

## **ANNEX A**

### ***Draft Civil Aviation Legislation Amendment (Part 139) Regulation 2017***

# EXPOSURE DRAFT



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## Civil Aviation Legislation Amendment (Part 139) Regulations 2017

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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 regulations.

Dated 2017

Peter Cosgrove  
Governor-General

By His Excellency's Command

Darren Chester [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Minister for Infrastructure and Transport

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## 1 Name

This instrument is the *Civil Aviation Legislation Amendment (Part 139) Regulations 2017*.

## 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	[To be advised]	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Civil Aviation Safety Regulations 1998*

#### 1 Subparts 139.A to 139.F

Repeal the Subparts, substitute:

### **Subpart 139.A—Preliminary**

#### **139.001 Simplified outlined of this Part**

- The operator of an aerodrome may apply to CASA for an aerodrome certificate. An aerodrome that has an aerodrome certificate is a certified aerodrome.
- Certain aerodromes are required to be certified. Generally these are aerodromes with terminal instrument flight procedures. Other aerodromes can opt to become certified.
- The operator of a certified aerodrome must meet certain requirements for operating and maintaining the aerodrome. The Part 139 Manual of Standards has detailed requirements (which may be different for different classes of aerodrome).
- An aerodrome (whether certified or not) that provides a frequency confirmation service or air/ground radio service must also meet certain requirements.
- Some objects or structures can create a hazard to aircraft operations at an aerodrome and more generally. CASA must be notified of proposals to build such objects or structures and can make determinations about whether they are hazards.
- Providers of aerodrome rescue and firefighting services must be approved by CASA and must comply with operating and technical standards.

Note 1: *Aerodrome* is defined in section 3 of the Act. For the reference in that definition to an area being authorised under the regulations for use as an aerodrome, see also regulation 92 of CAR.

Note 2: There are requirements relating to aerodromes that are not in this Part. For example, aerodrome operators may have obligations about use of aerodromes (Part 9 of CAR) or drug and alcohol management plans (Part 99), or as aeronautical data originators (Part 175).

Note 3: Other legislation apart from these Regulations may regulate aspects of aerodromes, such as the *Air Navigation Act 1920*, the *Airports Act 1996*, the *Air Services Act 1995*, the *Airspace Act 2007* and regulations made under those Acts.

#### **139.005 Issue of Manual of Standards for Part 139**

For 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 139 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

## **139.010 Approvals by CASA for Part 139**

- (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.

## **139.015 Effect on operation of other laws**

Nothing in this Part affects the operation of the following:

- (a) the *Airports (Building Control) Regulations 1996*;
- (b) the *Airports (Protection of Airspace) Regulations 1996*;
- (c) the *Airports (Control of On-Airport Activities) Regulations 1997*.

## **Subpart 139.B—Aerodrome certificates**

### **139.020 Application for aerodrome certificate**

- (1) A person may apply to CASA, in writing, for an aerodrome certificate for an aerodrome.
- (2) The application must be accompanied by a copy of the applicant's proposed aerodrome manual for the aerodrome.
- (3) Regulation 11.045 applies in relation to an aerodrome certificate.

### **139.025 When aerodromes are required to have an aerodrome certificate**

- (1) The operator of an aerodrome must hold an aerodrome certificate for the aerodrome if:
  - (a) there is a terminal instrument flight procedure for the aerodrome; and
  - (b) the procedure is not only for use in a specialised helicopter operation.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

### **139.030 Grant of aerodrome certificate**

Subject to regulation 11.055, CASA must grant an aerodrome certificate to an applicant if CASA is satisfied that:

- (a) the aerodrome facilities and equipment comply with this Part and the Part 139 Manual of Standards; and



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- (b) the proposed aerodrome manual for the aerodrome complies with the requirements mentioned in regulation 139.045; and
- (c) the aerodrome complies with the requirements that apply in relation to the aerodrome under Division 139.C.4 (safety management, emergency preparedness and other systems); and
- (d) the applicant would, if the certificate is granted, be able to operate and maintain the aerodrome safely and in accordance with the aerodrome manual for the aerodrome and the civil aviation legislation.

### **139.035 Suspension or cancellation of aerodrome certificate by CASA**

- (1) CASA may, by written notice given to the holder of an aerodrome certificate, suspend or cancel the certificate if CASA reasonably believes that:
  - (a) a condition to which the certificate is subject has been breached; or
  - (b) the aerodrome facilities and equipment, or the operations or maintenance of the aerodrome, are not of the standard necessary in the interests of the safety of air navigation; or
  - (c) the holder has failed to comply with regulation 139.125.
- (2) Before suspending or cancelling an aerodrome certificate, CASA must:
  - (a) give to the holder a show cause notice that:
    - (i) sets out the facts and circumstances that, in the opinion of CASA, would justify the suspension or cancellation; and
    - (ii) invites the holder to show cause, in writing, within 30 days after the date of the notice, why the certificate should not be suspended or cancelled; and
  - (b) take into account any written submissions that the holder makes to CASA within the time allowed under subparagraph (a)(ii).
- (3) Suspension or cancellation under this regulation has effect:
  - (a) if a time is specified in the notice given by CASA under subregulation (1)—at that time; or
  - (b) otherwise—at the time the holder is given the written notice under subregulation (1).
- (4) Suspension under this regulation ceases to have effect:
  - (a) if the notice given by CASA under subregulation (1) specifies a time at which the suspension is to cease—at that time; or
  - (b) otherwise—at the time CASA directs, by written notice to the person who, immediately before the suspension, was the holder of the aerodrome certificate.
- (5) If an aerodrome certificate is suspended under this regulation, the certificate is not in force during the period of the suspension.

### **139.040 Notification requirement if aerodrome ceases to be certified**

- (1) The operator of an aerodrome contravenes this subregulation if:
  - (a) the operator is required to hold an aerodrome certificate for the aerodrome under regulation 139.025; and

- (b) the aerodrome ceases to be a certified aerodrome because the aerodrome certificate has been suspended or cancelled under these Regulations or the Act; and
  - (c) the operator does not, in writing and as soon as possible after the cessation, notify each of the following of the cessation:
    - (i) the AIS;
    - (ii) each certified designer (within the meaning of regulation 173.015) responsible for maintaining a terminal instrument flight procedure for the aerodrome.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 10 penalty units.

## **Subpart 139.C—Operation and maintenance of a certified aerodrome**

### **Division 139.C.1—Aerodrome manual**

#### **139.045 Requirement to have aerodrome manual**

- (1) The operator of a certified aerodrome must have an aerodrome manual for the aerodrome that complies with the requirements prescribed by the Part 139 Manual of Standards.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
  - (a) the information that must be included in an aerodrome manual;
  - (b) keeping an aerodrome manual up-to-date;
  - (c) the accessibility of an aerodrome manual.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the operator does not comply with the requirement.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 10 penalty units.

#### **139.050 Amendments of aerodrome manual**

- (1) If the operator of a certified aerodrome amends the aerodrome manual for the aerodrome, the operator must:
  - (a) give CASA written notice of the amendment and a copy of the amended part of the aerodrome manual clearly identifying the amendment; and
  - (b) do so within 30 days after the amendment is made.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

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Penalty: 5 penalty units.

### 139.055 Compliance with aerodrome manual

- (1) The operator of a certified aerodrome must operate the aerodrome in accordance with the procedures set out in the aerodrome's aerodrome manual.

Note: Section 3 of the Act defines *operate*, in relation to an aerodrome, to include manage, maintain and improve the aerodrome.

- (2) However, subregulation (1) does not apply to the operator if:
  - (a) the operator does not comply with the procedures set out in the aerodrome's aerodrome manual; and
  - (b) the non-compliance is necessary to ensure the safety of aircraft; and
  - (c) the operator tells CASA of the non-compliance in accordance with regulation 139.060.

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

Penalty: 25 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*.

### 139.060 Notice of non-compliance with aerodrome manual

- (1) This regulation applies if the operator of a certified aerodrome does not comply with a procedure set out in the aerodrome's aerodrome manual as mentioned in paragraphs 139.055(2)(a) and (b).
- (2) The operator must tell CASA, in writing, of the non-compliance within 30 days after the non-compliance.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 5 penalty units.

## Division 139.C.2—Aerodrome facilities and equipment

### 139.065 Aerodrome facilities and equipment

- (1) The Part 139 Manual of Standards may prescribe requirements relating to aerodrome facilities and equipment for certified aerodromes.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
  - (a) the physical characteristics of the movement area of an aerodrome;
  - (b) visual aids for the movement area and other areas of an aerodrome;
  - (c) the maintenance of visual aids at an aerodrome;
  - (d) wind direction indicators at an aerodrome;
  - (e) visual approach slope indicator systems at an aerodrome;
  - (f) lighting systems at an aerodrome;
  - (g) reference code systems at an aerodrome;

- (h) the installation, operation or maintenance of aerodrome facilities and equipment;
  - (i) access to an aerodrome, including requirements relating to fencing for the aerodrome;
  - (j) design requirements to avoid the creation of hazards from aircraft propulsion systems at an aerodrome.
- (3) The operator of a certified aerodrome must ensure that the aerodrome facilities and equipment for the aerodrome comply with the requirements mentioned in subregulation (1).
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 10 penalty units.

### **139.070 Planning and carrying out aerodrome works**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) planning aerodrome works at a certified aerodrome;
  - (b) giving notice of planned aerodrome works at a certified aerodrome;
  - (c) carrying out aerodrome works at a certified aerodrome.
- (2) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (3) The operator of a certified aerodrome must ensure that any aerodrome works at the aerodrome are carried out in a way that does not create a hazard to aircraft or cause confusion to pilots.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 10 penalty units.

## **Division 139.C.3—Aerodrome inspections, monitoring and reporting**

### **139.075 Aerodrome inspections**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to aerodrome inspections.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) different kinds of inspections that must be conducted;
  - (b) aerodrome facilities and equipment that must be inspected as part of inspections;
  - (c) when inspections must be conducted;
  - (d) the qualifications and experience of persons conducting inspections;
  - (e) records of inspections that the operator of an aerodrome must keep;

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- (f) reports of inspections that the operator of an aerodrome must provide to CASA;
  - (g) notifications that the operator of an aerodrome must give to CASA in relation to matters identified in inspections.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 10 penalty units.

### **139.077 Reporting information to AIS providers**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to the operator of a certified aerodrome reporting information to an AIS provider.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) information that must be reported;
  - (b) the form and manner in which information must be reported;
  - (c) establishing procedures for reporting.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 10 penalty units.

### **139.080 Reporting changes or occurrences at aerodromes**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to reporting changes or occurrences at certified aerodromes.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) changes or occurrences at a certified aerodrome that must be reported;
  - (b) persons to whom changes or occurrences must be reported;
  - (c) how changes or occurrences must be reported;
  - (d) information that must be reported;
  - (e) the form and manner in which information must be reported;
  - (f) establishing procedures for reporting.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.

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

Penalty: 10 penalty units.

## **139.085 Monitoring airspace and reporting infringements**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to:
- (a) monitoring the airspace around a certified aerodrome for infringements, or potential infringements, of the airspace; and
  - (b) reporting such infringements, or potential infringements.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) monitoring the obstacle limitation surfaces of an aerodrome;
  - (b) monitoring other surfaces and obstacles associated with the airspace around an aerodrome;
  - (c) establishing procedures for monitoring;
  - (d) kinds of infringements that must be monitored for and reported;
  - (e) persons to whom infringements must be reported;
  - (f) how infringements must be reported;
  - (g) information that must be reported;
  - (h) the form and manner in which information must be reported;
  - (i) establishing procedures for reporting.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the operator is subject to a requirement mentioned in subregulation (1); and
  - (b) the requirement is not met.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 10 penalty units.

## **Division 139.C.4—Safety management, emergency preparedness and other systems**

### **139.090 Safety management systems and risk management plans**

- (1) The Part 139 Manual of Standards may prescribe:
- (a) the circumstances in which a certified aerodrome must have a safety management system; and
  - (b) requirements relating to safety management systems for aerodromes; and
  - (c) the circumstances in which a certified aerodrome must have a risk management plan; and
  - (d) requirements relating to risk management plans for aerodromes.
- (2) The operator of a certified aerodrome contravenes this subregulation if:
- (a) the Part 139 Manual of Standards requires the aerodrome to have a safety management system; and
  - (b) any of the following apply:

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- (i) the aerodrome does not have a safety management system;
  - (ii) a requirement mentioned in paragraph (1)(b) that applies in relation to the safety management system for the aerodrome is not met;
  - (iii) a procedure under the safety management system for the aerodrome is not complied with.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) the Part 139 Manual of Standards requires the aerodrome to have a risk management plan; and
  - (b) either:
    - (i) the aerodrome does not have a risk management plan; or
    - (ii) a requirement mentioned in paragraph (1)(d) that applies in relation to the risk management plan for the aerodrome is not met.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 10 penalty units.

### **139.095 Emergency preparedness and aerodrome emergency plans**

- (1) The Part 139 Manual of Standards may prescribe:
  - (a) requirements relating to emergency preparedness of aerodromes; and
  - (b) the circumstances in which a certified aerodrome must have an aerodrome emergency plan; and
  - (c) requirements relating to aerodrome emergency plans for aerodromes.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
  - (a) maintaining and reviewing aerodrome emergency plans;
  - (b) conducting emergency exercises to test the adequacy of procedures and facilities provided for in an aerodrome emergency plan;
  - (c) keeping and retaining records of reviews of an aerodrome emergency plan and exercises conducted to test the plan.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) the operator is subject to a requirement relating to emergency preparedness mentioned in paragraph (1)(a); and
  - (b) the requirement is not met.
- (4) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) the Part 139 Manual of Standards requires the aerodrome to have an aerodrome emergency plan; and
  - (b) either:
    - (i) the aerodrome does not have an aerodrome emergency plan; or
    - (ii) a requirement mentioned in paragraph (1)(c) that applies in relation to the aerodrome emergency plan for the aerodrome is not met.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3) or (4).

Penalty: 10 penalty units.

## **139.097 Other aerodrome systems**

- (1) The Part 139 Manual of Standards may prescribe:
  - (a) a kind of system (other than a safety management system) that an aerodrome must have, including (but not limited to) the following:
    - (i) a wildlife hazard management system;
    - (ii) an airside vehicle control system;
    - (iii) an aircraft parking control system; and
  - (b) the circumstances in which a certified aerodrome must have a system of a kind mentioned in paragraph (a); and
  - (c) requirements relating to that kind of system.
- (2) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) the Part 139 Manual of Standards requires the aerodrome to have a system of a kind mentioned in paragraph (1)(a); and
  - (b) any of the following apply:
    - (i) the aerodrome does not have a system of that kind;
    - (ii) a requirement mentioned in paragraph (1)(c) that applies in relation to the system for the aerodrome is not met;
    - (iii) a procedure under the system for the aerodrome is not complied with.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 10 penalty units.

## **Division 139.C.5—Aerodrome personnel**

### **139.100 Aerodrome personnel**

#### *Requirement to have personnel*

- (1) The operator of a certified aerodrome must have personnel who carry out the responsibilities of the following positions for the aerodrome:
  - (a) accountable manager;
  - (b) reporting officer;
  - (c) if aerodrome works are being carried out at the aerodrome—works safety officer;
  - (d) any other position prescribed by the Part 139 Manual of Standards.
- (2) The operator of a certified aerodrome contravenes this subregulation if the operator does not have the personnel for the aerodrome mentioned in subregulation (1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 20 penalty units.



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### *Accountable manager*

- (4) The responsibilities of an accountable manager for a certified aerodrome are ensuring that the operator of the aerodrome:
  - (a) complies with these Regulations and the Part 139 Manual of Standards; and
  - (b) is able to finance the operation and maintenance of the aerodrome; and
  - (c) has adequate resources available to enable the operation and maintenance of the aerodrome.

### *Reporting officer*

- (5) The responsibilities of a reporting officer for a certified aerodrome are:
  - (a) monitoring the serviceability of the aerodrome; and
  - (b) reporting information to AIS providers as required under regulation 139.077; and
  - (c) reporting changes or occurrences at the aerodrome as required under regulation 139.080; and
  - (d) monitoring airspace and reporting as required under regulation 139.085.

### *Works safety officer*

- (6) The responsibilities of a works safety officer for a certified aerodrome are ensuring aerodrome safety while aerodrome works are being carried out at the aerodrome.

## **139.105 Training etc. of aerodrome personnel**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to the training, knowledge, qualifications or experience of personnel carrying out the responsibilities of positions mentioned in subregulation 139.100(1).
- (2) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) a person who is a member of the operator's personnel for the aerodrome carries out the responsibilities of a position mentioned in subregulation 139.100(1); and
  - (b) the person does not meet the requirements relating to the position mentioned in subregulation (1) of this regulation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 20 penalty units.

## **139.110 Aerodrome personnel carrying out responsibilities**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to personnel carrying out the responsibilities of positions mentioned in subregulation 139.100(1).
- (2) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) a person who is a member of the operator's personnel for the aerodrome carries out the responsibilities of a position mentioned in subregulation 139.100(1); and

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- (b) the person does not meet a requirement relating to the position mentioned in subregulation (1) of this regulation.
  - (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 20 penalty units.

## **Division 139.C.6—Aerodrome ground surveillance systems**

### **139.115 Condition on aerodrome certificate to operate aerodrome ground surveillance system**

*Request by ATS provider for condition to be imposed*

- (1) An ATS provider for a certified aerodrome may request CASA to impose a condition on the aerodrome certificate that an aerodrome ground surveillance system must operate in relation to one or more areas of the aerodrome.
- (2) A request under subregulation (1) must include a safety assessment demonstrating that the use of an aerodrome ground surveillance system is necessary to ensure the safe control of aircraft and vehicles operating in the relevant areas of the aerodrome.

*CASA may impose condition*

- (3) CASA may, in accordance with regulation 11.067, impose the condition mentioned in subregulation (1) on an aerodrome certificate.

Note: For breach of a condition imposed under regulation 11.067, see the offence in regulation 11.077.

- (4) The condition may include requirements relating to the aerodrome ground surveillance system to be operated.

*Notice of decisions etc.*

- (5) If CASA decides to impose the condition mentioned in subregulation (1):
  - (a) CASA must give notice of the decision to both the ATS provider and the holder of the aerodrome certificate; and
  - (b) the time the condition takes effect must not be less than 6 months after the date of the notice of the decision.
- (6) If CASA decides to refuse a request from an ATS provider under subregulation (1), CASA must:
  - (a) give written notice of the decision, and the reasons for the decision, to the ATS provider; and
  - (b) do so as soon as practicable.

### **139.120 Requirements for aerodrome ground surveillance systems**

- (1) The Part 139 Manual of Standards may prescribe requirements relating to aerodrome ground surveillance systems.

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- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe requirements relating to the following:
  - (a) surveillance and communications equipment that must be installed on vehicles moving in areas of an aerodrome in which an aerodrome ground surveillance system operates;
  - (b) establishing procedures for vehicle movements in areas of an aerodrome in which an aerodrome ground surveillance system operates.
- (3) The operator of a certified aerodrome contravenes this subregulation if:
  - (a) it is a condition of the aerodrome certificate that an aerodrome ground surveillance system operate in relation to the aerodrome; and
  - (b) a requirement mentioned in subregulation (1) applies in relation to the aerodrome ground surveillance system; and
  - (c) the requirement is not met.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 25 penalty units.

## Division 139.C.7—Other matters

### 139.125 Access to aerodromes to conduct tests

- (1) The operator of a certified aerodrome must allow CASA to conduct tests of aerodrome facilities and equipment for the aerodrome, or operating procedures at the aerodrome, for the purpose of ensuring the safety of aircraft.
- (2) The operator must allow CASA access to any part of the aerodrome, any aerodrome facilities and equipment for the aerodrome or any of the operator's records relating to the aerodrome for the purposes of subregulation (1).
- (3) CASA:
  - (a) must give reasonable notice of any tests to be conducted to the operator; and
  - (b) must carry out the tests at a reasonable time.
- (4) Subregulations (1) and (2) do not limit the operation of regulation 305 of CAR.

### 139.127 Requests for data from aerodrome operator

- (1) CASA may, by written notice given to the operator of a certified aerodrome, request the operator to provide aircraft movement data of a kind prescribed by the Part 139 Manual of Standards for the purposes of this subregulation.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe data relating to the following:
  - (a) the number of aircraft using the aerodrome;
  - (b) the type of aircraft using the aerodrome.
- (3) A person contravenes this subregulation if:
  - (a) CASA gives the person a request under subregulation (1); and

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- (b) the person does not comply with the request within the period mentioned in subregulation (4).
  - (4) The person must comply with the request within:
    - (a) if paragraph (b) does not apply—28 days after the request is given; or
    - (b) if CASA specifies a longer period in the request—that period.
  - (5) Subregulation (3) does not apply if:
    - (a) the person does not possess the data requested; and
    - (b) the person has taken all reasonable steps available to the person to obtain the data requested and has been unable to obtain the data.
- Note: A defendant bears an evidential burden in relation to the matters in subregulation (5): see subsection 13.3(3) of the *Criminal Code*.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (3).
- Penalty: 10 penalty units.

## **139.129 Requests for data from ATS providers**

- (1) CASA may, by written notice given to an ATS provider, request the ATS provider to provide aircraft movement data of a kind prescribed by the Part 139 Manual of Standards for the purposes of this subregulation.
- (2) Without limiting subregulation (1), the Part 139 Manual of Standards may prescribe data relating to the following:
  - (a) the number of aircraft using an aerodrome;
  - (b) the operations undertaken by aircraft at an aerodrome;
  - (c) the flight rules applying to aircraft at an aerodrome.
- (3) The ATS provider must comply with the request within:
  - (a) if paragraph (b) does not apply—28 days after the request is given; or
  - (b) if CASA specifies a longer period in the request—that period.

## **Subpart 139.D—Aerodrome radiocommunication services**

### **Division 139.D.1—Frequency confirmation system**

#### **139.130 Frequency confirmation systems for aerodromes**

- (1) The Part 139 Manual of Standards may prescribe:
  - (a) the circumstances in which a certified aerodrome must have a frequency confirmation system for the aerodrome; and
  - (b) requirements relating to frequency confirmation systems for aerodromes.
- (2) The operator of an aerodrome contravenes this subregulation if:
  - (a) the aerodrome has a frequency confirmation system; and
  - (b) a requirement mentioned in paragraph (1)(b) that applies in relation to the frequency confirmation system for the aerodrome is not met.
- (3) The operator of a certified aerodrome contravenes this subregulation if:

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- (a) the Part 139 Manual of Standards requires the aerodrome to have a frequency confirmation system; and
  - (b) the aerodrome does not have a frequency confirmation system.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 10 penalty units.

### **Division 139.D.2—Air/ground radio service**

#### **139.135 Air/ground radio service must be approved**

- (1) The operator of an aerodrome contravenes this subregulation if:
- (a) there is an air/ground radio service for the aerodrome; and
  - (b) the operator does not hold an approval under regulation 139.010 for the air/ground radio service.
- (2) CASA may grant an approval mentioned in paragraph (1)(b) only if CASA is satisfied that the service meets the requirements for an air/ground radio service prescribed by the Part 139 Manual of Standards.
- (3) Regulation 11.045 applies in relation to approval of an air/ground radio service.
- (4) An air/ground radio service for which there is an approval mentioned in paragraph (1)(b) is a *certified air/ground radio service*.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 10 penalty units.

#### **139.140 Requirements for operating certified air/ground radio service**

*Operator of radio service must hold approval*

- (1) The operator of an aerodrome contravenes this subregulation if:
- (a) there is a certified air/ground radio service for the aerodrome; and
  - (b) the service is operated by a person who does not hold an approval under regulation 139.010 to operate the service.
- (2) CASA may grant an approval mentioned in paragraph (1)(b) only if CASA is satisfied that the person meets the requirements for operating a certified air/ground radio service prescribed by the Part 139 Manual of Standards.

*Part 139 Manual of Standards may prescribe requirements*

- (3) The Part 139 Manual of Standards may prescribe requirements relating to the operation of certified air/ground radio services.
- (4) Without limiting subregulation (3), the Part 139 Manual of Standards may prescribe requirements relating to the following:
- (a) the facilities to be provided for the operation of a certified air/ground radio service;

- (b) when a certified air/ground radio service must be operating for an aerodrome;
  - (c) documenting operational procedures for a certified air/ground radio service;
  - (d) information and notifications about a certified air/ground radio service for an aerodrome that the operator of the aerodrome must provide to the NOTAM Office.
- (5) The operator of an aerodrome contravenes this subregulation if:
- (a) there is a certified air/ground radio service for the aerodrome; and
  - (b) a requirement mentioned in subregulation (3) applies in relation to the service; and
  - (b) the requirement is not met.

*Offence*

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

Penalty: 10 penalty units.

## **Subpart 139.E—Hazards to aircraft operations**

### **139.145 Notifying CASA of certain proposed objects or structures**

- (1) This regulation applies if a person proposes to construct or erect an object or structure that:
- (a) will have a maximum height of 100 metres or more above ground level; or
  - (b) is of a kind prescribed by the Part 139 Manual of Standards.
- (2) The person must, as soon as practicable after forming the intention to construct or erect the proposed object or structure, give written notice to CASA of the following:
- (a) the proposal;
  - (b) the proposed height and location of the object or structure;
  - (c) the proposed timeframe for constructing or erecting the object or structure.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 10 penalty units.

- (4) Paragraph (1)(a) does not limit the kinds of objects or structures that may be prescribed by the Part 139 Manual of Standards under paragraph (1)(b).

Note: See also Subpart 175.E in relation to requests for data about objects or structures that affect aviation safety.

### **139.150 Hazards to aircraft operations**

*Determination concerning an existing object or structure*

- (1) CASA may determine, in writing, that an object or structure that:
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- (a) has a maximum height of 100 metres or more above ground level; or
  - (b) is of a kind mentioned in subregulation (5);
- is a hazard to aircraft operations.
- (2) If CASA makes a determination under subregulation (1), CASA must:
- (a) publish in the AIP or NOTAMS the particulars of the hazard to which the determination relates; and
  - (b) if CASA can identify a person who owns, or is in occupation or control of, the object or structure—give written notice of the determination to the person.

### *Determination concerning a proposed object or structure*

- (3) If there is a proposal to construct or erect an object or structure that:
- (a) will have a maximum height of 100 metres or more above ground level; or
  - (b) is of a kind mentioned in subregulation (5);
- CASA may determine, in writing, that the proposed object or structure will be a hazard to aircraft operations.
- (4) If CASA makes a determination under subregulation (3), CASA must give written notice of the determination to:
- (a) the person proposing to construct or erect the object or structure; and
  - (b) if the approval of an authority is required to construct or erect the object or structure—the authority.

### *Prescribing objects or structures that may be hazards*

- (5) The Part 139 Manual of Standards may prescribe kinds of objects or structures that may constitute a hazard to aircraft operations.
- (6) Paragraphs (1)(a) and (3)(a) do not limit the kinds of objects or structures that may be prescribed by the Part 139 Manual of Standards under subregulation (5).

Note: For powers to remove or mark hazards affecting an aerodrome, see the following:

- (a) Division 9 of Part 9 of CAR;
- (b) the *Civil Aviation (Buildings Control) Regulations 1988*;
- (c) Part 12 of the *Airports Act 1996* and the *Airports (Protection of Airspace) Regulations 1996*.

## **2 Regulation 201.003**

Before “Neither”, insert “(1)”.

## **3 At the end of regulation 201.003**

Add:

- (2) Neither the Commonwealth nor CASA is liable in negligence or otherwise for any loss or damage incurred by anyone because of, or arising out of, CASA exercising powers to conduct tests under regulation 139.125, or any act or omission of CASA done or made in good faith in relation to those powers.

## **4 Part 1 of the Dictionary (definition of *aerodrome certificate*)**

Omit “regulation 139.050”, substitute “regulation 139.030”.

## **5 Part 1 of the Dictionary (definition of *aerodrome manual*)**

Omit “regulation 139.090”, substitute “regulation 139.045”.

## **6 Part 1 of the Dictionary (definition of *aerodrome works*)**

After “obstacle”, insert “or hazard”.

## **7 Part 1 of the Dictionary**

Insert:

*air/ground radio service* means a radio service at an aerodrome that provides information relating to the aerodrome (including relevant air traffic) to aircraft operating in the vicinity of the aerodrome.

*certified air/ground radio service*: see subregulation 139.135(4).

*frequency confirmation system*, for an aerodrome, means a ground radio system for the aerodrome that, on receipt of a transmission from an aircraft on the radio frequency for the aerodrome, sends a signal or message to the aircraft confirming that the transmission has been received.

## **8 Part 1 of the Dictionary (definition of *obstacle*)**

Repeal the definition.

## **9 Part 1 of the Dictionary (definition of *obstacle limitation surface*)**

Repeal the definition, substitute:

*obstacle limitation surface*, of an aerodrome, means a surface associated with the aerodrome that is ascertained in accordance with the requirements prescribed by the Part 139 Manual of Standards for the purposes of this definition.

## **10 Part 1 of the Dictionary**

Insert:

*Part 139 Manual of Standards* means the Manual of Standards issued by CASA under regulation 139.005.