

EXPOSURE DRAFT



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Civil Aviation Legislation Amendment (Part 103) Regulations 2019

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

Dated 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 is the *Civil Aviation Legislation Amendment (Part 103) 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Schedule 1—Amendments

Part 1—Main amendments

Civil Aviation Safety Regulations 1998

1 Part 103

Repeal the Part, substitute:

Part 103—Sport and recreation aircraft

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103.130 Towing of Part 103 aircraft by other aircraft

Subpart 103.A—Preliminary

103.005 Application of Part 103

- (1) This Part (other than Subpart 103.Z) applies to Part 103 aircraft.
- (2) Despite subregulation (1), this Part does not apply to the operation of a Part 103 aircraft:
 - (a) if Part 132, 133, 135, or 137 applies to the operation; or
 - (b) for a flight involving an aerial work operation.
- (3) Subpart 103.Z applies in relation to the towing of a Part 103 aircraft by an aircraft that is not a Part 103 aircraft.

Meaning of Part 103 aircraft

- (4) An aircraft is a **Part 103 aircraft** if:
 - (a) the aircraft is not registered; and
 - (b) the aircraft is any of the following:
 - (i) a powered parachute;
 - (ii) a gyroglider;
 - (iii) a hang glider or powered hang glider;
 - (iv) a paraglider or powered paraglider;
 - (v) a rotorcraft of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (vi) a weight-shift-controlled aeroplane of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (vii) any other aeroplane of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph.
- (5) A sailplane is a **Part 103 aircraft**.

Note: This subregulation applies to all sailplanes, including sailplanes registered under Part 47 and sailplanes that are foreign registered aircraft. Sailplanes are required to be registered under Part 47, unless an exception in subregulation 47.015(1) applies.
- (6) Despite subregulations (4) and (5), the following aircraft are not **Part 103 aircraft**:
 - (a) an RPA;
 - (b) a model aircraft;
 - (c) a turbine powered aircraft.

103.010 Other key definitions for Part 103

In these Regulations:

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Part 103 activity means any of the following:

- (a) operating a Part 103 aircraft;
- (b) maintaining, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft;
- (c) providing training in an activity covered by paragraph (a) or (b).
- (d) carrying on a business or undertaking involving the provision of services or equipment for undertaking an activity covered by paragraph (a) or (b);
- (e) an activity prescribed by the Part 103 Manual of Standards.

Part 103 ASAO means an ASAO whose approved function is or includes administering a Part 103 activity.

103.015 Issue of Manual of Standards for Part 103

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 103 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Note: A Manual of Standards is a legislative instrument: see subsection 98(5AA) of the Act.

103.020 Approvals by CASA for Part 103

- (1) If a provision of this Part refers to a person holding an approval under this regulation, a person may apply to CASA, in writing, for the approval.
- (2) Subject to regulation 11.055, the approval must be granted.
- (3) Subregulation 11.055(1B) applies to the granting of an approval under this regulation.

Subpart 103.B—Aircraft listing, certification and markings

103.025 Listing with a Part 103 ASAO

- (1) A Part 103 aircraft is listed with a Part 103 ASAO for the purposes of this regulation if the aircraft is listed with the Part 103 ASAO in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.

Certain Part 103 aircraft must be listed

- (2) The owner of a Part 103 aircraft contravenes this subregulation if:
 - (a) the aircraft is an aircraft other than a sailplane, hang glider, powered hang glider, paraglider or powered paraglider; and
 - (b) the aircraft has an empty weight of more than 70 kg; and
 - (c) a person operates the aircraft; and
 - (d) the aircraft is not listed with a Part 103 ASAO.

Other Part 103 aircraft may be listed

- (3) If paragraphs (2)(a) and (b) do not apply to a Part 103 aircraft, the aircraft may be listed with a Part 103 ASAO.

Listing with more than one ASAO prohibited

- (4) The owner of a Part 103 aircraft contravenes this subregulation if:
- (a) a person operates the aircraft; and
 - (b) the aircraft is listed with more than one Part 103 ASAO at the same time.

Offence

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

Penalty: 50 penalty units.

103.030 Flying without a certificate of airworthiness—aircraft to which Part 21 does not apply

- (1) If the approved functions of a Part 103 ASAO include administering Part 103 aircraft for which neither a certificate of airworthiness issued under regulation 21.176 nor an experimental certificate issued under regulation 21.195A is in force, the exposition for the Part 103 ASAO must include procedures relating to the certification of the aircraft.
- (2) For the purposes of paragraph 20AA(3)(b) of the Act, a flight in a Part 103 aircraft (other than an aircraft for which a certificate of airworthiness issued under regulation 21.176, or an experimental certificate issued under regulation 21.195A, is in force) is authorised without a certificate of airworthiness if the aircraft is certified by a Part 103 ASAO in accordance with the procedures mentioned in subregulation (1).

103.035 Display of markings—aircraft other than sailplanes

- (1) Part 45 does not apply to a Part 103 aircraft that is not a sailplane.
- (2) If the approved functions of a Part 103 ASAO include administering a Part 103 activity in relation to Part 103 aircraft that are not sailplanes, the exposition for the Part 103 ASAO must:
- (a) include requirements relating to the display of markings (within the ordinary meaning of the term) on the aircraft; and
 - (b) prohibit the operation of the aircraft if the aircraft does not meet the requirements mentioned in paragraph (a).

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

- (3) Without limiting subregulation (2), the exposition must include requirements relating to the following:
- (a) when markings must be displayed;
 - (b) the number of sets of markings that must be displayed;
 - (c) the location of sets of markings on aircraft;

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- (d) the characters to be used in each set of markings, including height, width and font requirements.

Subpart 103.C—General obligations

103.040 Requirements for undertaking Part 103 activities

Part 103 activity must be authorised

- (1) A person contravenes this subregulation if:
 - (a) the person undertakes a Part 103 activity; and
 - (b) the person does not hold an authorisation from a Part 103 ASAO authorising the person to undertake the activity.
- (2) Subregulation (1) does not apply if:
 - (a) the person holds an approval under regulation 103.020 to undertake the activity; or
 - (b) the person is otherwise authorised under these Regulations to undertake the activity.

Part 103 activity must be undertaken in accordance with authorisation

- (3) A person contravenes this subregulation if the person:
 - (a) undertakes a Part 103 activity; and
 - (b) holds an authorisation from a Part 103 ASAO authorising the person to undertake the activity; and
 - (c) undertakes the activity in a way that contravenes the authorisation.

Offence

- (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 103.D—Flight rules

103.045 Minimum height rules—other than over populous areas or public gatherings

- (1) This regulation applies if a Part 103 aircraft is flown other than over a populous area or a public gathering.

Note: For minimum height rules if an aircraft is flown over a populous area or a public gathering, see regulation 91.315.

- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight:

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- (a) the aircraft is flown below 500 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the aircraft; and
 - (b) none of the circumstances mentioned in subregulation (3) applies.
- (3) The circumstances are the following:
- (a) the aircraft is taking off, operating or landing in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
 - (b) the aircraft is engaged in a missed approach;
 - (c) the aircraft is a glider engaged in ridge or hill soaring;
 - (d) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice emergency procedure at an aerodrome;
 - (e) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice forced landing procedure with the consent of the person or authority having control over the land or water above which the procedure is carried out;
 - (f) the aircraft is performing training circuits at an aerodrome in circumstances prescribed by the Part 103 Manual of Standards for the purposes of this paragraph;
 - (g) the pilot holds an approval for the purposes of regulation 91.180 (air displays in Australian territory);
 - (h) all of the following apply:
 - (i) the pilot in command of the aircraft holds an approval under regulation 103.020 to fly the aircraft below the height mentioned in paragraph (2)(a);
 - (ii) the pilot in command of the aircraft conducts a risk assessment of the area to be flown over;
 - (iii) the point on the ground or water vertically below the aircraft is not within 150 m of a person, vessel, vehicle or structure;
 - (i) for a rotorcraft—the rotorcraft is hovering, air transiting, air taxiing or ground taxiing at an aerodrome;
 - (j) for a rotorcraft, seaplane or amphibian—the aircraft is flying within an access lane:
 - (i) that is for use by aircraft taking off from, or landing at, a particular place; and
 - (ii) details of which are published in the authorised aeronautical information for the flight;
 - (k) the aircraft is engaged in a procedure to determine the suitability of an aerodrome for a landing.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

103.050 Safety when aircraft operating on ground

- (1) A person contravenes this subregulation if:
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- (a) the person starts the engine of a Part 103 aircraft, or causes the engine to be started, while the aircraft is on the ground; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the person who starts the engine or causes the engine to be started must be:
 - (i) authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
 - (ii) a person of a kind prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and
 - (b) if subparagraph (a)(ii) applies—the aircraft must be secured from moving; and
 - (c) if the aircraft is hand-started—the requirements relating to hand-starting prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (3) A person contravenes this subregulation if:
- (a) the person operates a Part 103 aircraft on the ground, or causes a Part 103 aircraft to be operated on the ground; and
 - (b) the person permits another person to board the aircraft or to remain on the aircraft while a pilot seat of the aircraft is not occupied by a person who is competent to apply the brakes and control the engine.
- (4) For the purposes of paragraph (3)(b), a person is competent to apply the brakes and control the engine of an aircraft if:
- (a) the person has been given instructions on how, and assessed as competent, to apply the brakes and control the engine (including how to shut the engine down) by another person who is authorised by a Part 103 ASAO to pilot or maintain the aircraft; or
 - (b) the person is authorised by a Part 103 ASAO to maintain the aircraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

103.055 Carriage of passengers

An exposition for a Part 103 ASAO must include requirements in relation to the carriage of passengers on Part 103 aircraft.

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

103.060 Carriage and restraint of persons

Carriage of infants

- (1) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if the requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirement is that an infant must not be carried on the flight except in the circumstances prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.

Restraint of adults and children

- (3) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (4) is not met.
- (4) The requirements are the following:
- (a) if the aircraft is fitted with any seats—at all times during the flight:
 - (i) the pilot in command must occupy a pilot seat, with the seatbelt, and the shoulder harness (if any), securely fastened; and
 - (ii) any other adult carried on the flight must occupy a seat, with the seatbelt, and the shoulder harness (if any), securely fastened;
 - (b) if the aircraft is not fitted with any seats—at all times during the flight each adult on the flight must be wearing a harness or restraint that is securely fastened;
 - (c) in any case—any child carried on the flight must be restrained in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (5) Subregulation (4) does not apply in relation to a person if regulation 105.105 imposes requirements in relation to restraint of the person.

Note: Regulation 105.105 is about restraint of persons carried on an aircraft being operated to facilitate a parachute descent.

- (6) 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 matters in subregulation (5): see subsection 13.3(3) of the *Criminal Code*.

103.065 Carriage of cargo

- (1) This regulation does not apply in relation to an animal carried in a passenger cabin.

Note: For the carriage of animals, see regulation 91.620.

- (2) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) cargo is carried on the flight; and
 - (b) a requirement mentioned in subregulation (3) is not met for the flight.
- (3) The requirements are the following:
- (a) cargo must not be carried in a place where the cargo may damage, obstruct or cause the failure of any part of the aircraft, or any equipment, that is essential to the safe operation of the aircraft;
 - (b) cargo carried on the aircraft must be:
 - (i) securely stowed in accordance with the aircraft flight manual instructions; or
 - (ii) otherwise safely restrained;
 - (c) cargo must be carried in accordance with any requirements relating to the carriage of cargo:
 - (i) in the aircraft flight manual instructions for the aircraft; or

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- (ii) on a placard on the aircraft;
 - (d) if cargo is carried on an unoccupied seat in the aircraft:
 - (i) the cargo must not weigh more than the weight limitation for that seating position; and
 - (ii) the cargo, and the means of restraint of the cargo, must not interfere with the safe operation of the aircraft;
 - (e) any other requirement relating to the restraint or stowage of cargo prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

103.070 Simulating IMC flying

- (1) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if, during the flight, IMC are simulated.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

103.075 Training flight limitations etc.

- (1) In this regulation:

permitted person, in relation to an aircraft, means a person who is carried on the aircraft for the purpose of:

- (a) giving or receiving flying training; or
 - (b) practising for the issue of an authorisation by a Part 103 ASAO; or
 - (c) being assessed for the issue of an authorisation by a Part 103 ASAO.
- (2) The pilot in command of a Part 103 aircraft for a flight 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 the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft.
- (3) The pilot in command of a Part 103 aircraft for a flight 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 prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph; and
 - (b) the pilot in command permits a test of the aircraft, or any of its instruments, indicators, items of equipment or systems (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).

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

Penalty: 50 penalty units.

103.080 Consumption or provision of alcohol

- (1) A person on a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) the person consumes alcohol; or
 - (b) the person provides alcohol to another person on the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 103.K—Instruments, indicators, equipment and systems

103.085 Instruments, indicators, equipment and systems—requirements

- (1) The Part 103 Manual of Standards may prescribe the following:
- (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, a Part 103 aircraft in circumstances prescribed by the Part 103 Manual of Standards;
 - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, a Part 103 aircraft in circumstances prescribed by the Part 103 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 103 aircraft in circumstances prescribed by the Part 103 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 the pilot in command of a Part 103 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 person on a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) the person 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.

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103.090 When aircraft may be flown with inoperative instruments, indicators, equipment or systems

If an instrument, indicator, item of equipment or system is required under regulation 103.085 to be fitted to, or carried on, a Part 103 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 103 Manual of Standards for the purposes of this regulation apply to the flight.

Subpart 103.M—Airworthiness requirements

103.095 Application of CAR Parts 4 to 4D

- (1) Parts 4 and 4A of CAR do not apply to a Part 103 aircraft.
- (2) Parts 4B, 4C and 4D of CAR do not apply to a Part 103 aircraft that is not a sailplane.

103.100 Requirements prescribed by the Part 103 Manual of Standards

- (1) The Part 103 Manual of Standards may prescribe requirements relating to the maintenance, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft.
- (2) A person contravenes this subregulation if:
 - (a) the person is subject to a requirement mentioned in subregulation (1); and
 - (b) the person does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

103.105 Permission for section 20AB of Act

For the purposes of subsection 20AB(2) of the Act, a person is permitted to carry out maintenance:

- (a) on a Part 103 aircraft; or
- (b) on an aeronautical product for a Part 103 aircraft;

if the person holds an authorisation from a Part 103 ASAO authorising the person to carry out the maintenance.

Note: See also regulation 103.040.

103.110 Requirements for ASAO exposition

- (1) This regulation applies if the approved functions of a Part 103 ASAO include administering the activity mentioned in paragraph (b) of the definition of **Part 103 activity** (maintaining, or ensuring the airworthiness of, a Part 103 aircraft or aeronautical products for Part 103 aircraft).
- (2) The exposition for the Part 103 ASAO must include requirements relating to undertaking the activity.

Note: An ASAO, and the holder of an authorisation issued by an ASAO, must not contravene the ASAO's exposition: see regulations 149.345 and 149.410.

103.115 Manufacturer's data plate—aircraft to which Part 21 does not apply

- (1) This regulation applies in relation to a manufacturer's data plate attached to a Part 103 aircraft that is administered by a Part 103 ASAO, other than a data plate attached in accordance with Division 21.Q.2.
- (2) The manufacturer of a Part 103 aircraft contravenes this subregulation if the manufacturer's data plate does not contain the information that is prescribed by the Part 103 Manual of Standards for the purposes of this subregulation.
- (3) A person contravenes this subregulation if:
 - (a) the person removes or engages in conduct that results in the alteration of any of the information on a manufacturer's data plate; and
 - (b) the person does not hold an approval under regulation 103.020 to do so.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

103.120 Major defects

Reporting of defects

- (1) A person contravenes this subregulation if the person:
 - (a) is the owner or operator of a Part 103 aircraft that is administered by a Part 103 ASAO; and
 - (b) knows there is a major defect in the aircraft; and
 - (c) does not report the defect, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph, to the Part 103 ASAO within 3 business days after becoming aware of the defect.

Note: Part 4B of CAR contains additional requirements in relation to the reporting of defects in sailplanes.

- (2) A Part 103 ASAO contravenes this subregulation if the Part 103 ASAO:
 - (a) receives a report under subregulation (1); and
 - (b) does not, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph, provide a copy of the report to the following:
 - (i) CASA;
 - (ii) each other Part 103 ASAO prescribed by the Part 103 Manual of Standards for the purposes of this subparagraph;
 - (iii) the manufacturer of the aircraft.

Recording of defects

- (3) A person contravenes this subregulation if the person:
 - (a) is the owner or operator of a Part 103 aircraft that is administered by a Part 103 ASAO; and

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- (b) knows there is a major defect in the aircraft; and
 - (c) does not record the defect, in accordance with the requirements prescribed by the Part 103 Manual of Standards for the purposes of this paragraph.
- (4) The pilot in command of a Part 103 aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is administered by a Part 103 ASAO; and
 - (b) a major defect in the aircraft has been recorded in accordance with subregulation (3); and
 - (c) when the flight begins, a person authorised by the Part 103 ASAO has not signed a release to service for the aircraft in relation to the defect.

Offences

- (5) A person commits an offence if the person contravenes subregulation (1), (2), or (3).

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

Subpart 103.Y—Additional requirements

103.125 Additional requirements in relation to Part 103 activities

- (1) The Part 103 Manual of Standards may prescribe additional requirements in relation to undertaking Part 103 activities.
- (2) Without limiting subregulation (1), the Part 103 Manual of Standards may prescribe requirements relating to the following:
- (a) flights over populous areas, prohibited areas, restricted areas or water;
 - (b) flights in specified classes of airspace;
 - (c) monitoring the primary communications medium used by air traffic control while flying in controlled airspace;
 - (d) flights at or above specified altitudes;
 - (e) the operation of Part 103 aircraft at, or within a prescribed distance from, an aerodrome;
 - (f) the conduct of aerobatic manoeuvres during flights;
 - (g) the dropping of things from Part 103 aircraft during flights;
 - (h) the conduct of training in operating a Part 103 aircraft;
 - (i) placards that must be displayed in Part 103 aircraft;
 - (j) documents that must be carried on a Part 103 aircraft for a flight;
 - (k) documents or authorisations that must be in force when a Part 103 aircraft begins a flight.
- (3) A person contravenes this subregulation if:
- (a) the person is subject to a requirement mentioned in subregulation (1) in relation to a Part 103 activity; and

(b) the requirement is not met in undertaking the Part 103 activity.

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

Penalty: 50 penalty units.

Subpart 103.Z—Towing of Part 103 aircraft by other aircraft

103.130 Towing of Part 103 aircraft by other aircraft

- (1) The Part 103 Manual of Standards may prescribe requirements in relation to the towing of a Part 103 aircraft by an aircraft that is not a Part 103 aircraft.
- (2) The pilot in command of an aircraft for a flight contravenes 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.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 2 Consequential amendments

Part 2—Consequential amendments

Civil Aviation Safety Regulations 1998

2 Part 1 of the Dictionary (definition of *empty weight*)

Repeal the definition, substitute:

empty weight, for a hang glider, powered hang glider, paraglider or powered paraglider, means the weight of the hang glider, powered hang glider, paraglider or powered paraglider in its airborne configuration, including all fittings and equipment but excluding recovery or personnel parachutes.

3 Part 1 of the Dictionary (definition of *glider*)

Omit “inoperative”, substitute “not being operated”.

4 Part 1 of the Dictionary (definition of *gyroglider*)

Repeal the definition, substitute:

gyroglider means a non-power-driven heavier-than-air aircraft supported in flight by the reaction of the air on 1 or more rotors that rotate freely on substantially vertical axes.

5 Part 1 of the Dictionary (definition of *hang glider*)

Repeal the definition, substitute:

hang glider means a glider with some rigid structure and an empty weight of 70 kg or less.

6 Part 1 of the Dictionary (definition of *paraglider*)

Repeal the definition, substitute:

paraglider means a glider with an empty weight of 70 kg or less and a wing that is inflated and maintains its profile in flight due to the ram-air pressure of the air through which it moves.

7 Part 1 of the Dictionary

Insert:

Part 103 activity: see regulation 103.010.

Part 103 aircraft: see subregulations 103.005(4), (5) and (6).

Part 103 ASAO: see regulation 103.010.

Part 103 Manual of Standards means the Manual of Standards issued by CASA under regulation 103.015.

power-assisted sailplane means a powered sailplane that has insufficient performance with the engine operating to achieve the applicable take-off and climb performance criteria for powered sailplanes.

EXPOSURE DRAFT

Amendments **Schedule 1**
Consequential amendments **Part 2**

8 Part 1 of the Dictionary (definition of *powered hang glider*)

Repeal the definition, substitute:

powered hang glider means a hang glider with an engine attached.

9 Part 1 of the Dictionary (definition of *powered paraglider*)

Repeal the definition, substitute:

powered paraglider means a paraglider with an engine attached.

10 Part 1 of the Dictionary (definition of *powered sailplane*)

Omit “inoperative”, substitute “not being operated”.

11 Part 1 of the Dictionary (at the end of the definition of *powered sailplane*)

Add:

Note: A *powered sailplane* includes a touring motor glider.

12 Part 1 of the Dictionary

Insert:

touring motor glider means a powered sailplane that:

- (a) has an integrally mounted, non-retractable, engine and a non-retractable propeller; and
- (b) is capable of taking off and climbing under its own power according to the touring motor glider’s flight manual.

weight-shift-controlled aeroplane means an aeroplane where flight control is attained primarily by weight-shift.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 3 Amendments of Part 91

Part 3—Amendments of Part 91

Civil Aviation Safety Amendment (Part 91) Regulations 2018

13 Item 1 of Schedule 1 (after the heading to regulation 91.030)

Insert:

Part 101 or 131

14 Item 1 of Schedule 1 (regulation 91.030)

Before “This Part”, insert “(1)”.

15 Item 1 of Schedule 1 (regulation 91.030)

Omit “, 103”.

16 Item 1 of Schedule 1 (at the end of regulation 91.030)

Add:

Part 103

(2) The following provisions of this Part do not apply to the operation of a Part 103 aircraft:

- (a) regulation 91.105;
- (b) regulations 91.110 and 91.115;
- (c) regulation 91.145;
- (d) regulation 91.190;
- (e) regulation 91.245;
- (f) regulation 91.250;
- (g) regulation 91.320;
- (h) regulations 91.425 and 91.430;
- (i) regulations 91.545 and 91.550;
- (j) regulation 91.560;
- (k) regulations 91.570 and 91.575;
- (l) regulation 91.585;
- (m) regulations 91.590 to 91.615;
- (n) regulation 91.635;
- (o) regulations 91.720 and 91.725;
- (p) regulations 91.780 and 91.785;
- (q) Subpart 91.K;
- (r) regulation 91.915.

17 Item 1 of Schedule 1 (regulation 91.065)

Repeal the regulation, substitute:

EXPOSURE DRAFT

Amendments **Schedule 1**
Amendments of Part 91 **Part 3**

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, 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 place other than by day and under the VFR.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

18 Item 1 of Schedule 1 (paragraph 91.155(1)(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.

19 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.

20 Item 1 of Schedule 1 (after subregulation 91.205(1))

Insert:

- (1A) Subregulation (1) does not apply if circumstances prescribed by the Part 91 Manual of Standards apply in relation to the flight.

21 Item 1 of Schedule 1 (at the end of regulation 91.205)

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*.

22 Item 1 of Schedule 1 (at the end of subregulation 91.285(2))

Add:

; (d) the aircraft is a glider in soaring flight.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 3 Amendments of Part 91

23 Item 1 of Schedule 1 (at the end of paragraph 91.285(3)(b))

Add “or to fly the aircraft other than at a specified VFR cruising level for the track”.

24 Item 1 of Schedule 1 (after subregulation 91.335(5))

Insert:

(5A) Paragraph (2)(b) does not apply if:

- (a) the aircraft is a glider engaged in ridge or hill soaring; and
- (b) the pilot flies the aircraft so that it passes between the ridge or hill and the other aircraft.

25 Item 1 of Schedule 1 (note to regulation 91.335)

After “(5)”, insert “, (5A)”.

26 Item 1 of Schedule 1 (subregulation 91.370(2))

After “subject aircraft” (first occurring), insert “(other than a glider being towed by a glider tug)”.

27 Item 1 of Schedule 1 (subregulation 91.370(4))

After “subject aircraft” (first occurring), insert “(other than a glider)”.

28 Item 1 of Schedule 1 (subregulation 91.385(2))

Repeal the subregulation, substitute:

(2) Subregulation (1) not apply to the pilot in command of an aircraft if:

- (a) the aircraft is a seaplane or amphibian and the pilot in command contravenes the subregulation only to the extent necessary:
 - (i) to avoid an obstacle; or
 - (ii) to avoid undue noise over a populous area without compromising the aircraft’s safety; or
 - (iii) for a single-engine seaplane or amphibian—to enable the aircraft to land on water if its engine fails; or
- (b) the aircraft is a sailplane (other than a sailplane with an engine operating) and the pilot in command contravenes the subregulation only to the extent necessary to enable the aircraft to land safely.

29 Item 1 of Schedule 1 (subregulation 91.390(1))

After “rotorcraft”, insert “, a glider or a powered parachute”.

30 Item 1 of Schedule 1 (paragraph 91.395(2)(c))

Omit “other than an approach carried out in IMC using an instrument approach procedure”, substitute “other than an approach that is carried out in IMC using an instrument approach procedure or that is an approach by a Part 103 aircraft”.

31 Item 1 of Schedule 1 (at the end of paragraph 91.400(3)(d))

Add:

- ; or (iii) if the aircraft is a Part 103 aircraft—authorised to operate the radio by a Part 103 ASAO.

EXPOSURE DRAFT

Amendments **Schedule 1**
Amendments of Part 91 **Part 3**

32 Item 1 of Schedule 1 (subparagraphs 91.415(1)(b)(i) and (ii))

After “aircraft”, insert “other than a Part 103 aircraft”.

33 Item 1 of Schedule 1 (at the end of paragraph 91.415(1)(b))

Add:

; (v) for a Part 103 aircraft—the person is not authorised by a Part 103 ASAO to taxi the aircraft.

34 Item 1 of Schedule 1 (heading to regulation 91.530)

Repeal the heading, substitute:

91.530 When smoking not permitted

35 Item 1 of Schedule 1 (subregulations 91.530(1) and (2))

After “person on an aircraft”, insert “(other than a Part 103 aircraft)”.

36 Item 1 of Schedule 1 (after subregulation 91.530(3))

Insert:

(3A) A person on a Part 103 aircraft for a flight contravenes this subregulation if the person smokes on the aircraft.

37 Item 1 of Schedule 1 (subregulation 91.530(5))

Omit “or (2)”, substitute “, (2) or (3A)”.

38 Item 1 of Schedule 1 (subparagraph 91.625(1)(b)(i))

After “aircraft”, insert “other than a Part 103 aircraft”.

39 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.

40 Item 1 of Schedule 1 (paragraph 91.640(1)(b))

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

41 Item 1 of Schedule 1 (subparagraph 91.640(1)(b)(i))

After “aircraft”, insert “other than a Part 103 aircraft”.

42 Item 1 of Schedule 1 (subparagraph 91.640(1)(b)(ii))

Omit “and”, substitute “or”.

43 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; and

44 Item 1 of Schedule 1 (paragraph 91.670(1)(a))

After “an aircraft”, insert “other than a glider”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 3 Amendments of Part 91

45 Item 1 of Schedule 1 (paragraph 91.715(2)(c))

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

46 Item 1 of Schedule 1 (paragraph 91.885(b))

Repeal the paragraph, substitute:

- (b) if paragraph (a) does not apply and the aircraft is a Part 103 aircraft—2; or
- (c) in any other case—the lesser of the following:
 - (i) the number of persons the aircraft was designed to carry;
 - (ii) 6.

47 Item 1 of Schedule 1 (subparagraph 91.900(2)(b)(i))

Repeal the subparagraph, substitute:

- (i) under Part 91 or Part 103; or