (a) a person other than a permitted person is carried on the aircraft; and
  - (b) the pilot in command permits any of the following:
    - (i) flight training for a person who does not hold a Part 131 pilot authorisation;
    - (ii) flight training (other than for an endorsement of a kind prescribed by the Part 131 Manual of Standards) for a person who holds a Part 131 pilot authorisation;
    - (iii) the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft.

- (2) The pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, during the flight:
- (a) a person other than the following is carried on the aircraft:
    - (i) a permitted person;
    - (ii) a person responsible for maintenance of the aircraft who is required, as part of his or her duties, to be on the aircraft; and
  - (b) the pilot in command permits a test of the aircraft, or any of its components or equipment (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).

- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

- (4) In this regulation:

*permitted person*, in relation to the operation of a Part 131 aircraft, means:



- (a) a person who is carried on the aircraft for the purpose of:
  - (i) giving or receiving flying training; or
  - (ii) practising for the grant of a Part 131 pilot authorisation; or
  - (iii) being assessed for the grant of a Part 131 pilot authorisation; or
- (b) a person authorised by the operator of the aircraft to conduct an audit of the operation involved, or to supervise the operation; or
- (c) an authorised officer carrying out an examination, inspection or test of the work of a Part 131 aircraft pilot under these Regulations.

## **131.365 Smoking not permitted during flight or within 15 metres of Part 131 aircraft**

- (1) A person on a Part 131 aircraft for a flight contravenes this subregulation if the person smokes during the flight.
- (2) A person contravenes this subregulation if the person smokes within 15 metres of a Part 131 aircraft that:
  - (a) is being prepared for a flight; or
  - (b) is being fuelled for a flight; or
  - (c) is being deflated after a flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

## **131.370 Certain Part 131 aircraft to have signage about smoking**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, before the flight begins, the operator has not provided as many permanent “no smoking” signs or graphics in the aircraft as are necessary to indicate to all occupants of the aircraft that smoking is not permitted.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **131.375 Use of supplemental oxygen equipment**

- (1) The operator and pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if:
  - (a) during the flight, the aircraft is flown above 10,000 ft above mean sea level; and
  - (b) the operator does not hold an approval under regulation 131.035 to fly the aircraft above that height.
- (2) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight, the pilot in command is not using equipment that is supplying supplemental oxygen while the aircraft is above 10,000 ft above mean sea level.

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- (3) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if, during the flight:
  - (a) the aircraft is above 13,000 ft above mean sea level; and
  - (b) the pilot in command does not direct each other person on board the aircraft to use equipment that is supplying supplemental oxygen while the aircraft is above that height.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

#### **131.380 Part 131 Manual of Standards may prescribe requirements relating to use of equipment etc.**

- (1) The Part 131 Manual of Standards may prescribe requirements relating to the use, for a flight of a Part 131 aircraft, of any instrument, indicator, item of equipment or system that is fitted to, or carried on, the aircraft (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).
- (2) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

## **Subpart 131.F—Performance**

### **131.385 Loading weights**

#### *Maximum loading weights*

- (1) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the aircraft's weight is greater than:
  - (a) the maximum loading weight (however described) permitted by the flight manual for the aircraft; or
  - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 131 Manual of Standards may prescribe:
  - (a) the circumstances in which a weight for a Part 131 aircraft for a flight must be calculated under this subregulation; and
  - (b) methods for calculating that weight.

## *Minimum loading weights*

- (3) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, during the flight, the aircraft's weight is less than:
  - (a) any minimum loading weight (however described) permitted by the flight manual for the aircraft; or
  - (b) if circumstances prescribed under paragraph (4)(a) apply—the weight for the aircraft for the flight calculated in accordance with the method prescribed under paragraph (4)(b).
- (4) The Part 131 Manual of Standards may prescribe:
  - (a) the circumstances in which a weight for a Part 131 aircraft for a flight must be calculated under this subregulation; and
  - (b) methods for calculating that weight.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

## **131.390 Loading procedures and carriage of passengers**

- (1) A balloon transport operator's exposition must include procedures for loading a Part 131 aircraft for a flight.
- (2) The operator and pilot in command of a Part 131 aircraft for a flight that is a balloon transport operation each contravene this subregulation if a procedure mentioned in subregulation (1) is not complied with for the flight.
- (3) The Part 131 Manual of Standards may prescribe requirements relating to the carriage of passengers for a flight of a Part 131 aircraft.
- (4) Without limiting subregulation (3), the Part 131 Manual of Standards may prescribe requirements relating to:
  - (a) the maximum number of passengers that may be carried for the flight; and
  - (b) the location of passengers on the Part 131 aircraft for the flight.
- (5) The operator and the pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if a requirement mentioned in subregulation (3) is not met for the flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (2) or (5).

Penalty: 50 penalty units.

## **Subpart 131.K—Instruments, indicators, equipment and systems**

### **131.395 Instruments, indicators, equipment and systems—requirements**

- (1) The Part 131 Manual of Standards may prescribe the following:

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- (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards;
  - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards;
  - (c) requirements in relation to an instrument, indicator, item of equipment or system that is fitted to, or carried on, a Part 131 aircraft in circumstances prescribed by the Part 131 Manual of Standards (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).
- (2) The operator and pilot in command of a Part 131 aircraft for a flight each contravene this subregulation if, when the flight begins:
- (a) an instrument, indicator, item of equipment or system required to be fitted to, or carried on, the aircraft under paragraph (1)(a), is not fitted to, or carried on, the aircraft (as the case requires); or
  - (b) an instrument, indicator, item of equipment or system that must not be fitted to, or carried on, the aircraft under paragraph (1)(b), is fitted to, or carried on, the aircraft (as the case requires).
- (3) A crew member of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) the crew member is subject to a requirement mentioned in paragraph (1)(c); and
  - (b) the requirement is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

#### **131.400 When Part 131 aircraft may be flown with inoperative instruments, indicators, equipment or systems**

If an instrument, indicator, item of equipment or system is required under regulation 131.395 to be fitted to, or carried on, a Part 131 aircraft for a flight, the aircraft may begin the flight with the instrument, indicator, item of equipment or system inoperative if circumstances prescribed by the Part 131 Manual of Standards for the purposes of this regulation apply to the flight.

### **Subpart 131.M—Continuing airworthiness**

Note: This Subpart heading is reserved for future use.

### **Subpart 131.N—Flight crew**

#### **131.410 Qualifications and training for pilots**

- (1) The operator of a Part 131 aircraft for a flight contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met.

- (2) The requirements are as follows:
  - (a) the pilot in command of the Part 131 aircraft for the flight must hold one or more of the following that authorises the pilot to operate the Part 131 aircraft:
    - (i) a commercial pilot (balloon) licence;
    - (ii) a CAR certificate of validation;
    - (iii) an authorisation from a Part 131 ASAO;
  - (b) the pilot must meet any training and checking requirements for the flight prescribed by the Part 131 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 131.P—Other operational safety-critical personnel**

### **Division 131.P.1—Cabin crew**

#### **131.415 Number, qualifications, experience and training**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins:
  - (a) under subregulation (2), a cabin crew member must be carried on the flight; and
  - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (2) A cabin crew member must be carried on the flight if circumstances prescribed by the Part 131 Manual of Standards exist for the flight.
- (3) The requirements are the following:
  - (a) the number of cabin crew members for the flight must be at least the number prescribed by the Part 131 Manual of Standards;
  - (b) each cabin crew member must meet the training and checking requirements for the cabin crew member and the flight mentioned in subregulation (4).
- (4) The Part 131 Manual of Standards may prescribe requirements relating to training and checking that must be completed by a cabin crew member for a flight of a Part 131 aircraft that is a balloon transport operation.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.420 Competence**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if:
  - (a) the operator assigns a person to duty as a cabin crew member for a flight; and

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(b) the person has not been assessed by the operator, in accordance with the operator's exposition, as competent to perform the duties assigned to the person for the flight.

- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.425 Minimum age**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins, a cabin crew member for the flight has not turned 18.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.430 English proficiency**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if:
- (a) the operator assigns a person to duty as a cabin crew member for the flight; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).
- (2) The requirement is that the person must meet the ICAO level 4, 5 or 6 aviation English language proficiency standards mentioned in the Part 61 Manual of Standards.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.435 Assignment to duty as senior cabin crew member**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins:
- (a) there is more than one cabin crew member for the flight; and
  - (b) none of the cabin crew members is assigned to duty as the senior cabin crew member for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

#### **131.440 Training and checking requirements for senior cabin crew member**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if:

- (a) the operator assigns a cabin crew member to duty as the senior cabin crew member for a flight; and
  - (b) the cabin crew member has not successfully completed the training and checking requirements for a senior cabin crew member set out in the operator's exposition.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 131.P.2—Air crew**

### **131.445 Training and checking**

- (1) The operator of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) an air crew member is carried on the flight; and
  - (b) the air crew member does not meet the training and checking requirements for the air crew member and the flight mentioned in subregulation (2).
- (2) The Part 131 Manual of Standards may prescribe requirements relating to training and checking that must be completed by an air crew member for a flight of a Part 131 aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.450 Competence**

- (1) The operator of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) the operator assigns a person to duty as an air crew member for a flight; and
  - (b) the person has not been assessed by the operator, in accordance with the operator's exposition, as competent to perform the duties assigned to the person for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.455 English proficiency**

- (1) The operator of a Part 131 aircraft for a flight contravenes this subregulation if:
- (a) the operator assigns a person to duty as an air crew member for the flight; and
  - (b) the person does not meet the requirement mentioned in subregulation (2).
- (2) The requirement is that the person must meet the ICAO level 4, 5 or 6 aviation English language proficiency standards mentioned in the Part 61 Manual of Standards.

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- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Division 131.P.3—General**

Note: This Division is reserved for future use.

## **Division 131.P.4—Other operational support personnel**

### **131.465 Qualifications and training for ground support personnel**

- (1) The operator of a Part 131 aircraft for a flight that is a balloon transport operation contravenes this subregulation if, when the flight begins, a requirement mentioned in subregulation (2) or (3) is not met.
- (2) The requirement is that each member of the operator's ground support personnel who carries out a ground support duty for the flight must meet any training and checking requirements for the flight prescribed by the Part 131 Manual of Standards.
- (3) The requirement is that the number of ground support personnel carrying out ground support duties for the flight must be at least the number of ground support personnel prescribed by the Part 131 Manual of Standards for the number of passengers carried on the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## **Subpart 131.R—Part 131 recreational activities**

### **131.470 Part 131 recreational activities must be authorised**

*Part 131 recreational activity must be authorised*

- (1) A person contravenes this subregulation if:
- (a) the person undertakes a Part 131 recreational activity; and
  - (b) the person does not hold an authorisation from a Part 131 ASAO authorising the person to undertake the activity.
- (2) Subregulation (1) does not apply if the person is otherwise permitted under these Regulations to undertake the activity.

*Part 131 recreational activity must be undertaken in accordance with authorisation*

- (3) A person contravenes this subregulation if the person:
- (a) undertakes a Part 131 recreational activity; and
  - (b) holds an authorisation from a Part 131 ASAO authorising the person to undertake the activity; and



(c) undertakes the activity in a way that contravenes the authorisation.

- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

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

## **Subpart 131.S—Balloon flight crew licensing**

Note: This Subpart heading is reserved for future use.

## **Subpart 131.Z—Tethered gas balloons**

### **131.480 Approval required to operate**

- (1) A person contravenes this subregulation if:
- (a) the person operates a tethered gas balloon; and
  - (b) the person does not hold an approval under regulation 131.035 to operate the tethered gas balloon.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.485 Compliance with Part 131 Manual of Standards**

- (1) A person contravenes this subregulation if:
- (a) the person operates a tethered gas balloon; and
  - (b) a requirement prescribed by the Part 131 Manual of Standards for the purposes of this paragraph is not complied with for the operation.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **131.490 Operation under cloud**

- (1) A person contravenes this subregulation if:
- (a) the person operates a tethered gas balloon; and
  - (b) the balloon does not remain at least 500 ft (measured vertically) below the cloud ceiling.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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## 131.495 Operation at night

- (1) A person contravenes this subregulation if:
  - (a) the person operates a tethered gas balloon at night at or above 400 ft above ground level; and
  - (b) the balloon is not lit so as to be visible from at least 4,000 metres away.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## 131.500 Rapid deflation device required

- (1) A person contravenes this subregulation if:
  - (a) the person operates a tethered gas balloon; and
  - (b) the balloon is not fitted with a device that will cause it to deflate rapidly and completely if it escapes from its mooring.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## 131.505 What to do if balloon escapes

- (1) A person contravenes this subregulation if:
  - (a) the person operates a tethered gas balloon; and
  - (b) the balloon escapes from its mooring; and
  - (c) the balloon is not deflated completely using a deflation device; and
  - (d) the person does not comply with the requirement in subregulation (2).
- (2) The requirement is that the person must tell Air Traffic Services as soon as possible:
  - (a) where the balloon was launched; and
  - (b) what time it broke free; and
  - (c) the direction it was headed when last seen.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

## Part 2—Consequential amendments

### *Civil Aviation Safety Regulations 1998*

#### 2 Part 1 of the Dictionary

Insert:

*balloon flight planning and notification requirements*: see subregulation 131.270(1).

*CAR certificate of validation* means a certificate issued under regulation 5.27.

*commercial (balloon) pilot licence* means a commercial pilot (balloon) licence issued under Part 5 of CAR.

*flight radiotelephone operator licence* means a flight radiotelephone operator licence issued under Part 5 of CAR.

*Part 131 aircraft*: see subregulation 131.005(2).

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## Part 3—Other amendments

### *Civil Aviation Safety Amendment (Operations Definitions) Regulations 2019*

#### **3 Item 27 of Schedule 1 (definition of *special VFR*)**

Repeal the definition, substitute:

*special VFR* means:

- (a) for an aircraft other than a Part 131 aircraft—the visual flight rules prescribed by the Part 91 Manual of Standards; or
- (b) for a Part 131 aircraft—the visual flight rules prescribed by the Part 131 Manual of Standards.

#### **4 Item 29 of Schedule 1 (definition of *VMC criteria*)**

Repeal the definition, substitute:

*VMC criteria*:

- (a) for a class of aircraft (other than Part 131 aircraft) and a class of airspace (including flight visibility and distance from cloud)—means the criteria prescribed for the class of aircraft and class of airspace by the Part 91 Manual of Standards; and
- (b) for Part 131 aircraft and a class of airspace (including flight visibility and distance from cloud)—means the criteria prescribed for the aircraft and class of airspace by the Part 131 Manual of Standards.

### *Civil Aviation Safety Amendment (Part 91) Regulations 2018*

#### **5 Item 1 of Schedule 1 (after the heading to regulation 91.030)**

Insert:

*Part 101*

#### **6 Item 1 of Schedule 1 (regulation 91.030)**

Before “This Part”, insert “(1)”.

#### **7 Item 1 of Schedule 1 (regulation 91.030)**

Omit “or 131”.

#### **8 Item 1 of Schedule 1 (at the end of regulation 91.030)**

Add:

*Part 131*

- (3) The following provisions of this Part do not apply to the operation of a Part 131 aircraft:
  - (a) Division 91.C.3;
  - (b) regulation 91.190;

- (c) Divisions 91.D.2 and 91.D.3;
- (d) Subdivisions 91.D.4.1 and 91.D.4.3;
- (e) regulation 91.335;
- (f) regulation 91.355;
- (g) regulation 91.365;
- (h) regulation 91.370;
- (i) regulation 91.375;
- (j) regulation 91.380;
- (k) regulation 91.385;
- (l) regulation 91.390;
- (m) regulation 91.395;
- (n) regulation 91.400;
- (o) regulation 91.445;
- (p) regulation 91.455;
- (q) regulation 91.480;
- (r) regulation 91.510;
- (s) regulation 91.515;
- (t) Division 91.D.7 (other than regulations 91.520, 91.525, 91.600 and 91.620);
- (u) Subpart 91.F;
- (v) Subpart 91.J;
- (w) Subpart 91.K;
- (x) Subpart 91.P;
- (y) Subpart 91.T (other than regulations 91.835 and 91.875).

## **9 Item 1 of Schedule 1 (regulation 91.065)**

Repeal the regulation, substitute:

### **91.065 Flying aircraft under VFR or IFR**

- (1) The pilot in command of an aircraft for a flight, other than a Part 103 aircraft or a Part 131 aircraft, contravenes this subregulation if, at any time during the flight, the aircraft is not flown under the VFR or IFR.
- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if any part of the flight takes places other than by day and under the VFR.
- (3) The pilot in command of a Part 131 aircraft for a flight contravenes this subregulation if any part of the flight takes place other than under the VFR.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

## **10 Item 1 of Schedule 1 (paragraph 91.155(1)(b))**

Repeal the paragraph, substitute:

- (b) any of the following apply:

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- (i) for an Australian aircraft other than a Part 103 aircraft—the person is not authorised to pilot the aircraft under Part 61;
- (ii) for a foreign registered aircraft—the person is not qualified to pilot the aircraft under the law of the aircraft’s State of registry or the State of the operator;
- (iii) for a Part 103 aircraft—the person is not authorised to pilot the aircraft by a Part 103 ASAO;
- (iv) for a Part 131 aircraft—the person is not authorised to pilot the aircraft by a Part 131 pilot authorisation.

#### **11 Item 1 of Schedule 1 (paragraph 91.155(2)(b))**

Repeal the paragraph, substitute:

- (b) any of the following apply:
  - (i) for an Australian aircraft other than a Part 103 aircraft—the person is not authorised to pilot the aircraft under Part 61;
  - (ii) for a foreign registered aircraft—the person is not qualified to pilot the aircraft under the law of the aircraft’s State of registry or the State of the operator;
  - (iii) for a Part 103 aircraft—the person is not authorised to pilot the aircraft by a Part 103 ASAO;
  - (iv) for a Part 131 aircraft—the person is not authorised to pilot the aircraft by a Part 131 pilot authorisation.

#### **12 Item 1 of Schedule 1 (at the end of paragraph 91.155(2)(b))**

Add:

- ; or (iii) for a Part 103 aircraft—by a Part 103 ASAO; or
- (iv) for a Part 131 aircraft—by a Part 131 pilot authorisation.

#### **13 Item 1 of Schedule 1 (paragraph 91.270(2)(b))**

Repeal the paragraph, substitute:

- (b) for an aircraft (other than a Part 131 aircraft)—fly the aircraft out of the area; and
- (c) for a Part 131 aircraft:
  - (i) fly the aircraft out of the area; or
  - (ii) if it is not possible to fly the aircraft out of the area—land the aircraft and inform the authority controlling the area as soon as is practicable.

#### **14 Item 1 of Schedule 1 (after subregulation 91.275(1))**

Insert:

- (1A) Subregulation (1) does not apply in relation to a Part 131 aircraft if the pilot in command of the aircraft lands the aircraft and informs the authority controlling the area as soon as is practicable after entering the air defence identification zone.

#### **15 Item 1 of Schedule 1 (at the end of regulation 91.275)**

Add:

- Note: A defendant bears an evidential burden in relation to the matters in subregulation (1A): see subsection 13.3(3) of the *Criminal Code*.

**16 Item 1 of Schedule 1 (subregulation 91.405(3))**

After “an aircraft”, insert “(other than a Part 131 aircraft)”.

**17 Item 1 of Schedule 1 (paragraph 91.465(2)(a))**

After “aircraft”, insert “(other than a Part 131 aircraft)”.

**18 Item 1 of Schedule 1 (paragraph 91.475(2)(a))**

Omit “at least 2 fire extinguishers”, substitute “at least the number of fire extinguishers mentioned in subregulation (2A)”.

**19 Item 1 of Schedule 1 (after subregulation 91.475(2))**

Insert:

(2A) For the purposes of paragraph (2)(a) the number of fire extinguishers is:

- (a) for an aircraft other than a Part 131 aircraft—2; and
- (b) for a Part 131 aircraft—one.

**20 Item 1 of Schedule 1 (after subregulation 91.510(2))**

Insert:

(2A) Subregulation (1) or (2) does not apply in relation to the replacement of fuel cylinders on a Part 131 aircraft.

**21 Item 1 of Schedule 1 (at the end of regulation 91.510)**

Add:

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

**22 Item 1 of Schedule 1 (subparagraph 91.625(1)(b)(i))**

After “aircraft”, insert “(other than a Part 103 aircraft or a Part 131 aircraft)”.

**23 Item 1 of Schedule 1 (at the end of paragraph 91.625(1)(b))**

Add:

- ; or (iii) for a Part 103 aircraft—by a Part 103 ASAO; or
- (iv) for a Part 131 aircraft—by a Part 131 pilot authorisation.

**24 Item 1 of Schedule 1 (paragraph 91.640(1)(b))**

Omit “or eligible,”, substitute “eligible or authorised”.

**25 Item 1 of Schedule 1 (subparagraph 91.640(1)(b)(i))**

After “aircraft”, insert “(other than a Part 103 aircraft or a Part 131 aircraft)”.

**26 Item 1 of Schedule 1 (paragraph 91.640(1)(b))**

Omit “; and”, substitute “; or”.

**27 Item 1 of Schedule 1 (at the end of paragraph 91.640(1)(b))**

Add:

- (iii) for a Part 103 aircraft—by a Part 103 ASAO; or

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(iv) for a Part 131 aircraft—by a Part 131 pilot authorisation; and

**28 Item 1 of Schedule 1 (paragraph 91.715(2)(c))**

After “Part 61”, insert “, by a Part 103 ASAO or by a Part 131 pilot authorisation”.

**29 Item 1 of Schedule 1 (paragraph 91.875(2)(c))**

After “operation” insert “or a balloon transport operation”.