

EXPOSURE DRAFT



EXPOSURE DRAFT

Civil Aviation Legislation Amendment (Parts 119, 133 and 135) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

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

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules	1
Schedule 1—Amendments		2
	<i>Civil Aviation Safety Regulations 1998</i>	2

EXPOSURE DRAFT

1 Name

This instrument is the *Civil Aviation Legislation Amendment (Parts 119, 133 and 135) Regulations 2018*.

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. The whole of this instrument	[TBC]	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

EXPOSURE DRAFT

Schedule 1 Amendments

Schedule 1—Amendments

Civil Aviation Safety Regulations 1998

1 Part 119

Repeal the Part, substitute:

Part 119—Australian air transport operators—certification and management

Table of contents

Subpart 119.A—General

- 119.005 What Part 119 is about
- 119.010 Definition of *Australian air transport operation*
- 119.015 Definitions of *Australian air transport AOC* and *Australian air transport operator*
- 119.020 Definition of *key personnel* for Part 119
- 119.025 Definition of *significant change* for Part 119
- 119.030 Definitions for Part 119
- 119.035 Approvals by CASA for Part 119
- 119.040 Prescribed purpose—Australian air transport operations
- 119.045 Prescribed position for certain operators—safety manager
- 119.050 Required material for reference library
- 119.055 Issue of Manual of Standards for Part 119
- 119.060 Australian air transport AOC required
- 119.065 Compliance with Australian air transport AOCs
- 119.070 Compliance with conditions of Australian air transport AOCs

Subpart 119.B—Australian air transport AOCs

- 119.075 Application
- 119.080 Conditions for issue
- 119.085 Approval of exposition
- 119.090 Conditions of an Australian air transport AOC

Subpart 119.C—Changes relating to Australian air transport operators

- 119.095 Changes of name etc.
- 119.100 Application for approval of significant changes
- 119.105 Approval of significant changes
- 119.110 Changes must be made in accordance with process in exposition
- 119.115 CASA directions relating to exposition or key personnel

Subpart 119.D—Organisation and personnel

- 119.120 Organisation and personnel
- 119.125 Key personnel cannot carry out responsibilities
- 119.130 Familiarisation training for key personnel
- 119.135 Chief executive officer—experience
- 119.140 Chief executive officer—responsibilities and accountabilities
- 119.145 Head of flying operations—qualifications and experience
- 119.150 Head of flying operations—responsibilities

- 119.155 Head of training and checking—qualifications and experience
- 119.160 Head of training and checking—responsibilities
- 119.165 Safety manager—experience
- 119.170 Safety manager—responsibilities
- 119.175 Key personnel—additional qualification and experience requirements

Subpart 119.E—Training and checking for operational safety-critical personnel

Division 119.E.1—General

- 119.180 Training and checking system
- 119.185 Training and checking system requirements for flight crew
- 119.190 Training and checking system requirements for certain operators for other operational safety-critical personnel
- 119.195 Operator to conduct checking for flight crew of certain aeroplanes and rotorcraft

Division 119.E.2—Training and assessment in human factors principles and non-technical skills

- 119.200 Program for training and assessment in human factors principles and non-technical skills
- 119.205 Training in human factors principles and non-technical skills for flight crew etc.
- 119.210 Training in human factors principles and non-technical skills for other operational safety-critical personnel

Subpart 119.F—Safety management

- 119.220 Safety management system requirements
- 119.225 Flight data analysis program—disclosure of source of operational flight data

Subpart 119.H—Expositions for Australian air transport operators

- 119.275 Content of exposition
- 119.280 Compliance with exposition by operator
- 119.285 Providing personnel with exposition

Subpart 119.J—Records and documents

- 119.290 Personnel training and checking records—making records
- 119.295 Personnel training and checking records—availability of records
- 119.300 Copies of flight crew licences and medical certificates
- 119.305 Retention periods for personnel records
- 119.310 Retention periods for flight-related documents
- 119.315 Retention periods for other flight-related records

Subpart 119.K—Miscellaneous offences

- 119.320 Dealings in relation to cancelled, suspended, varied, pending or refused civil aviation authorisations
- 119.325 Maximum period for use of foreign registered aircraft in Australian territory

Subpart 119.A—General

119.005 What Part 119 is about

This Part makes provision for applicants for, and holders of, AOCs that authorise the operation of aeroplanes or rotorcraft for Australian air transport operations.

Note: See also Division 2 (Air Operators' Certificates (AOCs)) of Part III of the Act in relation to AOCs generally.

EXPOSURE DRAFT

Schedule 1 Amendments

119.010 Definition of *Australian air transport operation*

- (1) An operation is an *Australian air transport operation* if the operation is any of the following:
 - (a) an air transport operation conducted by an Australian operator using a registered aeroplane or rotorcraft;
 - (b) an air transport operation:
 - (i) that is a flight into or out of Australian territory or an operation in Australian territory; and
 - (ii) that is conducted by an Australian operator using an aeroplane or rotorcraft that is a foreign registered aircraft;
 - (c) an air transport operation:
 - (i) that is conducted by an Australian operator using an aeroplane or rotorcraft; and
 - (ii) that is provided for under the ANZA mutual recognition agreements;
 - (d) an air transport operation conducted by a foreign operator:
 - (i) using an aeroplane or rotorcraft that is a foreign registered aircraft; and
 - (ii) undertaken wholly within Australia; and
 - (iii) not undertaken as part of a flight into or out of Australian territory;
 - (e) an operation, conducted using an aeroplane or rotorcraft, of a kind prescribed by the Part 119 Manual of Standards for this paragraph.
- (2) However, each of the following is not an *Australian air transport operation*:
 - (a) the operation of an aeroplane or rotorcraft under a permission under:
 - (i) section 25 (Non-scheduled flights by foreign registered aircraft) of the Act; or
 - (ii) section 27A (Permission for operation of foreign registered aircraft without AOC) of the Act;
 - (b) an air transport operation authorised by a New Zealand AOC with ANZA privileges that is in force for Australia.

Note: For provisions relating to foreign operators conducting flights into or out of Australian territory, or flights wholly within Australian territory that are conducted as part of flights into or out of Australian territory, see Part 129.

119.015 Definitions of *Australian air transport AOC* and *Australian air transport operator*

- (1) An *Australian air transport AOC* is an AOC that authorises the operation of an aeroplane or rotorcraft for an Australian air transport operation.
- (2) An *Australian air transport operator* is a person who holds an Australian air transport AOC.

119.020 Definition of *key personnel* for Part 119

In this Part:

key personnel, for an Australian air transport operator, means the people (however described) that hold, or carry out the responsibilities of, the following positions in the operator's organisation:

-
- (a) the positions mentioned in paragraphs (a), (b) and (d) of the definition of *key personnel* in subsection 28(3) of the Act;
 - (b) the safety manager.

119.025 Definition of *significant change* for Part 119

In this Part:

significant change, for an Australian air 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;
 - (iv) the formal reporting line for a managerial or operational position reporting directly to any of the key personnel;
 - (v) the operator's process for making changes;
 - (vi) the kinds of Australian air transport operations conducted by the operator;
 - (vii) the operator's areas of operation or routes, including beginning to operate in a new area or on a new route or ceasing to operate in an area or on a route;
 - (viii) the types and models of aeroplanes or rotorcraft used in the operator's Australian air transport operations, including the addition of a new type or model;
 - (ix) any change to the registration of an aeroplane or rotorcraft used in the operator's Australian air transport operations;
 - (x) the operator's operational facilities;
 - (xi) any leasing or other arrangements for the supply of an aeroplane or rotorcraft used in the operator's Australian air transport operations;
 - (xii) arrangements for the maintenance of an aeroplane or rotorcraft used in the operator's Australian air transport operations; 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 procedures by which the operator conducts and manages the operator's Australian air transport operations;
 - (ii) the qualifications, experience and responsibilities required by the operator for any of the operator's key personnel;
 - (iii) for an operator that is also a Part 141 operator—training or checking conducted by or for the operator, other than training that is authorised Part 141 flight training for the operator;
 - (iv) for an operator that is also a Part 142 operator—training or checking conducted by or for the operator, other than training or checking that is an authorised Part 142 activity for the operator;
 - (v) a Part 142 operator (if any) with which the operator has a contract for the Part 142 operator to conduct recurrent training or checking for the operator, including entering into a contract with a new Part 142 operator or the termination or end of a contract with a Part 142 operator;

EXPOSURE DRAFT

Schedule 1 Amendments

- (vi) any other aeronautical or aviation-related services provided to the operator by third parties;
 - (vii) the operator's exposition;
 - (viii) the operator's operations manual;
 - (ix) the operator's training and checking manual;
 - (x) the operator's safety management system manual;
 - (xi) the way the operator manages the risk of fatigue in the operator's operational safety-critical personnel; 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.

119.030 Definitions for Part 119

In this Part:

corporation has the meaning given by regulation 11.015.

exposition, for an Australian air transport operator, means:

- (a) the set of documents approved by CASA under regulation 119.085 in relation to the operator; and
- (b) if the set of documents is changed under regulation 119.095, 119.105 or 119.115, or the process mentioned in regulation 119.110—the set of documents as changed.

key personnel, for an Australian air transport operator: see regulation 119.020.

officer, of a corporation, means:

- (a) for a corporation that is a company (within the meaning of the *Corporations Act 2001*)—a director, secretary or executive officer of the corporation; or
- (b) for a corporation of any other kind—a person exercising responsibility, in relation to the corporation, as nearly as possible the same as that of a director, secretary or executive officer of a company (within the meaning of the *Corporations Act 2001*).

operational safety-critical personnel, for an Australian air transport operator:

- (a) means personnel carrying out, or responsible for, safety-related work, including:
 - (i) personnel carrying out roles that have direct contact with the physical operation of aeroplanes or rotorcraft used in the operator's Australian air transport operations; and
 - (ii) personnel carrying out roles that have operational contact with personnel who operate aeroplanes or rotorcraft used in the operator's Australian air transport operations; and
 - (iii) personnel described as operational safety-critical personnel in the operator's exposition; but
- (b) does not include personnel who are employed or engaged by the operator (whether by contract or other arrangement) and are engaged in:

- (i) the provision of continuing airworthiness management services for aeroplanes or rotorcraft used in the operator's Australian air transport operations; or
- (ii) carrying out maintenance on an aeroplane, rotorcraft or aeronautical product on behalf of an approved maintenance organisation.

personnel, for an Australian air transport operator, means any of the following persons who have duties or responsibilities that relate to the safe conduct of the operator's Australian air transport operations:

- (a) an employee of the operator;
- (b) a person engaged by the operator (whether by contract or other arrangement) to provide services to the operator;
- (c) an employee of a person mentioned in paragraph (b).

significant change, for an Australian air transport operator: see regulation 119.025.

119.035 Approvals by CASA for Part 119

- (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 119.145(3)(a);
 - (b) paragraph 119.155(3)(a).

119.040 Prescribed purpose—Australian air transport operations

For the purposes of subsection 27(9) of the Act, the flying or operation of an aeroplane or rotorcraft for an Australian air transport operation is a prescribed purpose.

119.045 Prescribed position—safety manager

- (1) An Australian air 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 operators mentioned in subregulation (1).

119.050 Required material for reference library

For the purposes of paragraph 28BH(2)(b) of the Act, the following material is required for an Australian air transport operator:

- (a) the civil aviation legislation that is relevant to the operator's Australian air transport operations;
- (b) the parts of the AIP that are relevant to the operations;
- (c) if the operator conducts operations in one or more foreign countries—the document for each of those countries that is equivalent to the AIP;

EXPOSURE DRAFT

Schedule 1 Amendments

- (d) all information about the flight operations of each type and model of aeroplane or rotorcraft operated by the operator for the operations that is necessary to ensure the safe conduct of the operations;
- (e) any other publications, information or data required for the reference library by the operator's exposition.

119.055 Issue of Manual of Standards for Part 119

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 119 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.

119.060 Australian air transport AOC required

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

Penalty: 50 penalty units.

119.065 Compliance with Australian air transport AOCs

- (1) A person contravenes this subregulation if:
 - (a) the person conducts an Australian air transport operation; and
 - (b) the person holds an Australian air transport AOC that authorises the person to conduct the Australian air transport operation; and
 - (c) the person 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.

119.070 Compliance with conditions of Australian air transport AOCs

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

Penalty: 50 penalty units.

Subpart 119.B—Australian air transport AOCs

119.075 Application

- (1) A person may apply to CASA for the issue of an Australian air 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);
 - (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 officers of the corporation;
 - (e) if the applicant is a corporation registered in Australia that has an ACN—the applicant's ACN and the address of the applicant's registered office;
 - (f) if the applicant is a corporation not registered in Australia—the place the applicant was incorporated or formed;
 - (g) details of the Australian air transport operations covered by the application;
 - (h) a written undertaking from the person appointed, or proposed to be appointed, as the applicant's chief executive officer that, if CASA issues the AOC, the applicant will:
 - (i) be capable of operating in accordance with the applicant's exposition and the civil aviation legislation; and
 - (ii) operate in accordance with the applicant's exposition and the civil aviation legislation.
- (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 applicant's chief executive officer.

Note: See also sections 27AB (Lodgment of manuals) and 27AC (CASA may require information etc. and inspections etc.) of the Act.

119.080 Conditions for issue

- (1) It is a condition for the issue to the applicant of an Australian air transport AOC that CASA is satisfied of each of the following:
 - (a) the applicant's proposed exposition complies with regulation 119.275;
 - (b) the applicant can conduct Australian air transport operations safely and in accordance with the applicant's 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 an Australian air transport AOC; and
 - (ii) is, or proposes to be, the applicant's chief executive officer;

EXPOSURE DRAFT

Schedule 1 Amendments

- (d) if the applicant is a corporation—each officer of the corporation is a fit and proper person to be an officer of a corporation that is issued an Australian air 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 Subpart 119.D for the position; and
 - (iii) has the qualifications and experience required by the applicant under subparagraph 119.275(1)(e)(i) for the position (if any); and
 - (iv) has the additional qualifications and experience required by CASA under regulation 119.175 for the position (if any);
- (f) the applicant’s arrangements for managing the continuing airworthiness of each type and model of aeroplane or rotorcraft the applicant proposes to operate in the applicant’s Australian air transport operations comply with these Regulations.

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 119.075(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 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 an officer 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 an officer, 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);
 - (ii) the corporation's record of insolvency, bankruptcy, 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 an Australian air transport AOC; or
 - (ii) for an officer or proposed officer—be an officer of a corporation that holds an Australian air transport AOC.

119.085 Approval of exposition

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

119.090 Conditions of an Australian air transport AOC

- (1) For the purposes of paragraph 28BA(1)(b) of the Act, each of the following is a condition of an Australian air 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 operator's chief executive officer;
 - (f) the positions of chief executive officer and safety manager may be occupied by the same person only;

EXPOSURE DRAFT

Schedule 1 Amendments

- (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 119.035 for the positions to be occupied by the same person—for the period specified in the approval;
 - (h) for each registered aeroplane or rotorcraft operated by the operator under the AOC, the operator must:
 - (i) be the registered operator of the aeroplane or rotorcraft; or
 - (ii) hold an approval under regulation 119.035 for the aeroplane or rotorcraft.
- (2) For 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 119.035 in relation to an unforeseen circumstance—the period mentioned in the approval for the unforeseen circumstance.

Subpart 119.C—Changes relating to Australian air transport operators

119.095 Changes of name etc.

- (1) An Australian air 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 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.

119.100 Application for approval of significant changes

- (1) An Australian air transport operator contravenes this subregulation if:
-

- (a) the operator makes a significant change other than a significant change mentioned in subregulation (2) or (3); and
 - (b) CASA has not approved the significant change.
- (2) An Australian air transport operator contravenes this subregulation if:
- (a) the operator makes a significant change that is the permanent appointment 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 119.275(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 Australian air transport operator contravenes this subregulation if:
- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person not previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 119.275(1)(e)(iv); and
 - (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 3 days after the change is made.
- (4) An application for approval of a significant change must:
- (a) be in writing; and
 - (b) set out the change; and
 - (c) be accompanied by a copy of the part of the operator's exposition affected by the change, clearly identifying the change.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

119.105 Approval of significant changes

- (1) CASA may approve a significant change for an Australian air transport operator only if satisfied that the requirements mentioned in section 28 of the Act and subregulation 119.080(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.

119.110 Changes must be made in accordance with process in exposition

- (1) An Australian air 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 119.275(1)(s).
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments

119.115 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 an Australian air transport operator, direct the operator to change the operator's 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 an Australian air 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 time within which the direction must be complied with.
- (4) An Australian air 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 time stated in the notice.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (4).

Penalty: 50 penalty units.

Subpart 119.D—Organisation and personnel

119.120 Organisation and personnel

- (1) An Australian air transport operator must maintain an organisational structure that effectively manages the operator's Australian air transport operations, taking into account the size, nature and complexity of the operations.
- (2) An Australian air 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 Subpart.
- (3) A person commits an offence if the person contravenes subregulation (2).

Penalty: 50 penalty units.

119.125 Key personnel cannot carry out responsibilities

- (1) An Australian air transport operator contravenes this subregulation if:

- (a) the operator becomes aware that any of the operator's 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 the matter mentioned in paragraph (a) within the time mentioned in subregulation (2).
- (2) 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; or
 - (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.

119.130 Familiarisation training for key personnel

An Australian air 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.

119.135 Chief executive officer—experience

- (1) The chief executive officer of an Australian air transport operator must have the experience required under subsection (2).
- (2) The experience required is:
- (a) if the operator holds an approval under regulation 119.035—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 air 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 air operations.

119.140 Chief executive officer—responsibilities and accountabilities

- (1) The chief executive officer of an Australian air transport operator is responsible for the following:
- (a) ensuring that, for the safe conduct of the operator's Australian air transport operations in accordance with the operator's Australian air 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

EXPOSURE DRAFT

Schedule 1 Amendments

- (iii) is adequately financed and resourced;
 - (b) ensuring that the operator:
 - (i) complies with the civil aviation legislation; and
 - (ii) complies with the aviation safety laws of each foreign country (if any) where the operator conducts Australian air transport operations; and
 - (iii) implements and manages the operator's safety management system; and
 - (iv) has procedures that ensure that all of the operator's personnel understand the operator's safety policy; and
 - (v) has an organisational structure that ensures that the safety manager is independent and not subject to undue influence; and
 - (vi) sets and maintains standards for flight and ground operations; and
 - (vii) tells CASA if the operator enters into a leasing, financing or other arrangement for the supply of an aeroplane or rotorcraft that the operator operates under the operator's Australian air transport AOC; and
 - (viii) tells CASA if the operator becomes aware that an arrangement mentioned in subparagraph (vii) may affect the operator's safe conduct of the operator's Australian air transport operations; and
 - (ix) tells CASA if the operator becomes aware that an arrangement mentioned in subparagraph (vii) may contravene a provision of the civil aviation legislation or the law of the country in which the aeroplane or rotorcraft is registered; and
 - (x) for each foreign registered aircraft (if any) used in the operator's Australian air 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 is conducted in accordance with the operator's training and checking manual;
 - (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 an Australian air transport operator is accountable to the operator and CASA for ensuring the responsibilities mentioned in subregulation (1) are carried out effectively.

119.145 Head of flying operations—qualifications and experience

- (1) The head of flying operations of an Australian air transport operator must:
 - (a) hold the pilot licence required under subregulation (2); and
 - (b) hold a pilot type or class rating (within the meaning of Part 61) for a type or class of aeroplane or rotorcraft that is used to conduct a significant proportion of the operator's Australian air transport operations; and

- (c) have the experience required under subregulation (3); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The licence required is:
- (a) if the operator conducts only single-pilot operations—a commercial pilot licence or an air transport pilot licence; or
 - (b) in any other case—an air transport pilot licence.
- (3) The experience required is:
- (a) if the operator holds an approval under regulation 119.035—the experience mentioned in the approval; or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) The experience is the following:
- (a) at least 500 hours flight time on a type of aeroplane or rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations;
 - (b) at least 6 months experience in the conduct or management of air operations conducted under an AOC or equivalent foreign authorisation.
- (5) CASA may, by written notice given to the head of flying operations, or proposed head of flying operations, of an Australian air transport operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) The assessment:
- (a) is an assessment conducted by CASA, or a person nominated by CASA, to demonstrate a person's suitability as head of flying operations for the operator; and
 - (b) may include assessment in an aeroplane, rotorcraft or flight simulation training device.

119.150 Head of flying operations—responsibilities

- (1) The head of flying operations of an Australian air 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:
 - (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 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 aeroplanes or rotorcraft, and the operator's personnel, for use in the operator's Australian air transport operations;

EXPOSURE DRAFT

Schedule 1 Amendments

- (d) ensuring that the operator complies with section 28BH (Reference library) of the Act in relation to flight crew.

119.155 Head of training and checking—qualifications and experience

- (1) The head of training and checking of an Australian air transport operator must:
 - (a) hold the pilot licence required under subregulation (2); and
 - (b) hold a pilot type or class rating (within the meaning of Part 61) for a type or class of aeroplane or rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations; and
 - (c) have the experience required under subregulation (3); and
 - (d) have a satisfactory record in the conduct or management of air operations; and
 - (e) have a satisfactory record in the conduct or management of training and checking in relation to air operations; and
 - (f) have sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.
- (2) The licence required is:
 - (a) if the operator conducts only single-pilot operations—a commercial pilot licence or an air transport pilot licence; or
 - (b) in any other case—an air transport pilot licence.
- (3) The experience required is:
 - (a) if the operator holds an approval under regulation 119.035—the experience mentioned in the approval; or
 - (b) if paragraph (a) does not apply—the experience mentioned in paragraphs (4)(a) and (b).
- (4) The experience is the following:
 - (a) at least 500 hours flight time on a type of aeroplane or rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations;
 - (b) at least 6 months experience in the conduct or management of air operations conducted under an AOC or equivalent foreign authorisation.
- (5) CASA may, by written notice given to a head of training and checking, or proposed head of training and checking, of an Australian air transport operator, direct the person to undertake an assessment mentioned in subregulation (6).
- (6) The assessment:
 - (a) is an assessment conducted by CASA or a person nominated by CASA to demonstrate a person's suitability as head of training and checking for the operator; and
 - (b) may include assessment in an aeroplane, rotorcraft or flight simulation training device.

119.160 Head of training and checking—responsibilities

- (1) The head of training and checking of an Australian air 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 training and checking manual;
 - (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 Part 61 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 Australian air transport operator's training and checking manual.

119.165 Safety manager—experience

A safety manager required under regulation 119.045 for an Australian air 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 air operations; and
- (c) sufficient safety and regulatory knowledge to enable the operator to conduct the operator's Australian air transport operations safely and in accordance with the operator's exposition and the civil aviation legislation.

119.170 Safety manager—responsibilities

- (1) A safety manager required under regulation 119.045 for an Australian air 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

EXPOSURE DRAFT

Schedule 1 Amendments

- (c) managing the maintenance and continuous improvement of the safety management system; and
- (d) ensuring that the operator's training in human factors principles and non-technical skills is adequate and effective.

119.175 Key personnel—additional qualification and experience requirements

- (1) This regulation applies to:
 - (a) an applicant for an Australian air transport AOC; and
 - (b) an Australian air 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 Subpart.
- (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 Australian air transport operations safely and in accordance with the operator's 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.

Subpart 119.E—Training and checking for operational safety-critical personnel

Division 119.E.1—General

119.180 Training and checking system

- (1) An Australian air transport operator must have a training and checking system.
- (2) The training and checking system must:
 - (a) meet the requirements of regulation 119.185; and
 - (b) if subregulation (3) applies to the operator—meet the requirements of regulation 119.190; and
 - (c) if regulation 119.195 applies to the operator—cover the checking mentioned in regulation 119.195.

- (3) This subregulation applies to an Australian air transport operator if the operator conducts one or more of the following operations:
- (a) operations in an aeroplane to which either or both of the following apply:
 - (i) the aeroplane has a maximum take-off weight of more than 8 618 kg;
 - (ii) the aeroplane has a maximum operational passenger seat configuration of more than 9 seats;
 - (b) operations in a rotorcraft to which either or both of the following apply:
 - (i) the rotorcraft has a maximum take-off weight of more than 3 175 kg;
 - (ii) the rotorcraft has a maximum operational passenger seat configuration of more than 9 seats;
 - (c) medical transport operations;
 - (d) operations of a kind prescribed by the Part 119 Manual of Standards for this paragraph.
- (4) However, this regulation does not apply to:
- (a) training that is authorised Part 141 flight training for the operator; or
 - (b) training or checking that is an authorised Part 142 activity for the operator.

119.185 Training and checking system requirements for flight crew

- (1) A training and checking system required under regulation 119.180 must include the following in relation to flight crew:
- (a) a description of how training and checking, including recurrent training and line checking, for flight crew is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of training and checking of flight crew;
 - (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:
 - (i) the operator's requirement for conversion training for flight crew; and
 - (ii) how the operator manages conversion training for flight crew;
 - (e) a description of the operator's requirement for differences training for flight crew;
 - (f) any additional training required to familiarise a flight crew member with their duties;
 - (g) 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;
 - (h) the remedial training requirements for flight crew;
 - (i) if the operator has a contract with a person for the person to conduct training or checking of flight crew 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;
 - (j) for each kind of aeroplane or rotorcraft operated by the operator:

EXPOSURE DRAFT

Schedule 1 Amendments

- (i) the number of flight hours of supervised line training as pilot in command a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as pilot in command for the aeroplane or rotorcraft; and
 - (ii) the number of flight hours of supervised line training as co-pilot a pilot must complete on that kind of aeroplane or rotorcraft to be qualified as a co-pilot for the aeroplane or rotorcraft.
- (2) Without limiting paragraph (1)(a), the description must include the following:
 - (a) details of the training resources used in the training and checking;
 - (b) details of the persons conducting the training and checking;
 - (c) for each position in the operator's organisation the holder of which has managerial, training or checking responsibilities under the system:
 - (i) selection criteria for the position; and
 - (ii) the responsibilities of the position; and
 - (iii) details of the training, assessment and certification of competence that must be completed before the position-holder begins carrying out the position-holder's responsibilities;
 - (d) for each kind of training conducted by or for the operator—the minimum number of check pilots and the minimum crew qualifications required by the operator for the training (if any);
 - (e) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (f) the requirements that a person conducting conversion training, other than flying training and training conducted in a flight simulator, must meet;
 - (g) training checklists (if any) and the circumstances when use of a training checklist is permitted;
 - (h) a description of the normal line operation covered by a line check;
 - (i) command responsibility during flights for training and checking;
 - (j) any general restrictions, specifications or safety precautions for training and checking (including in relation to fuel load, ballast and minimum weather conditions);
 - (k) methods of conducting training and checking sequences, including the following:
 - (i) the standards to be achieved;
 - (ii) training sequences for common faults;
 - (iii) the method of simulating emergencies or malfunctions;
 - (l) the procedure to be followed when a standard is not met;
 - (m) details of how the operator will address matters of high risk that are identified by the operator's safety management system.

119.190 Training and checking system requirements for certain operators for other operational safety-critical personnel

- (1) A training and checking system required under regulation 119.180 for an Australian air transport operator to which subregulation 119.180(3) applies must include the following in relation to operational safety-critical personnel who are not flight crew:

- (a) a description of how training and checking, including recurrent training, for the personnel is conducted by or for the operator;
 - (b) an auditable system for maintaining records of the results of the training and checking;
 - (c) the circumstances in which training is required to familiarise a member of the personnel with their duties;
 - (d) the remedial training requirements for the personnel;
 - (e) if the operator has a contract with a person for the person to conduct the 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;
 - (f) if any of the training or checking is conducted by a member of the personnel—a description of the operator's system for training and assessing such personnel.
- (2) Without limiting paragraph (1)(a), the description must include the following:
- (a) any general restrictions, specifications or safety precautions for the training and checking;
 - (b) for each kind of training conducted by or for the operator—a course outline, detailed syllabus, standards to be met and record forms;
 - (c) the procedure to be followed when a standard is not met.
- (3) Subregulation (4) applies if the Australian air transport operations conducted by the operator include flights for which cabin crew are required under Part 121 (Australian air transport operations—large aeroplanes) or Part 133 (Australian air transport operations—rotorcraft).
- (4) For subregulation (3), and without limiting subregulation (1), the operator's training and checking system must also include the following:
- (a) procedures that ensure that each of the operator's cabin crew:
 - (i) completes training and checking in accordance with the training and checking system; and
 - (ii) is supervised effectively during training and checking;
 - (b) a description of the operator's requirements for conversion training for cabin crew;
 - (c) a description of the operator's requirements for differences training for cabin crew;
 - (d) any additional training required to familiarise a cabin crew member with their duties;
 - (e) a description of how the operator assesses the competence of a cabin crew member to perform the duties assigned to the member for a flight.

119.195 Operator to conduct checking for flight crew of certain aeroplanes and rotorcraft

- (1) This regulation applies to an Australian air transport operator if the operator operates:

EXPOSURE DRAFT

Schedule 1 Amendments

- (a) an aeroplane or rotorcraft that is used for passenger transport operations and has a maximum operational passenger seat configuration of more than 30 seats; or
 - (b) an aeroplane or rotorcraft that is used for cargo transport operations and has a maximum payload capacity of at least 3 410 kg.
- (2) The operator must conduct checking for flight crew in relation to the flying of the aeroplane or rotorcraft if regulation 119.180 applies to the checking.
- (3) For subregulation (2), the operator must only use individuals employed by the operator to conduct the checking to which regulation 119.180 applies.

Division 119.E.2—Training and assessment in human factors principles and non-technical skills

119.200 Program for training and assessment in human factors principles and non-technical skills

An Australian air transport operator must have a program for training and assessing operational safety-critical personnel in human factors principles and non-technical skills.

119.205 Training in human factors principles and non-technical skills for flight crew etc.

- (1) An Australian air transport operator contravenes this subregulation if a person who is a member of the operator's personnel mentioned in subregulation (2) contravenes subregulation (3).
- (2) The personnel are the following:
 - (a) a flight crew member;
 - (b) a cabin crew member;
 - (c) an air crew member;
 - (d) a medical transport specialist;
 - (e) a flight dispatcher.
- (3) The person must not carry out a duty of the person's position unless the person meets the requirements in the operator's exposition about training in human factors principles and non-technical skills.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

119.210 Training in human factors principles and non-technical skills for other operational safety-critical personnel

- (1) An Australian air transport operator contravenes this subregulation if a person who is a member of the operator's personnel mentioned in subregulation (2) contravenes subregulation (3).

- (2) The personnel are operational safety-critical personnel other than personnel mentioned in subregulation 119.205(2).
- (3) The person must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills within 3 months after being appointed to the person's position.
- (4) An Australian air transport operator contravenes this subregulation if:
 - (a) a person who is a member of the operator's personnel mentioned in subregulation (2) performs a duty of the person's position; and
 - (b) the duty is described in the operator's exposition as a duty that may be performed only by a person who meets the requirements in the operator's exposition about training in human factors principles and non-technical skills; and
 - (c) the person does not meet the requirements in the operator's exposition about training in human factors principles and non-technical skills.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (4).

Penalty: 50 penalty units.

Subpart 119.F—Safety management

119.220 Safety management system requirements

- (1) An Australian air transport operator must have a safety management system that is appropriate for the size, nature and complexity of the operator's Australian transport operations.
- (2) The safety management system must be a systemic approach to managing safety that:
 - (a) includes the matters mentioned in subregulation (3); and
 - (b) integrates human factors principles.
- (3) The matters are the following:
 - (a) organisational structures, accountabilities, policies and procedures necessary to manage safety in a systemic way;
 - (b) a statement of the operator's safety policy, objectives and planning, 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 levels of management with authority to make decisions about safety risk tolerances;
 - (iv) the appointment of safety management personnel;
 - (v) how human factors principles are integrated into the safety management system;
 - (vi) a safety management system implementation plan;
 - (vii) relevant third party relationships and interactions;
 - (viii) coordination of an emergency response plan;
 - (ix) safety management system documentation;

EXPOSURE DRAFT

Schedule 1 Amendments

- (c) a safety risk management process, including:
 - (i) hazard identification processes; and
 - (ii) risk assessment and mitigation processes;
 - (d) a safety assurance system, including details of processes for:
 - (i) safety performance monitoring and measurement; and
 - (ii) internal safety investigation; and
 - (iii) management of change; and
 - (iv) continuous improvement of the safety management system;
 - (e) if the operator operates:
 - (i) an aeroplane mentioned in subregulation (4) for an Australian air transport operation; or
 - (ii) a rotorcraft mentioned in subregulation (4) for an Australian air transport operation other than a medical transport operation;a flight data analysis program that meets the requirements mentioned in subregulation (5);
 - (f) a safety training and promotion system, including details of the following:
 - (i) safety management system training and education;
 - (ii) safety management system safety communication.
- (4) For paragraph (3)(e), the aeroplanes and rotorcraft are the following:
- (a) an aeroplane with a maximum take-off weight of more than 27 000 kg;
 - (b) a rotorcraft with:
 - (i) a maximum take-off weight of more than 7 000 kg; or
 - (ii) a maximum operational passenger seat configuration of more than 9 seats.
- (5) For paragraph (3)(e), the requirements are that the flight data analysis program must:
- (a) regularly record and analyse the operational flight data of individual and aggregated operations for the purpose of improving the safety of flight operations; and
 - (b) be provided by:
 - (i) the operator; or
 - (ii) another appropriate person; and
 - (c) ensure that, except as mentioned in subregulations (7) and (8), the identity of a person who is the source of data is protected from disclosure to anyone other than the following:
 - (i) a person whose duties require the person to analyse operational flight data;
 - (ii) a person who has access to the person's identity solely for the purpose of analysing operational flight data;
 - (iii) a pilot appointed by the operator to liaise with flight crew in relation to matters arising from the flight data analysis program; and
 - (d) ensure that, except as mentioned in subregulations (7) and (8), no punitive action in relation to the data may be taken by the operator against the person.

- (6) For subparagraph (5)(b)(ii), the provision of the flight data analysis program by an appropriate person does not in any way compromise the operator's responsibility to provide, and ensure the effectiveness of, the program.
- (7) For paragraphs (5)(c) and (d), the identity of a person who is the source of data may be disclosed:
 - (a) with the written consent of the person; or
 - (b) in accordance with a direction given by CASA under regulation 119.225; or
 - (c) as otherwise required or authorised by law.
- (8) For paragraphs (5)(c) and (d), the identity of a person who is the source of data may be disclosed, and the operator may take punitive action against the person, if, on the basis of evidence available to the operator:
 - (a) the operator is satisfied that the person intentionally contravened the civil aviation legislation or the operator's exposition; or
 - (b) the operator is satisfied that:
 - (i) the person did an act, or omitted to do an act; and
 - (ii) the act or omission contravened the civil aviation legislation or the operator's exposition; and
 - (iii) the person was reckless about whether the act or omission contravened the civil aviation legislation or the operator's exposition; or
 - (c) the operator is satisfied that the person persistently acted in an unsafe way without appropriate safety reasons; or
 - (d) the operator is satisfied that the person persistently contravened the civil aviation legislation or the operator's exposition.

119.225 Flight data analysis program—disclosure of source of operational flight data

- (1) If satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to the provider of a flight data analysis program required under paragraph 119.220(3)(e), direct the provider to disclose to CASA the source of stated operational flight data recorded by the program.
- (2) A notice under this regulation must state the time within which the direction must be complied with.
- (3) A person contravenes this subregulation if:
 - (a) CASA gives the person a direction under this regulation; and
 - (b) the person does not comply with the direction within the time stated in the notice.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Subpart 119.H—Expositions for Australian air transport operators

119.275 Content of exposition

- (1) An exposition for an Australian air 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;
 - (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 Subpart 119.D for the position;
 - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in Subpart 119.D 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 119.140;
 - (g) a description of the operator's program for training and assessing operational safety-critical personnel in human factors principles and non-technical skills;
 - (h) a description of the duties of the operator's operational safety-critical personnel that may be performed only by a person who meets the requirements in the operator's exposition about training in human factors principles and non-technical skills;
 - (i) details of each plan, process, procedure and system implemented by the operator to comply with these Regulations;
 - (j) an outline of the Australian air transport operations conducted by the operator under the operator's Australian air transport AOC, including the areas of operation and routes;
 - (k) a description of the procedures by which the operator conducts and manages the operations mentioned in paragraph (j);
 - (l) for each registered aeroplane or rotorcraft operated by the operator under the AOC—its type and model and registration mark;

- (m) for each foreign registered aircraft operated by the operator under the AOC—its type and model, nationality and registration mark;
 - (n) a description of the arrangements for managing the continuing airworthiness of the operator’s aeroplanes or rotorcraft;
 - (o) a description of any leasing or other arrangements for the supply of the aeroplanes or rotorcraft;
 - (p) a description of any operations, other than Australian air transport operations, conducted by the operator;
 - (q) a description of the way the operator manages the risk of fatigue in its operational safety-critical personnel in accordance with the civil aviation legislation, including the operator’s fatigue risk management system manual (if any);
 - (r) the following manuals:
 - (i) an operations manual;
 - (ii) a dangerous goods manual (if any);
 - (iii) a training and checking manual that describes the operator’s training and checking system;
 - (iv) a safety management system manual that describes the operator’s safety management system;
 - (s) 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;
 - (t) a description of anything else required to be approved by CASA under these Regulations in relation to the operations mentioned in paragraph (j);
 - (u) any other matter required to be included in the exposition by the Part 119 Manual of Standards or these Regulations.
- (2) A manual mentioned in paragraph (1)(q) or any of subparagraphs (1)(r)(ii) to (iv) may be included as part of the operator’s operations manual.
- (3) An exposition for an Australian air transport operator may include a list of material required for the operator’s reference library.

119.280 Compliance with exposition by operator

- (1) An Australian air 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.

119.285 Providing personnel with exposition

- (1) An Australian air 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

EXPOSURE DRAFT

Schedule 1 Amendments

- (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.

Subpart 119.J—Records and documents

119.290 Personnel training and checking records—making records

- (1) An Australian air 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
 - (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, mentioned in Subpart 121.N, 133.N or 135.N; or
 - (ii) a qualification or certificate mentioned in Subpart 121.N, 133.N or 135.N; or
 - (iii) flying experience mentioned in Subpart 121.N, 133.N or 135.N; or
 - (iv) training in human factors principles or non-technical skills; or
 - (v) 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, mentioned in Subpart 121.P or Division 133.P.1; or
 - (ii) training in human factors principles or non-technical skills; or
 - (iii) 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, mentioned in Division 133.P.2 or 135.P.1; or
 - (ii) training in human factors principles or non-technical skills; or
 - (iii) training or education in the operator's safety management system;
 - (d) for a medical transport specialist of the operator's personnel:

- (i) training, or a check or assessment of competency, mentioned in Division 133.P.3 or 135.P.2; or
 - (ii) training in human factors principles or non-technical skills; or
 - (iii) training or education in the operator's safety management system;
 - (e) for a member of the operator's operational safety-critical personnel (other than a flight crew or cabin crew member):
 - (i) training in human factors principles or non-technical skills; or
 - (ii) training or education in the operator's safety management system;
 - (f) for a member of the operator's personnel who performs ground support duties—any training;
 - (g) for a member of the operator's personnel not mentioned in paragraph (a), (b), (c), (d), (e) or (f)—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.

119.295 Personnel training and checking records—availability of records

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) the operator makes a record about a person under regulation 119.290; 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) An Australian air transport operator contravenes this subregulation if:
- (a) a record is made under regulation 119.290; and
 - (b) the operator receives a request from another Australian air 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 Australian air transport operator if requested; and
 - (d) the operator does not give a copy of the record to the other Australian air 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.

119.300 Copies of flight crew licences and medical certificates

- (1) An Australian air 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 flight crew licence for the operator; and
 - (b) the operator does not have the following:
 - (i) a copy of the person's flight crew licence;
 - (ii) a copy of the person's medical certificate.

EXPOSURE DRAFT

Schedule 1 Amendments

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

Penalty: 50 penalty units.

119.305 Retention periods for personnel records

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) the operator is required, under this Part or Part 121, 133 or 135, 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.

Retention periods—personnel records

Item	Column 1 Kind of record	Column 2 Minimum period for which the record must be kept
1	A record required under regulation 119.290 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 119.290 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 119.290 for an air 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
4	A record required under regulation 119.290 for a medical transport specialist	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 record required under regulation 119.290 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
6	A copy of a flight crew member's flight crew licence and medical certificate required by regulation 119.300	The period during which the member is exercising the privileges of the licence for the operator
7	A record of a flight crew member's cosmic radiation dose required under Part 121 or Part 135	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
8	A record of a cabin crew member's cosmic radiation dose required under Part 121	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 person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

119.310 Retention periods for flight-related documents

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) under Part 91, 121, 133 or 135 a document mentioned in subregulation (2) is required for a flight of an aeroplane or rotorcraft conducted under the operator's Australian air 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) an operational flight plan;
 - (b) the authorised aeronautical information;
 - (c) a weight and balance document;
 - (d) a statement or information about cargo that may require special or unusual handling;
 - (e) a passenger list;
 - (f) a notice of action, taken in an emergency by the pilot flying the aeroplane or rotorcraft, 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.

119.315 Retention periods for other flight-related records

- (1) An Australian air transport operator contravenes this subregulation if:
- (a) a person is required under Part 121, 133 or 135 to make a record that is a journey log for a flight of an aeroplane or rotorcraft conducted under the operator's Australian air transport AOC; and
 - (b) the record is made other than in the flight technical log for the aeroplane or rotorcraft; and
 - (c) the operator does not keep the record for at least 6 months after the end of the flight.

Note: See regulation 42.260 (Retention of continuing airworthiness records) for the retention period for records made in the flight technical log for the aeroplane or rotorcraft.

- (2) An Australian air transport operator contravenes this subregulation if:
- (a) the operator is required under Part 121 to make a record of the results of the verification of the accuracy of the weight and balance data generated by a computerised system that is not fitted to the aeroplane; and
 - (b) the operator does not keep the record for at least 6 months after it is made.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Subpart 119.K—Miscellaneous offences

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

Requirement for approval

- (1) An Australian air transport operator contravenes this subregulation if:
 - (a) the operator does an act mentioned in subregulation (2), (4), (6) or (8); and
 - (b) the operator does not hold an approval under regulation 119.035 to do the act.

Acts in relation to cancelled authorisations

- (2) The acts are the following:
 - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the operation of which was authorised by a cancelled authorisation;
 - (b) to employ, in connection with an Australian air transport operation, a person who was, at the time of the cancellation of a cancelled authorisation, employed in connection with an operation the conduct of which was authorised by the cancelled authorisation;
 - (c) to conduct an operation, or part of an operation, the conduct of which was authorised by a cancelled authorisation.

Acts in relation to suspended or varied authorisations

- (3) Subregulation (4) applies in relation to a suspended or varied authorisation.
- (4) The acts are the following:
 - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft 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, in connection with an Australian air transport operation, a person who was, at the time of the suspension or variation, employed in connection with an operation the conduct 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;
 - (c) to conduct an operation, or part of an operation, the conduct 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.

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) The acts are the following:
 - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the operation of which would be authorised by the authorisation;
 - (b) to employ, in an Australian air transport operation, a person employed, or proposed to be employed, in connection with an operation the conduct of which would be authorised by the authorisation;
 - (c) to conduct an operation, or part of an operation, the conduct of which 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) The acts are the following:
 - (a) to use, in an Australian air transport operation, an aeroplane or rotorcraft the use of which would have been authorised by the authorisation;
 - (b) to employ, in an Australian air transport operation, a person employed, or proposed to be employed, in connection with an operation the conduct of which would have been authorised by the authorisation;
 - (c) to conduct an operation, or part of an operation, the conduct of which 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.

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

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

119.325 Maximum period for use of foreign registered aircraft in Australian territory

- (1) An Australian air transport operator contravenes this subregulation if, in a period mentioned in subregulation (2), the operator uses a particular foreign registered aircraft to conduct Australian air transport operations on a consecutive number of days during that period that is more than:

EXPOSURE DRAFT

Schedule 1 Amendments

- (a) 90; or
 - (b) if the operator holds an approval under regulation 119.035 in relation to the aircraft—the number mentioned in the approval for the aircraft.
- (2) The periods are:
- (a) the 12 month period from the day the foreign registered aircraft first becomes available to conduct the Australian air transport operations; and
 - (b) each subsequent 12 month period.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.