

EXPOSURE DRAFT



EXPOSURE DRAFT

Civil Aviation Legislation Amendment (Part 91) 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 regulations.

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
Part 1—Main amendments		2
<i>Civil Aviation Safety Regulations 1998</i>		2
Part 2—Transitional and consequential provisions		98
<i>Civil Aviation Safety Regulations 1998</i>		98

EXPOSURE DRAFT

1 Name

This instrument is the *Civil Aviation Legislation Amendment (Part 91) 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		

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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
Part 1 Main amendments

Schedule 1—Amendments

Part 1—Main amendments

Civil Aviation Safety Regulations 1998

1 Part 91

Repeal the Part, substitute:

Part 91—General operating and flight rules

Table of Contents

Subpart 91.A—Preliminary

- 91.005 Application of Part 91—Australian aircraft in Australian territory
- 91.010 Application of Part 91—Australian aircraft in foreign countries
- 91.012 Application of Part 91—Australian aircraft over the high seas
- 91.015 Application of Part 91—foreign registered aircraft
- 91.020 Application of Part 91—foreign state aircraft
- 91.030 Application of Part 91—Aircraft to which Part 101, 103 or 131 applies
- 91.040 Issue of Manual of Standards for Part 91
- 91.045 Approvals by CASA for Part 91
- 91.050 Approvals by authorised persons for Part 91

Subpart 91.C—Aircraft operations

Division 91.C.1—Pilot in command

- 91.100 Authority and responsibilities of pilot in command
- 91.105 Actions and directions by operator or pilot in command
- 91.107 Conditions to be met before Australian aircraft may fly
- 91.110 Operating an Australian aircraft outside Australia

Division 91.C.2—Flight related documents

- 91.113 Electronic documents
- 91.115 Carriage of documents
- 91.120 Carriage of documents for certain flights
- 91.125 Carriage of documents for international flights
- 91.127 Journey logs for international flights

Division 91.C.3—Firearms on aircraft

- 91.130 Possessing firearm on aircraft
- 91.135 Discharging firearm on aircraft

Division 91.C.4—Portable electronic devices

- 91.145 Operation of portable electronic devices
- 91.150 Operation of portable electronic devices by crew members

Division 91.C.5—Special flight operations

- 91.155 Air displays in Australian territory

- 91.160 Towing of things by aircraft
- 91.165 Flying in formation
- 91.170 Aircraft not to create collision hazard by flying near other aircraft
- 91.175 Conducting aerobatic manoeuvres

Division 91.C.6—Miscellaneous requirements for aircraft

- 91.185 Crew members—power of arrest
- 91.200 Carriage of animals
- 91.210 Operating aircraft with inoperative item—placarding
- 91.215 Crew members to be fit for duty
- 91.220 Manipulating flight controls

Subpart 91.D—Operational procedures

Division 91.D.1—General flight limitations

- 91.275 Aircraft to be flown under VFR or IFR
- 91.280 VFR flights—compliance with VMC criteria
- 91.285 VFR flights—flights at low level
- 91.290 VFR flights—aircraft not to exceed certain speeds
- 91.300 VFR flights—flights in class A airspace
- 91.305 NVIS flights
- 91.310 All flights—airspeed limits

Division 91.D.2—Flight preparation

- 91.313 Flight preparation (weather assessments) requirements
- 91.314 Flight preparation (alternate aerodromes) requirements
- 91.320 Fuel requirements

Division 91.D.3—Flight planning and pre-flight checks

- 91.325 Flight plans and notifications
- 91.335 Matters to be checked before take-off

Division 91.D.4—Flight rules

Subdivision 91.D.4.1—Air traffic services

- 91.340 Air traffic services—prescribed requirements
- 91.345 Air traffic control clearances—controlled airspace
- 91.350 Air traffic control clearances—controlled aerodromes
- 91.355 Air traffic control clearances and instructions
- 91.360 Unauthorised entry into prohibited or restricted areas
- 91.362 ADIZ flights

Subdivision 91.D.4.2—Cruising levels and minimum heights

- 91.365 Definitions
- 91.370 Specified VFR cruising levels
- 91.375 Specified IFR cruising levels
- 91.380 IFR flights at non-specified cruising levels—notifying Air Traffic Services
- 91.385 IFR flights at non-specified cruising levels—avoiding collisions with aircraft conducting VFR flights
- 91.387 Altimeter requirements
- 91.390 Minimum heights—IFR flights
- 91.395 Minimum heights—VFR flights at night
- 91.400 Minimum height rules—populous areas and public gatherings

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

91.403 Minimum height rules—other areas

Subdivision 91.D.4.3—Taking off and landing

91.415 Specified aircraft performance categories

91.420 IFR take-off and landing minima

91.425 Taking off and landing in low visibility

91.427 Use of aerodromes

Division 91.D.5—Avoiding collisions

Subdivision 91.D.5.1—General

91.430 Aircraft not to be operated in manner that creates a hazard

Subdivision 91.D.5.2—Avoiding collisions in the air

91.435 Basic rule

91.440 Right of way rules

91.445 Additional right of way rules

91.450 Right of way rules for take-off and landing

Subdivision 91.D.5.3—Avoiding collisions on water

91.455 Compliance with International Regulations

91.460 Giving way to vessels

91.465 Giving way on water

Subdivision 91.D.5.4—Avoiding collisions at or in the vicinity of aerodromes

91.470 Meaning of *in the vicinity of a non-controlled aerodrome*

91.475 Taxiing or towing on movement area of aerodrome

91.480 Take-off or landing at non-controlled aerodrome—all aircraft

91.490 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—general requirements

91.495 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—landing and taking off into the wind

91.500 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—requirements that apply after joining the circuit pattern

91.505 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—requirements related to maintaining the same track after take-off

91.515 Straight-in approaches at non-controlled aerodromes

91.520 Communicating at certified, registered, military or designated non-controlled aerodromes

91.525 Aircraft in aerodrome traffic at controlled aerodromes

Division 91.D.6—Ground operations

91.535 Taxiing aircraft

91.540 Parked aircraft not to create hazard

91.545 Safety when aeroplane operating on ground

91.550 Safety when rotorcraft operating on ground

Division 91.D.7—Causing or simulating failures etc.

Subdivision 91.D.7.1—Causing or simulating instrument failure etc.

91.555 Causing or simulating failure of flight instruments

91.560 Simulating engine failure

91.565 Simulating IMC flying

91.567 Training flight limitations etc.

Subdivision 91.D.7.2—Causing or simulating engine failure etc. for aeroplanes

- 91.570 IFR flights and VFR flights at night—engine not to be shut down
- 91.575 Single-engine aeroplane—VFR flights by day—engine not to be shut down
- 91.580 Single-engine aeroplane—simulating engine failure
- 91.585 Multi-engine aeroplane—simulating engine failure

Subdivision 91.D.7.3—Causing or simulating engine failure etc. for rotorcraft

- 91.590 Single-engine rotorcraft—engine not to be shut down
- 91.595 Single-engine rotorcraft—engine failure not to be simulated and autorotation of main rotor system not to be initiated in IMC
- 91.600 Single-engine rotorcraft—simulating engine failure or initiating autorotation of main rotor system at night
- 91.605 Multi-engine rotorcraft—engine not to be shut down at certain altitudes
- 91.610 Multi-engine rotorcraft—simulating engine failure

Division 91.D.8—Fuel requirements

- 91.620 Contaminated, degraded or inappropriate fuels
- 91.625 Fire hazards
- 91.630 Fire fighting equipment
- 91.635 Electrical bonding
- 91.640 Equipment or electronic devices operating near aircraft
- 91.645 Fuelling turbine-engine aircraft—low-risk electronic devices
- 91.650 Only turbine-engine aircraft to be hot fuelled
- 91.655 Hot fuelling aircraft—general
- 91.660 Hot fuelling aircraft—procedures etc.
- 91.665 Fuelling aircraft—persons boarding or disembarking
- 91.667 Fuelling aircraft if fuel vapour detected

Division 91.D.9—Cargo

- 91.670 Carriage of cargo—restraint
- 91.675 Restraint and stowage of carry-on baggage
- 91.677 Restraint and stowage of certain aircraft equipment
- 91.680 Carriage of cargo—general
- 91.685 Carriage of cargo—cargo compartments
- 91.690 Carriage of cargo—unoccupied seats
- 91.695 Carriage of cargo—loading instructions

Division 91.D.10—Signals, emergencies and hazards

- 91.700 Display of standard visual signals
- 91.705 Pilot in command to report hazards to air navigation
- 91.710 Pilot in command to report emergencies
- 91.715 Multi-engine aircraft—pilot in command to land at nearest suitable aerodrome if emergency occurs
- 91.720 Pilot in command to report contraventions relating to emergencies
- 91.722 Interception of aircraft
- 91.723 Availability of instructions for flight data and combination recorders
- 91.724 Flight recorders—preserving recordings of immediately reportable matters
- 91.725 Aviation distress signals
- 91.730 Dropping things from aircraft
- 91.735 Picking up or setting down people or things during flight
- 91.740 Flight in icing conditions—adherence of frost, ice or snow
- 91.745 Flight in icing conditions—requirements for flight
- 91.750 Persons not to be carried in certain parts of aircraft

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

Division 91.D.11—Safety of persons on aircraft

- 91.753 Seating for persons on aircraft
- 91.755 Seating for flight crew members
- 91.760 Seating for crew members other than flight crew members
- 91.765 Safety during turbulence
- 91.770 Passengers—safety briefings and instructions
- 91.780 Passengers—safety directions by pilot in command
- 91.785 Passengers—compliance with safety directions
- 91.790 Passengers—compliance with safety instructions by cabin crew
- 91.800 Means of passenger communication
- 91.805 Restraint of infants and children
- 91.820 Smoking not permitted during certain periods of flight
- 91.830 Offensive or disorderly behaviour on aircraft
- 91.835 Unauthorised travel or placing of cargo on aircraft

Division 91.D.12—Psychoactive substances

- 91.845 Passengers—alcohol
- 91.850 Crew—supply of alcohol
- 91.855 Prohibiting person affected by psychoactive substances from boarding

Division 91.D.13—Radio usage

- 91.895 Use of radio—qualifications
- 91.900 Use of radio—broadcasts and reports
- 91.905 Use of radio in controlled airspaces—listening watch of ATC frequency
- 91.910 Use of radio outside controlled airspaces—listening watch of radio transmissions
- 91.915 When aircraft may be flown with inoperative radio

Division 91.D.14—Navigation

- 91.930 VFR flights
- 91.933 IFR flights
- 91.935 RVSM airspace
- 91.940 PBN flights

Subpart 91.F—Performance

- 91.1035 Take-off weights
- 91.1040 Landing weights

Subpart 91.J—Weight and balance

- 91.1090 Loading of aircraft

Subpart 91.K—Instruments, indicators, equipment and systems

- 91.1150 Aircraft instruments, indicators, equipment and systems

Subpart 91.P—Cabin crew

- 91.1460 Cabin crew—when required
- 91.1465 Cabin crew—number
- 91.1470 Cabin crew—knowledge of emergency and safety equipment and procedures

Subpart 91.T—Operations under certain special certificates of airworthiness and special flight permits

Division 91.T.1—Preliminary

EXPOSURE DRAFT

Amendments **Schedule 1**
Main amendments **Part 1**

91.1520 Aircraft with more than one certificate of airworthiness—application of Subpart 91.T

Division 91.T.2—Restricted category aircraft—operating requirements

91.1525 Restricted category aircraft—general operating requirements
91.1530 Restricted category aircraft—kinds of operations permitted

Division 91.T.3—Provisionally certificated aircraft—operating requirements

91.1535 Provisionally certificated aircraft—operating requirements
91.1540 Provisionally certificated aircraft—kinds of operations permitted
91.1545 Provisionally certificated aircraft—operation for type certification or supplemental type certification
91.1550 Provisionally certificated aircraft—requirements for the carriage of people
91.1555 Provisionally certificated aircraft—additional requirements for operators

Division 91.T.4—Experimental aircraft—operating requirements

91.1560 Experimental aircraft—operating requirements
91.1565 Experimental aircraft—kinds of operations permitted
91.1570 Experimental aircraft—maximum number of persons to be carried
91.1575 Experimental aircraft—only essential persons or approved persons to be carried

Division 91.T.5—Primary category aircraft and intermediate category aircraft—operating requirements

91.1580 Primary category aircraft and intermediate category aircraft—operating requirements

Division 91.T.6—Light sport aircraft—operating requirements

91.1600 Light sport aircraft—operators
91.1605 Light sport aircraft—pilots

Division 91.T.7—Special flight permits—operating requirements

91.1610 Flights under special flight permits

Division 91.T.8—Miscellaneous

91.1615 Application of Division 91.T.8
91.1620 Aircraft with special certificates of airworthiness—maintenance release etc.
91.1625 Aircraft with special certificates of airworthiness—flight tests to be conducted in certain areas

Subpart 91.Y—Minimum equipment lists

Division 91.Y.1—Preliminary

91.1680 Definitions
91.1685 Part 91 Manual of Standards may prescribe requirements

Division 91.Y.2—Approval of minimum equipment lists

91.1690 Approval of minimum equipment lists

Division 91.Y.3—Variations of minimum equipment lists

91.1695 Approval of variations

Division 91.Y.4—Extensions of rectification intervals

91.1700 Approval of extensions of rectification intervals
91.1702 Effect of approval

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- 91.1704 CASA to be notified of extensions approved by a continuing airworthiness management organisation

Division 91.Y.5—Other

- 91.1705 Operation of aircraft with multiple inoperative items not permitted in certain circumstances

Subpart 91.Z—Foreign aircraft

- 91.1710 Foreign registered aircraft—Chicago Convention
91.1715 Foreign registered aircraft—special flight authorisations
91.1720 Foreign state aircraft—approval to fly in Australian territory
91.1725 Foreign registered aircraft—major defect—CASA direction
91.1730 Foreign registered aircraft—CASA to notify Contracting State of direction
91.1735 Foreign registered aircraft—CASA may revoke direction
91.1740 Foreign registered aircraft—when direction or revocation takes effect

Subpart 91.A—Preliminary

91.005 Application of Part 91—Australian aircraft in Australian territory

This Part applies in relation to the operation of an Australian aircraft in Australian territory.

91.010 Application of Part 91—Australian aircraft in foreign countries

- (1) This Part applies in relation to the operation of an Australian aircraft in a foreign country.
- (2) However, if a law of the foreign country applies to the operation of the aircraft in that country, the law of the foreign country prevails to the extent of any inconsistency.
- (3) For the purposes of subsection (2), a provision of a law of a foreign country is taken not to be inconsistent with a provision of this Part to the extent that the provisions are capable of operating concurrently.

91.012 Application of Part 91—Australian aircraft over the high seas

- (1) This Part applies in relation to the operation of an Australian aircraft over the high seas.
- (2) Annex 2 of the Chicago Convention also applies in relation to the operation of Australian aircraft over the high seas.
- (3) However, a provision of Annex 2 of the Chicago Convention prevails to the extent of any inconsistency with a provision mentioned in subsection (1).
- (4) For the purposes of subsection (3), a provision of Annex 2 of the Chicago Convention is taken not to be inconsistent with a provision mentioned in subsection (1) to the extent that the provisions are capable of operating concurrently.

91.015 Application of Part 91—foreign registered aircraft

- (1) This Part (other than Division 91.C.2 and Subparts 91.P and 91.T) applies in relation to the operation of a foreign registered aircraft in Australian territory.
- (2) However, this Part does not apply in relation to:
 - (a) a foreign registered aircraft that is operated in Australian territory under a foreign air transport AOC; or
 - (b) a foreign registered aircraft that is operated in Australian territory under a New Zealand AOC with ANZA privileges that is in force for Australia.

91.020 Application of Part 91—foreign state aircraft

A provision of this Part applies in relation to the operation of a state aircraft of a foreign country in Australian territory if the provision is expressed to so apply.

91.030 Application of Part 91—Aircraft to which Part 101, 103 or 131 applies

This Part does not apply in relation to the operation of an aircraft if any provision of Part 101, 103 or 131 applies to the operation.

91.040 Issue of Manual of Standards for Part 91

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 91 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.

91.045 Approvals by CASA for Part 91

- (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.
- (4) For the purposes of regulations 91.415, 91.560, 91.680, 91.750 and 91.935, the operator of an aircraft is taken to hold an approval under this regulation for an activity if the activity is authorised under:
 - (a) the operator's AOC or another civil aviation authorisation held by the operator; or
 - (b) if the operator is required under these Regulations to have an exposition or operations manual—the exposition or operations manual.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.050 Approvals by authorised persons for Part 91

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

Subpart 91.C—Aircraft operations

Division 91.C.1—Pilot in command

91.100 Authority and responsibilities of pilot in command

- (1) This regulation applies in relation to the operation of an aircraft during the following period:
 - (a) from the earlier of:
 - (i) the time the aircraft's doors are closed before take-off; and
 - (ii) the time the flight begins;
 - (b) to the later of:
 - (i) the time the aircraft's doors are opened after landing; and
 - (ii) the time the flight ends.
- (2) The pilot in command of the aircraft:
 - (a) has final authority over:
 - (i) the aircraft; and
 - (ii) the maintenance of discipline by all persons on the aircraft; and
 - (b) must ensure:
 - (i) the safety of persons on the aircraft; and
 - (ii) the safety of cargo on the aircraft; and
 - (iii) the safe operation of the aircraft during the flight.
- (3) The pilot in command of the aircraft contravenes this subregulation if the pilot in command does not comply with one or more of the following:
 - (a) the aircraft flight manual instructions for the aircraft;
 - (b) any conditions specified in the aircraft's certificate of airworthiness or special flight permit;
 - (c) the aircraft operator's exposition (if any) as it applies to the pilot in command;
 - (d) the aircraft operator's operations manual (if any) as it applies to the pilot in command;
 - (e) the dangerous goods manual (if any) for the aircraft as it applies to the pilot in command.
- (4) Paragraph (3)(a) does not apply if:

- (a) the manufacturer of the aircraft has certified in writing to the operator that the aircraft can be operated in a way that contravenes a requirement or limitation of the aircraft flight manual instructions; and
 - (b) if the certification mentioned in paragraph (a) sets out another requirement or limitation—the aircraft is operated in accordance with that requirement or limitation.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

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

91.105 Actions and directions by operator or pilot in command

- (1) The operator or pilot in command of an aircraft for a flight may do a thing mentioned in subregulation (2) if the operator or pilot in command believes it is necessary for the safety of:
- (a) the aircraft; or
 - (b) a person on the aircraft; or
 - (c) a person or property on the ground or water.
- (2) The things are as follows:
- (a) direct a person to do something while the person is on the aircraft;
 - (b) direct a person not to do something, or to limit the doing of something, while the person is on the aircraft;
 - (c) direct a person to leave the aircraft before the flight begins;
 - (d) with such assistance and by the use of such force as is reasonable and necessary:
 - (i) remove a person or a thing from the aircraft before the flight begins; or
 - (ii) restrain a person for the duration of the flight or part of the flight; or
 - (iii) seize a thing on the aircraft for the duration of the flight or part of the flight; or
 - (iv) place a person on the aircraft in custody; or
 - (v) detain a person or a thing, until the person or thing can be released into the control of an appropriate authority.

Note: Under regulation 91.185, crew members of an aircraft have a limited power of arrest.

- (3) A person on an aircraft contravenes this subregulation if:
- (a) the operator or pilot in command of the aircraft gives the person a direction mentioned in paragraph (2)(a), (b) or (c); and
 - (b) the person does not comply with the direction.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (3).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.107 Conditions to be met before Australian aircraft may fly

- (1) The pilot in command of an Australian aircraft for a flight contravenes this regulation if:
 - (a) a requirement in subregulation (2) is not met; and
 - (b) the flight begins.
- (2) The requirements are the following:
 - (a) the aircraft must be registered;
 - (b) the aircraft must have a nationality mark and a registration mark painted on, or affixed to, it in accordance with Part 45;
 - (c) if required under these Regulations, the aircraft must have a certificate of airworthiness or special flight permit;
 - (d) the flight must comply with any condition that is set out or referred to in the maintenance release or in any other document approved for use under these Regulations as an alternative to the maintenance release;
 - (e) the flight crew required under these Regulations must be on board the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.110 Operating an Australian aircraft outside Australia

- (1) The operator and the pilot in command of an Australian aircraft for a flight in a foreign country each contravene this subregulation if:
 - (a) a requirement of a law of the foreign country applies in relation to the flight; and
 - (b) the aircraft is operated in a way that does not comply with the requirement.
- (2) The operator and the pilot in command of an Australian aircraft for a flight over the high seas each contravene this subregulation if:
 - (a) a requirement of Annex 2 of the Chicago Convention applies in relation to the flight; and
 - (b) the aircraft is operated in a way that does not comply with the requirement.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Division 91.C.2—Flight related documents

91.113 Electronic documents

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

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

91.115 Carriage of documents

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the aircraft begins the flight, a document mentioned in subregulation (2) is not carried on the aircraft.
- (2) The documents are as follows:
 - (a) for each flight crew member:
 - (i) the member's medical certificate; and
 - (ii) the member's flight crew licence or certificate of validation;
 - (b) for each flight crew member, either:
 - (i) a photographic identification document issued by a Commonwealth, State or Territory authority or agency; or
 - (ii) the member's passport;
 - (c) the aircraft flight manual instructions for the aircraft;
 - (d) any operating instructions for area navigation systems fitted to the aircraft, supplied by the manufacturer of the aircraft or of the systems;
 - (e) any minimum equipment list for the aircraft.
- (3) Subregulation (1) does not apply if:
 - (a) aerobatic manoeuvres will be conducted during the flight; and
 - (b) carriage of the documents on the aircraft would present a risk to the safety of the aircraft or its occupants.
- (4) 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 matters in subregulation (3): see subsection 13.3(3) of the *Criminal Code*.

91.120 Carriage of documents for certain flights

- (1) This regulation applies in relation to a flight of an aircraft other than:
 - (a) a VFR flight conducted by day and within 50 nautical miles of the aircraft's point of departure; or
 - (b) a flight conducted:
 - (i) within the flying training area for an aerodrome; and
 - (ii) if the flying training area for the aerodrome is not adjacent to the aerodrome—along the flight path between the flying training area and the aerodrome.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the flight begins, a document mentioned in subregulation (3) is not carried on the aircraft.
- (3) The documents are as follows:
 - (a) the authorised aeronautical information for the flight;
 - (b) the flight technical log or maintenance release for the aircraft.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Penalty: 25 penalty units.

91.125 Carriage of documents for international flights

- (1) This regulation applies in relation to a flight of an aircraft that begins or ends at an aerodrome outside Australian territory.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the flight begins, a document mentioned in subregulation (3) is not carried on the aircraft.
- (3) The documents are as follows:
 - (a) the aircraft's certificate of airworthiness;
 - (b) the aircraft's certificate of registration;
 - (c) the journey log for the flight mentioned in regulation 91.127;
 - (d) a list including the name, place of embarkation and place of destination of each passenger on the aircraft;
 - (e) if the aircraft is carrying cargo (other than passenger baggage)—a manifest and detailed declaration of the cargo;
 - (f) if the aircraft has a radio station licence that is an apparatus licence or a class licence—a copy of the licence;
 - (g) if the operator or pilot in command of the aircraft holds an approval under regulation 91.045 or holds another civil aviation authorisation that is relevant to the flight—a copy of the approval or authorisation.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 25 penalty units.

91.127 Journey logs for international flights

- (1) This regulation applies to a flight of an aircraft that begins or ends at an aerodrome outside Australian territory.
- (2) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the Part 91 Manual of Standards prescribes requirements relating to maintaining a journey log for the flight; and
 - (b) the requirements are not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 25 penalty units.

Division 91.C.3—Firearms on aircraft

91.130 Possessing firearm on aircraft

- (1) A person contravenes this subregulation if the person:
 - (a) carries or otherwise possesses a firearm on an aircraft; and

(b) the aircraft is not a prescribed aircraft within the meaning of the *Aviation Transport Security Act 2004*.

(2) Subregulation (1) does not apply if the operator or pilot in command of the aircraft has consented, in writing, to the person carrying or otherwise possessing the firearm on the aircraft.

(3) Subregulation (1) also does not apply if the person is authorised (however described) under another provision of these Regulations or another law of the Commonwealth to carry or otherwise possess the firearm on the aircraft.

Note 1: For other provisions of these Regulations that deal with firearms and aircraft, see Part 138.

Note 2: For other laws of the Commonwealth which deal with firearms and aircraft see:

(a) Division 3 of Part 4 of the *Aviation Transport Security Act 2004*; and

(b) section 23 of the *Crimes (Aviation) Act 1991*.

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

Penalty: 50 penalty units.

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

91.135 Discharging firearm on aircraft

(1) A person contravenes this subregulation if the person discharges a firearm while on an aircraft.

(2) Subregulation (1) does not apply if the person is authorised (however described) under another provision of these Regulations or another law of the Commonwealth to discharge the firearm on the aircraft.

Note 1: For other provisions of these Regulations that deal with firearms and aircraft, see Part 138.

Note 2: For other laws of the Commonwealth which deal with firearms and aircraft see:

(a) Division 3 of Part 4 of the *Aviation Transport Security Act 2004*; and

(b) section 23 of the *Crimes (Aviation) Act 1991*.

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

Penalty: 50 penalty units.

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

Division 91.C.4—Portable electronic devices

91.145 Operation of portable electronic devices

(1) The pilot in command of an aircraft for a flight contravenes this subregulation if:

(a) the pilot in command permits a person to operate a portable electronic device during the flight; and

(b) the pilot in command does not determine that the operation of the device during the flight will not affect the safety of the aircraft.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (2) A person on an aircraft for a flight contravenes this subregulation if:
 - (a) during the flight, the person operates a portable electronic device; and
 - (b) the person has been directed by the pilot in command, or instructed by a cabin crew member, not to operate the portable electronic device during the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.150 Operation of portable electronic devices by crew members

- (1) A crew member for a flight of an aircraft contravenes this subregulation if:
 - (a) the crew member operates a portable electronic device at a time during the flight; and
 - (b) operating the device at that time is likely to distract the crew member from performing the crew member's duties for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.C.5—Special flight operations

91.155 Air displays in Australian territory

- (1) A person contravenes this subregulation if:
 - (a) the person conducts an air display in Australian territory; and
 - (b) the person does not hold an approval under regulation 91.045 to conduct the air display.
- (2) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the flight is in an air display in Australian territory; and
 - (b) the person conducting the air display does not hold an approval under regulation 91.045 to conduct the air display.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

91.160 Towing of things by aircraft

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) a thing is towed by the aircraft; and
 - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that:

- (a) the pilot in command must hold an approval under regulation 91.045 to tow the thing during the flight; or
 - (b) another provision of these Regulations must permit the thing to be towed by the aircraft during the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.165 Flying in formation

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flying in formation; and
 - (b) the pilot in command has not pre-arranged with each pilot in command of the other aircraft making up the formation to fly as part of the formation.

Note: For the requirement for a pilot to hold flight activity endorsements to fly in formation, see regulation 61.380 and table 61.1145.

- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flown in formation at night; and
 - (b) the pilot in command does not hold an approval under regulation 91.045 to fly in formation at night.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flown in formation in IMC; and
 - (b) the pilot in command does not hold an approval under regulation 91.045 to fly in formation in IMC.

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

Penalty: 50 penalty units.

91.170 Aircraft not to create collision hazard by flying near other aircraft

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft is not flying in formation; and
 - (b) the aircraft is flown so close to another aircraft that it creates a collision hazard.

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

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.175 Conducting aerobatic manoeuvres

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight, the pilot in command conducts aerobatic manoeuvres in IMC.

Note: For the requirement for a pilot to hold flight activity endorsements to conduct aerobatic manoeuvres, see regulation 61.380 and table 61.1145.

- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the pilot in command conducts aerobatic manoeuvres:
 - (i) over a populous area; or
 - (ii) at an air display; or
 - (iii) at night; and
 - (b) the pilot in command does not hold an approval under regulation 91.045 to conduct the aerobatic manoeuvres:
 - (i) for a flight over a populous area—over the populous area; or
 - (ii) for a flight at an air display—at the air display; or
 - (iii) for a flight at night—at night.

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

Penalty: 50 penalty units.

Division 91.C.6—Miscellaneous requirements for aircraft

91.185 Crew members—power of arrest

- (1) A crew member of an aircraft for a flight may, without warrant, arrest a person on the aircraft if:
- (a) the crew member believes, on reasonable grounds, that the person is committing, is attempting to commit, is about to commit, has committed or has attempted to commit, an offence against the Act or these Regulations in relation to the aircraft; and
 - (b) the purpose of the arrest is to ensure the safety of the aircraft or of its passengers, crew or cargo or otherwise for the purposes of the Act or these Regulations; and
 - (c) if the crew member is not the pilot in command of the aircraft—the pilot in command has authorised the crew member to arrest the person without warrant.
- (2) The pilot in command of the aircraft must ensure that, as soon as practicable after the end of the flight, a person arrested under subregulation (1) is delivered into the custody of:
- (a) if the flight ends in Australia—a constable; or
 - (b) if the flight ends in a foreign country—a person in that country who is equivalent to a constable.

Note: See also sections 3ZC (use of force in making arrest) and 3ZD (persons to be informed of grounds of arrest) of the *Crimes Act 1914*.

91.200 Carriage of animals

- (1) A person contravenes this subregulation if:
 - (a) the person brings an animal onto an aircraft for a flight; and
 - (b) the person does not have permission from the pilot in command of the aircraft to do so.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot in command of the aircraft gives permission for a person to bring an animal onto the aircraft for the flight; and
 - (b) the pilot in command does not take reasonable steps to ensure that carriage of the animal does not have an adverse effect on the safety of air navigation.
- (3) The operator or the pilot in command of an aircraft for a flight may refuse to carry an assistance animal (within the meaning of the *Disability Discrimination Act 1992*) in the aircraft for the flight if the operator or pilot in command reasonably believes that the carriage of the animal for the flight may have an adverse effect on the safety of air navigation.
- (4) Subregulation (3) has effect despite anything in the *Disability Discrimination Act 1992*.
- (5) The Part 91 Manual of Standards may prescribe requirements relating to the carriage of animals on an aircraft for a flight.
- (6) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot in command is subject to a requirement mentioned in subregulation (5); and
 - (b) the requirement is not met for the flight.
- (7) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the operator is subject to a requirement mentioned in subregulation (5); and
 - (b) the requirement is not met for the flight.
- (8) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), (6) or (7).

Penalty: 50 penalty units.

91.210 Operating aircraft with inoperative item—placarding

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft begins the flight with an inoperative item; and
 - (b) the item is required to be fitted to, or carried on, the aircraft:
 - (i) by the certification basis for the aircraft; or
 - (ii) by or under these Regulations; and
 - (c) the item is accessible, and likely to be used, by a person during the flight; and
 - (d) the item is not placarded as inoperative.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

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

Penalty: 50 penalty units.

91.215 Crew members to be fit for duty

- (1) A crew member of an aircraft for a flight contravenes this subregulation if:
- (a) the crew member is, or is likely to be, unfit to perform a duty:
 - (i) that is a required duty for the crew member to perform during the flight; and
 - (ii) that is related to the safety of the aircraft or of the persons on the aircraft or cargo on the aircraft; and
 - (b) the crew member begins to carry out his or her duties for the flight.
- (2) The operator of an aircraft for a flight contravenes this subregulation if:
- (a) the operator believes on reasonable grounds that a crew member is unfit to perform a duty on the flight; and
 - (b) the duty relates to the safety of the aircraft or of the persons on the aircraft or cargo on the aircraft; and
 - (c) the operator assigns the person to duty for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.
- (4) A person commits an offence if the person contravenes subregulation (2).
- Penalty: 50 penalty units.
- (5) Strict liability applies to paragraphs (2)(b) and (c).
- (6) Without limiting subregulation (1) or (2), a crew member is taken to be, or is taken to be likely to be, unfit to perform a duty if the crew member is:
- (a) fatigued to the extent that the crew member's ability to safely perform the duty is reduced or likely to be reduced; or
 - (b) under the influence of a psychoactive substance to the extent that the crew member's ability to safely perform the duty is reduced or likely to be reduced.

91.220 Manipulating flight controls

- (1) A person contravenes this subregulation if, during a flight of an aircraft:
- (a) the person manipulates the flight controls of the aircraft; and
 - (b) the person is not authorised or qualified to pilot the aircraft:
 - (i) for an Australian aircraft—under Part 61; or
 - (ii) for a foreign registered aircraft—under the law of the aeroplane's State of registry.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:

- (a) the pilot in command permits a person to manipulate the flight controls of the aircraft; and
 - (b) the person is not authorised or qualified to pilot the aircraft:
 - (i) for an Australian aircraft—under Part 61; or
 - (ii) for a foreign registered aircraft—under the law of the aircraft’s State of registry.
 - (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).
- Penalty: 50 penalty units.

Subpart 91.D—Operational procedures

Division 91.D.1—General flight limitations

91.275 Aircraft to be flown under VFR or IFR

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, at any time during the flight, the aircraft is not flown under the VFR or IFR.
 - (2) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.

91.280 VFR flights—compliance with VMC criteria

- (1) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if, during the flight, the aircraft is not flown in accordance with a requirement of the VMC criteria for the aircraft and the airspace in which the flight is conducted.
- (2) Subregulation (1) does not apply to a flight of an aircraft if:
 - (a) air traffic control has authorised the pilot in command of the aircraft to conduct the flight under the special VFR; and
 - (b) the pilot in command complies with the special VFR.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.285 VFR flights—flights at low level

- (1) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown at or below 2,000 ft AGL; and
 - (b) the pilot in command is not able to navigate by visual reference to the ground or water.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

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

Penalty: 50 penalty units.

91.290 VFR flights—aircraft not to exceed certain speeds

- (1) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if, during the flight, the aircraft is flown at a transonic or supersonic speed.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.300 VFR flights—flights in class A airspace

- (1) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown in class A airspace; and
 - (b) the pilot in command does not hold an approval under regulation 91.045 to conduct a VFR flight in class A airspace.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.305 NVIS flights

- (1) The Part 91 Manual of Standards may prescribe requirements relating to the conduct of an NVIS flight.
- (2) The pilot in command of an aircraft for an NVIS flight contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.310 All flights—airspeed limits

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight, the aircraft is not flown in accordance with the airspeed limits for the flight prescribed by the Part 91 Manual of Standards.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.D.2—Flight preparation

91.313 Flight preparation (weather assessments) requirements

- (1) The Part 91 Manual of Standards may prescribe requirements relating to flight preparation and weather assessments (the *flight preparation (weather assessments) requirements*).
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a flight preparation (weather assessments) requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.314 Flight preparation (alternate aerodromes) requirements

- (1) The Part 91 Manual of Standards may prescribe requirements relating to flight preparation and alternate aerodromes (the *flight preparation (alternate aerodromes) requirements*).
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a flight preparation (alternate aerodromes) requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.320 Fuel requirements

- (1) The Part 91 Manual of Standards may prescribe requirements relating to fuel for aircraft, including (but not limited to) the following:
 - (a) matters that must be considered when determining whether an aircraft has sufficient fuel to complete a flight safely;
 - (b) the amounts of fuel that must be carried on board an aircraft for a flight;
 - (c) procedures for monitoring amounts of fuel during a flight;
 - (d) procedures to be followed if fuel reaches specified amounts during a flight.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Division 91.D.3—Flight planning and pre-flight checks

91.325 Flight plans and notifications

- (1) The Part 91 Manual of Standards may prescribe requirements (the *flight planning and notification requirements*) relating to flight plans and notifications.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a flight planning and notification requirement is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.335 Matters to be checked before take-off

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the aircraft takes off for the flight, a check prescribed by the Part 91 Manual of Standards has not been carried out.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.D.4—Flight rules

Subdivision 91.D.4.1—Air traffic services

91.340 Air traffic services—prescribed requirements

- (1) The Part 91 Manual of Standards may prescribe requirements in relation to the use by an aircraft of:
 - (a) a class of airspace; or
 - (b) a controlled aerodrome; or
 - (c) a control area; or
 - (d) a control zone; or
 - (e) a prohibited area; or
 - (f) a restricted area; or
 - (g) a danger area.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a requirement mentioned in subregulation (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.345 Air traffic control clearances—controlled airspace

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft enters, or operates in, controlled airspace; and
 - (b) if the flight is a VFR flight—the airspace is not class E airspace; and
 - (c) the pilot has not been given an air traffic control clearance for the aircraft to enter, or operate in, controlled airspace.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.350 Air traffic control clearances—controlled aerodromes

- (1) The pilot in command of an aircraft for a flight at a controlled aerodrome contravenes this subregulation if:
 - (a) the aircraft:
 - (i) is taxied on any portion of the manoeuvring area of the aerodrome; or
 - (ii) takes off at the aerodrome; or
 - (iii) lands at the aerodrome; and
 - (b) the pilot in command has not been given an air traffic control clearance for the aircraft to do so.
- (2) Subregulation (1) does not apply if the relevant action is permitted, without an air traffic control clearance, under a special procedure that:
 - (a) applies to the controlled aerodrome; and
 - (b) is published in the authorised aeronautical information for the flight.
- (3) Subregulation (1) does not apply if:
 - (a) the aircraft is taxied; and
 - (b) such action is permitted, without an air traffic control clearance, under a special procedure that:
 - (i) is published by the operator of the aerodrome; or
 - (ii) is advised to the pilot in command by air traffic control.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.355 Air traffic control clearances and instructions

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) air traffic control gives the pilot in command an air traffic control clearance or air traffic control instructions; and
 - (b) the pilot in command does not comply with the clearance or instructions.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (2) Subregulation (1) does not apply if:
- (a) it is not practicable to seek authorisation for the non-compliance before it occurs; and
 - (b) the non-compliance is necessary for the safety of the aircraft or the persons on the aircraft; and
 - (c) the pilot in command informs air traffic control about the non-compliance as soon as practicable after the pilot in command is unable to comply with the clearance or instructions.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.360 Unauthorised entry into prohibited or restricted areas

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the aircraft:
 - (i) is in a prohibited area; or
 - (ii) is in a restricted area in contravention of a condition relating to the declaration of the area as a restricted area under regulation 7 of the *Airspace Regulations 2007*; and
 - (b) the pilot in command does not comply with subregulation (2) as soon as the pilot becomes aware that the aircraft is in the prohibited area or restricted area.
- (2) The pilot must:
- (a) if the aircraft is fitted with, or carries, a means for the pilot in command to communicate with Air Traffic Services during the flight—inform Air Traffic Services, or the controlling authority (specified in the authorised aeronautical information for the flight) for the prohibited or restricted area, that the aircraft is in the area; and
 - (b) in any case—fly the aircraft out of the area.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.362 ADIZ flights

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) during the flight the aircraft enters an air defence identification zone published in the authorised aeronautical information for the flight; and
 - (b) a procedure published in the authorised aeronautical information for the flight for that zone is not complied with for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subdivision 91.D.4.2—Cruising levels and minimum heights

91.365 Definitions

In these Regulations:

specified IFR cruising level, for a track, means a cruising level prescribed by the Part 91 Manual of Standards for an IFR flight on the track.

specified VFR cruising level, for a track, means a cruising level prescribed by the Part 91 Manual of Standards for a VFR flight on the track.

Note: For the definition of *track*, see Part 1 of the Dictionary.

91.370 Specified VFR cruising levels

- (1) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if, during the flight on a track, the aircraft is flown at a cruising level that is not a specified VFR cruising level for the track.
- (2) Subregulation (1) does not apply if the aircraft is in uncontrolled airspace and any of the following apply:
 - (a) the aircraft is below 3,000 ft above mean sea level;
 - (b) the aircraft is at or above 3,000 ft above mean sea level but below 1,000 ft AGL;
 - (c) it is not practicable for the pilot in command to fly the aircraft at a specified VFR cruising level for the track.
- (3) Subregulation (1) does not apply if:
 - (a) the aircraft is in controlled airspace; and
 - (b) air traffic control has given the pilot in command clearance to fly the aircraft at that cruising level.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.375 Specified IFR cruising levels

- (1) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if, during the flight on a track, the aircraft is flown at a cruising level that is not a specified IFR cruising level for the track.
- (2) Subregulation (1) does not apply if:
 - (a) the aircraft is in uncontrolled airspace; and
 - (b) it is not practicable for the pilot in command to fly the aircraft at a specified IFR cruising level for the track.
- (3) Subregulation (1) does not apply if air traffic control has:

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (a) given the pilot in command an air traffic control instruction to fly the aircraft at the cruising level; or
 - (b) given the pilot in command an air traffic control clearance to fly the aircraft at the cruising level.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.380 IFR flights at non-specified cruising levels—~~notifying Air Traffic Services~~

- (1) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if, during the flight on a track:
- (a) the aircraft is flown at a cruising level that is not a specified IFR cruising level for the track; and
 - (b) before the aircraft is flown at that cruising level the pilot in command does not notify Air Traffic Services of the cruising level.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.385 IFR flights at non-specified cruising levels—~~avoiding collisions with aircraft conducting VFR flights~~

- (1) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if, during the flight on a track:
- (a) the aircraft is flown at a cruising level that is not a specified IFR cruising level for the track; and
 - (b) there is a risk of collision between the aircraft and another aircraft that:
 - (i) is conducting a VFR flight on a track; and
 - (ii) is flying at a specified VFR cruising level for the track; and
 - (c) the pilot in command does not give way to the other aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.387 Altimeter requirements

- (1) The Part 91 Manual of Standards may prescribe requirements relating to altimeter setting procedures to be used during prescribed stages of a flight of an aircraft.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if a requirement mentioned in subsection (1) is not met for the flight.

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

Penalty: 50 penalty units.

91.390 Minimum heights—IFR flights

- (1) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if, during the flight:
- (a) the aircraft is flown along a route or route segment at a height lower than the minimum height mentioned in subregulation (2); and
 - (b) none of the circumstances mentioned in subregulation (3) applies.
- (2) The minimum height is the lowest of the following for the route or route segment:
- (a) the published lowest safe altitude for the route or route segment (if any);
 - (b) the minimum sector altitude published in the authorised aeronautical information for the flight (if any);
 - (c) the lowest safe altitude for the route or route segment.

Note: For the definition of *lowest safe altitude*, see Part 1 of the Dictionary.

- (3) The circumstances are the following:
- (a) the aircraft is taking off or landing;
 - (b) the aircraft is being flown in accordance with:
 - (i) requirements relating to visual approach or departure procedures published in the authorised aeronautical information for the flight; or
 - (ii) an authorised instrument departure procedure or an authorised instrument approach procedure; or
 - (iii) an air traffic control clearance;
 - (c) the aircraft is being flown in VMC by day.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.395 Minimum heights—VFR flights at night

- (1) The pilot in command of an aircraft for a VFR flight at night contravenes this subregulation if, during the flight:
- (a) the aircraft is flown along a route or route segment at a height lower than the minimum height mentioned in subregulation (2); and
 - (b) none of the circumstances mentioned in subregulation (3) applies.
- (2) The minimum height is the lowest height of the following for the route or route segment:
- (a) the published lowest safe altitude for the route or route segment (if any);
 - (b) the minimum sector altitude published in the authorised aeronautical information for the flight (if any);
 - (c) the lowest safe altitude for the route or route segment;

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (d) 1,000 ft above the highest obstacle on the ground or water within 10 nautical miles ahead of, and to either side of, the aircraft at that point on the route or route segment;
 - (e) the lowest altitude for the route or route segment calculated in accordance with a method prescribed by the Part 91 Manual of Standards for the purposes of this paragraph.
- (3) The circumstances are the following:
- (a) the aircraft is taking off or landing;
 - (b) the aircraft is within 3 nautical miles of the aerodrome from which the aircraft has taken off, or at which the aircraft will land;
 - (c) the aircraft is being flown in accordance with an air traffic control clearance.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.400 Minimum height rules—populous areas and public gatherings

- (1) This regulation applies if an aircraft is flown over a populous area or a public gathering.
- (2) The pilot in command of an aeroplane for a flight contravenes this subregulation if, during the flight:
- (a) the aeroplane is flown below 1,000 ft above the highest feature or obstacle within a horizontal radius of 600 m of the point on the ground or water immediately below the aeroplane; and
 - (b) none of the circumstances mentioned in subregulation (4) applies.
- (3) The pilot in command of a rotorcraft for a flight contravenes this subregulation if, during the flight:
- (a) the rotorcraft is flown below 1,000 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the rotorcraft; and
 - (b) none of the circumstances mentioned in subregulation (4) applies.
- (4) The circumstances are the following:
- (a) the aircraft is taking off or landing in circumstances prescribed by the Part 91 Manual of Standards;
 - (b) the aircraft is engaged in a missed approach;
 - (c) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice emergency procedure at an aerodrome;
 - (d) the aircraft is performing training circuits at an aerodrome;
 - (e) the pilot holds an approval for the purposes of regulation 91.155 (air displays in Australian territory);
 - (f) for a rotorcraft—the rotorcraft is hovering, air transiting, air taxiing or ground taxiing at an aerodrome;
 - (g) for a rotorcraft, seaplane or amphibian—the aircraft is flying within an access lane:

- (i) that is for use by aircraft taking off from, or landing at, a particular place; and
 - (ii) details of which are published in the authorised aeronautical information for the flight;
 - (h) for a single-engine seaplane or a single-engine amphibian:
 - (i) the aeroplane is operating over water and within safe gliding distance of open water suitable for a forced landing; and
 - (ii) the aeroplane is not flown below 1,000 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the water immediately below the aeroplane;
 - (i) the aircraft is engaged in a procedure to determine the suitability of an aerodrome for a landing.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

91.403 Minimum height rules—other areas

- (1) This regulation applies if an aircraft is flown other than over a populous area or a public gathering.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is flown below 500 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the aircraft; and
 - (b) none of the circumstances mentioned in subregulation (3) applies.
- (3) The circumstances are the following:
 - (a) the aircraft is taking off or landing in circumstances prescribed by the Part 91 Manual of Standards;
 - (b) the aircraft is engaged in a missed approach;
 - (c) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice emergency procedure at an aerodrome;
 - (d) the aircraft:
 - (i) is not carrying passengers; and
 - (ii) is engaged in a practice forced landing procedure with the consent of the person or authority having control over the land or water above which the procedure is carried out;
 - (e) the aircraft:
 - (i) is being operated by a Part 141 operator to conduct low-flying flight training or by a Part 142 operator to conduct a low-flying activity; and
 - (ii) is being flown over an area that, with the consent of the person or authority with control of the area, has been determined by the operator to be a suitable flight training area for the training and has been surveyed by the pilot in command for obstacles before the flight; and
 - (iii) is not carrying passengers;
 - (f) the aircraft is performing training circuits at an aerodrome;

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (g) the pilot holds an approval for the purposes of regulation 91.155 (air displays in Australian territory);
 - (h) all of the following apply:
 - (i) the pilot in command of the aircraft is authorised under Part 61, or holds an approval under regulation 91.045, to fly the aircraft below the height mentioned in paragraph (2)(a);
 - (ii) the pilot in command of the aircraft conducts a risk assessment of the area to be flown over;
 - (iii) the point on the ground or water vertically below the aircraft is not within 150 m of a person, vessel, vehicle or structure or of livestock;
 - (i) for a rotorcraft—the rotorcraft is hovering, air transiting, air taxiing or ground taxiing at an aerodrome;
 - (j) for a rotorcraft, seaplane or amphibian—the aircraft is flying within an access lane:
 - (i) that is for use by aircraft taking off from, or landing at, a particular place; and
 - (ii) details of which are published in the authorised aeronautical information for the flight;
 - (k) the aircraft is engaged in a procedure to determine the suitability of an aerodrome for a landing.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Subdivision 91.D.4.3—Taking off and landing

91.415 Specified aircraft performance categories

- (1) The operator of an aircraft contravenes this subregulation if, while the aircraft is operating at an aerodrome:
 - (a) the aircraft does not operate in the specified aircraft performance category for the aircraft at the aerodrome; and
 - (b) the operator:
 - (i) does not hold an approval under regulation 91.045 for the aircraft to operate in a lower aircraft performance category for the aircraft at the aerodrome; or
 - (ii) holds an approval under regulation 91.045 for the aircraft to operate in a lower aircraft performance category for the aircraft at the aerodrome but does not comply with subregulation (3).
- (2) The operator of an aircraft contravenes this subregulation if:
 - (a) the operator holds an approval under regulation 91.045 for the aircraft to operate in a lower aircraft performance category for the aircraft at the aerodrome; and
 - (b) the aircraft does not operate in that lower aircraft performance category.
- (3) The operator must give details to the flight crew of:
 - (a) the approval; and
 - (b) the conditions (if any) imposed by CASA on the approval.

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

Penalty: 50 penalty units.

91.420 IFR take-off and landing minima

- (1) The Part 91 Manual of Standards may prescribe the following:
- (a) requirements (the *take-off minima requirements*) relating to take-off minima for an aerodrome;
 - (b) requirements (the *landing minima requirements*) relating to landing minima for an aerodrome.
- (2) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if:
- (a) the aircraft conducts a take-off at an aerodrome; and
 - (b) a take-off minima requirement for the aerodrome is not met for the flight.
- (3) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if:
- (a) the aircraft conducts a landing at an aerodrome; and
 - (b) a landing minima requirement for the aerodrome is not met for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (2) or (3).

Penalty: 50 penalty units.

91.425 Taking off and landing in low visibility

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the aircraft conducts either of the following at an aerodrome:
 - (i) a low-visibility take-off;
 - (ii) a low-visibility approach; and
 - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that one of the following apply:
- (a) the pilot in command holds an approval under regulation 91.045 for the aircraft to conduct the low visibility take-off or the low-visibility approach;
 - (b) the operator of the aircraft holds an approval under another provision of these Regulations to conduct the low visibility take-off or the low-visibility approach.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.427 Use of aerodromes

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the aircraft takes off from, or lands at, a place; and
 - (b) the place does not meet the requirement in subsection (2).

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (2) The requirement is that:
 - (a) the place is one of the following:
 - (i) a certified aerodrome;
 - (ii) a registered aerodrome;
 - (iii) an aerodrome for which an arrangement under section 20 of the Act is in force;
 - (iv) a place that is suitable for the landing and taking-off of aircraft; and
 - (b) the aircraft can land at, or take off from, the place safely having regard to all the circumstances of the proposed landing or take-off (including the prevailing weather conditions).
- (3) For the purposes of the definition of *aerodrome* in the Act, a place mentioned in subparagraph (2)(a)(iv) is authorised to be used as an aerodrome.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.D.5—Avoiding collisions

Subdivision 91.D.5.1—General

91.430 Aircraft not to be operated in manner that creates a hazard

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if the aircraft is operated in a manner that creates a hazard to another aircraft, a person or property.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subdivision 91.D.5.2—Avoiding collisions in the air

91.435 Basic rule

A flight crew member must, during a flight, maintain vigilance, so far as weather conditions permit, to see and avoid other aircraft.

91.440 Right of way rules

- (1) The pilot in command of an aircraft contravenes this subregulation if, during a flight:
 - (a) there is a risk of collision between the aircraft and another aircraft; and
 - (b) a circumstance mentioned in column 1 of an item in the following table exists; and
 - (c) the pilot in command contravenes the right of way rule mentioned in column 2 of that item.

EXPOSURE DRAFT

Amendments **Schedule 1**
Main amendments **Part 1**

Right of way rules		
Item	Column 1	Column 2
	Circumstance	Right of way rule
1	An aircraft is in an emergency and compelled to land	Any other aircraft must give way to the aircraft that is compelled to land
2	An aircraft is landing	Any other aircraft (whether in flight or operating on the ground or water) must give way to the aircraft that is landing
3	Two heavier-than-air aircraft are conducting an approach to land at an aerodrome	The following rules apply: (a) the higher aircraft must give way to the lower aircraft; (b) however, if the higher aircraft is in the final stages of an approach to land, the lower aircraft must not take advantage of the higher aircraft's need to comply with paragraph (a) to cut in front of the higher aircraft; (c) despite paragraphs (a) and (b), a power-driven heavier-than-air aircraft must give way to a glider
4	An aircraft is overtaking another aircraft	The aircraft that is overtaking must give way to the aircraft being overtaken
5	Aircraft mentioned in column 2 are in the same vicinity	An aircraft mentioned in the following list must give way to an aircraft listed above it in the list: (a) a balloon; (b) a person descending by parachute; (c) a glider; (d) an airship; (e) an aircraft that is towing something (including another aircraft); (f) a power-driven aircraft
6	Two aircraft are on converging headings at approximately the same altitude	The aircraft that has the other aircraft on its right must give way to the other aircraft

(2) Subregulation (1) does not apply if it is necessary, in order to avoid a collision with an aircraft, to not comply with the right of way rule.

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

Penalty: 50 penalty units.

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

91.445 Additional right of way rules

Aircraft with right of way to maintain heading and speed

(1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:

(a) there is a risk of collision with another aircraft; and

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (b) the aircraft has right of way over the other aircraft (in accordance with regulation 91.440); and
- (c) the aircraft's heading and speed is not maintained until there is no longer a risk of collision.

Overtaking aircraft to keep clear and to right

- (2) The pilot in command of an aircraft contravenes this subregulation if, when the aircraft is overtaking another aircraft (whether in the course of climbing, descending or in level flight), the pilot does not:
 - (a) keep the aircraft out of the way of the other aircraft, even if the other aircraft alters course while being overtaken; and
 - (b) fly the aircraft so that it passes to the right of the other aircraft and remains on the right until clear of the other aircraft.

Aircraft approaching head on to alter heading to right

- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft and another aircraft are approaching in the air head on or approximately so; and
 - (b) there is a risk of collision; and
 - (c) the aircraft's heading is not altered to the right.

Aircraft giving way not to create collision risk

- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is required to give way to another aircraft:
 - (i) by a right of way rule in regulation 91.440; or
 - (ii) by an additional right of way rule in subregulation (1), (2) or (3) of this regulation; or
 - (iii) by an additional right of way rule in regulation 91.450; and
 - (b) the aircraft is flown so that it passes ahead of the other aircraft, or directly over or under it, so closely that there is a risk of collision.

Exceptions

- (5) Subregulation (1), (2), (3) or (4) does not apply if it is necessary, in order to avoid a collision with an aircraft, to not comply with the subregulation.
- (6) Subregulation (4) does not apply if, as a result of a command of the aircraft's airborne collision avoidance system, the pilot was manoeuvring the aircraft to the extent necessary to ensure the safety of the aircraft.

Offence

- (7) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), (3) or (4).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (5) or (6): see subsection 13.3(3) of the *Criminal Code*.

91.450 Right of way rules for take-off and landing

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during take-off or landing, the aircraft is flown in a manner that creates a risk of collision with:
 - (a) another aircraft; or
 - (b) a person, vessel, vehicle or structure.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subdivision 91.D.5.3—Avoiding collisions on water

91.455 Compliance with International Regulations

- (1) This regulation only applies in relation to a requirement of the International Regulations to the extent that the requirement is not inconsistent with a requirement of regulation 91.465.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is operating on water; and
 - (b) the aircraft is not operated in accordance with the International Regulations.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.460 Giving way to vessels

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is in level flight, or is manoeuvring near the surface of water; and
 - (b) the aircraft does not, as far as possible:
 - (i) keep clear of a vessel; or
 - (ii) avoid impeding the navigation of a vessel.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.465 Giving way on water

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) the aircraft is on water; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (a) the aircraft must give way to, and keep well clear of, an aircraft or vessel converging on its right;
 - (b) the aircraft must alter its heading to the right, and keep well clear, of an aircraft or vessel that is approaching head-on or approximately head-on;
 - (c) the aircraft, if overtaking a vessel or another aircraft, must:
 - (i) give way to the vessel or aircraft being overtaken; and
 - (ii) alter its heading to keep well clear of the vessel or aircraft being overtaken.
- (3) Subregulation (1) does not apply if it is necessary, to avoid a collision with an aircraft or vessel, to not comply with the requirement.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

Subdivision 91.D.5.4—Avoiding collisions at or in the vicinity of aerodromes

91.470 Meaning of *in the vicinity of a non-controlled aerodrome*

- (1) An aircraft is *in the vicinity of a non-controlled aerodrome* if it is:
- (a) in uncontrolled airspace; and
 - (b) within 10 nautical miles of the aerodrome; and
 - (c) at a height above the aerodrome that could result in conflict with air traffic at the aerodrome.
- (2) For paragraph (1)(b), if an aerodrome reference point for the aerodrome is published in the authorised aeronautical information for the flight, the distance must be measured from that point.

91.475 Taxiing or towing on movement area of aerodrome

- (1) A person contravenes this subregulation if:
- (a) the person is taxiing or towing an aircraft on the movement area of an aerodrome; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the aircraft and any tow vehicle must give way, in accordance with subsection (3), to an aircraft that is landing or on its final approach to land;
 - (b) the aircraft and any tow vehicle must give way, in accordance with subsection (3), to an aircraft that is taking off or preparing for take-off;
 - (c) the aircraft and any tow vehicle must keep well clear of an aircraft it is overtaking;
 - (d) the aircraft and any tow vehicle must give way to an aircraft on the right if both aircraft are on a converging course;

- (e) the aircraft and any tow vehicle must stop, or alter course to the right, so as to remain clear of an aircraft approaching head on or approximately so.
- (3) For the purposes of paragraph (2)(a) or (2)(b):
 - (a) for a runway that has a marked runway hold position for the aircraft—the aircraft giving way and any tow vehicle must hold at that position; and
 - (b) for a runway that does not have a marked runway hold position—the aircraft giving way and any tow vehicle must not encroach upon a graded runway strip.
- (4) Subregulation (1) does not apply if it is necessary, to avoid a collision with an aircraft and any tow vehicle, to not comply with the requirement.
- (5) Subregulation (1) does not apply if the aircraft and any tow vehicle are being operated in accordance with an air traffic control clearance or air traffic control instructions.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (4) or (5): see subsection 13.3(3) of the *Criminal Code*.

91.480 Take-off or landing at non-controlled aerodrome—all aircraft

- (1) This regulation applies to an aircraft (the *subject aircraft*) at a non-controlled aerodrome at which a take-off or landing of the aircraft can only occur from or to a runway.

Rules for take-off

- (2) The pilot in command of the subject aircraft for a flight contravenes this subregulation if:
 - (a) the subject aircraft commences to take-off from a runway; and
 - (b) before taking off, a requirement mentioned in subregulation (3) is not met.
- (3) The requirements are the following:
 - (a) if another aircraft is taking off before the subject aircraft from the same runway:
 - (i) the other aircraft must have crossed the upwind end of the runway; or
 - (ii) the other aircraft must have commenced a turn; or
 - (iii) the runway must be longer than 1,800 m and the other aircraft must have become airborne and be at least 1,800 m beyond the proposed point of lift-off of the subject aircraft; or
 - (iv) the other aircraft and the subject aircraft must both have a maximum take-off weight below 2,000 kg, and the other aircraft must be airborne and at least 600 m beyond the proposed point of lift-off of the subject aircraft;
 - (b) if another aircraft is landing on the same runway before the subject aircraft—the other aircraft must have vacated the runway;

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (c) if another aircraft is landing before the subject aircraft and is using a crossing runway—the other aircraft must have crossed, or must have stopped short of, the runway the subject aircraft is taking off from.

Rules for landing

- (4) The pilot in command of the subject aircraft for a flight contravenes this subregulation if:
 - (a) the subject aircraft continues an approach to land at an aerodrome beyond the threshold of the runway; and
 - (b) before landing, a requirement mentioned in subregulation (5) is not met.
- (5) The requirements are the following:
 - (a) if another aircraft is taking off using the same runway before the subject aircraft:
 - (i) the other aircraft must be airborne and must have commenced a turn; or
 - (ii) the other aircraft must be beyond the point on the runway at which the subject aircraft could be expected to complete its landing roll, and there must be sufficient distance for the subject aircraft to manoeuvre safely in the event of a missed approach;
 - (b) if another aircraft is landing on the same runway before the subject aircraft—the other aircraft must have vacated the runway or must be taxiing away from the runway;
 - (c) if another aircraft is landing before the subject aircraft and is using a crossing runway—the other aircraft must have crossed, or must have stopped short of, the runway the subject aircraft is landing on.

Application of rules where gliders or glider tugs operate

- (6) At an aerodrome where gliders or glider tugs operate to a common circuit pattern from a parallel strip outside the runway strip:
 - (a) subregulations (2) and (4) apply to an aircraft taking off or landing, respectively, on either the runway or the parallel strip as if the runway and the strip were a single runway; but
 - (b) aircraft taxiing or stationary on either the runway or the parallel strip are taken not to affect operations on the other.

Exception

- (7) Subregulation (2) or (4) does not apply if:
 - (a) the aircraft is taking off or landing at an aerodrome where gliders or glider tugs operate to a contra-circuit pattern on both a runway and a parallel strip outside the runway strip; and
 - (b) simultaneous operations on the runway and the parallel strip are permitted.

Offence

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (7): see subsection 13.3(3) of the *Criminal Code*.

91.490 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—general requirements

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the pilot must keep a lookout for other aircraft that are being operated on the manoeuvring area, or in the vicinity, of the aerodrome to avoid a collision;
 - (b) the pilot must ensure that the aircraft does not cause a danger to other aircraft on the manoeuvring area, or in the vicinity, of the aerodrome;
 - (c) if the pilot is flying the aircraft in the vicinity of the aerodrome—the pilot must join, or avoid, the circuit pattern for the aerodrome;
 - (d) if the aircraft is an aeroplane—the pilot must not:
 - (i) take-off from a part of the aerodrome that is outside the aerodrome landing area; or
 - (ii) land the aircraft on a part of the aerodrome that is outside the aerodrome landing area.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.495 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—landing and taking off into the wind

- (1) This regulation does not apply in relation to an aircraft engaged in an aerial application operation in accordance with the requirements of regulation 137.160.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) the pilot does not, to the extent practicable, land and take off into the wind.
- (3) Subregulation (2) does not apply if:
 - (a) the aircraft flight manual instructions for the aircraft allow the aircraft to land or take off downwind; and
 - (b) the pilot is satisfied that traffic conditions at the aerodrome enable such a landing or take-off to be carried out safely.
- (4) A person commits an offence if the person contravenes subregulation (2).

Penalty: 50 penalty units.

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

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.500 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—requirements that apply after joining the circuit pattern

- (1) The pilot in command of an aircraft (other than a rotorcraft) for a flight contravenes this subregulation if:
 - (a) the aircraft is operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) after joining the circuit pattern for a landing or while flying in the circuit pattern after take-off, the pilot does not:
 - (i) comply with instructions in the authorised aeronautical information for the flight to the effect that all turns be made in a particular direction; or
 - (ii) if there are no relevant instructions in the authorised aeronautical information for the flight—make all turns to the left.
- (2) Subregulation (1) does not apply to the pilot in command of a seaplane or amphibian if the pilot in command contravenes the subregulation only to the extent necessary:
 - (a) to avoid an obstacle; or
 - (b) to avoid undue noise over a populated area without compromising the aircraft's safety; or
 - (c) for a single-engine seaplane or amphibian—to enable the aircraft to land on water if its engine fails.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.505 Operating on manoeuvring area, or in the vicinity, of non-controlled aerodrome—requirements related to maintaining the same track after take-off

- (1) The pilot in command of an aircraft (other than a rotorcraft) for a flight contravenes this subregulation if:
 - (a) the aircraft is operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) the pilot does not, after take-off, maintain the same track from the take-off until the aircraft is 500 ft AGL.
- (2) Subregulation (1) does not apply to the pilot in command of a seaplane or amphibian if the pilot in command contravenes the subregulation only to the extent necessary:
 - (a) to avoid an obstacle; or
 - (b) to avoid undue noise over a populated area without compromising the aircraft's safety; or
 - (c) for a single engine seaplane or amphibian—to enable the aircraft to land on water if its engine fails.

- (3) Subregulation (1) does not apply to the pilot in command of an aircraft if a change to the track is necessary to avoid the terrain.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.515 Straight-in approaches at non-controlled aerodromes

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft approaches a non-controlled aerodrome to land using a straight-in approach; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) before starting the approach, the pilot in command must determine:
 - (i) the wind direction at the aerodrome; and
 - (ii) the runways in use at the aerodrome;
 - (b) the aircraft must give way to any other aircraft flying in the circuit pattern for the aerodrome;
 - (c) for an approach other than an approach carried out in IMC using an instrument approach procedure—all manoeuvring must be carried out, to establish the aircraft on the final approach, at least 3 nautical miles from the threshold of the runway intended to be used for the landing.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.520 Communicating at certified, registered, military or designated non-controlled aerodromes

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is operated on the manoeuvring area of, or in the vicinity of:
 - (i) a certified aerodrome; or
 - (ii) a registered aerodrome; or
 - (iii) a military aerodrome; or
 - (iv) an aerodrome prescribed as a designated non-controlled aerodrome by the Part 91 Manual of Standards for this subparagraph; and
 - (b) the aerodrome is a non-controlled aerodrome; and
 - (c) if the aircraft is carrying an operative radio, the pilot is not:
 - (i) if the aircraft is an Australian aircraft—authorised to operate the radio under Part 61; or
 - (ii) if the aircraft is a foreign registered aircraft—authorised to operate the radio under the law of the aircraft's State of registry; and
 - (d) if the aircraft is not carrying an operative radio—the requirement in subregulation (2) is not met.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (2) The requirement is that either subregulation (3) or subregulation (4) is satisfied.
- (3) This subregulation is satisfied if:
 - (a) the flight is conducted during the day in VMC; and
 - (b) the flight is conducted in company with another aircraft; and
 - (c) the other aircraft is carrying an operative radio; and
 - (d) the pilot in command of the other aircraft is:
 - (i) if the aircraft is an Australian aircraft—authorised to operate the radio under Part 61; or
 - (ii) if the aircraft is a foreign registered aircraft—authorised to operate the radio under the law of the aircraft’s State of registry.
- (4) This subregulation is satisfied if:
 - (a) either:
 - (i) the radio becomes inoperative during the flight; or
 - (ii) the purpose of the flight is to take the radio to a place where it can be repaired; and
 - (b) if the aircraft is flying in the vicinity of the aerodrome—each of the following is switched on:
 - (i) the aircraft’s landing lights (if any);
 - (ii) the aircraft’s anti-collision lights (if any);
 - (iii) the aircraft’s secondary surveillance radar transponder (if any); and
 - (c) if the aircraft is arriving at the aerodrome—the aircraft joins the circuit pattern for the aerodrome on the cross-wind or down-wind leg of the circuit pattern.

Note: For requirements relating to the failure of radios generally, see regulation 91.915.

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

Penalty: 50 penalty units.

91.525 Aircraft in aerodrome traffic at controlled aerodromes

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is part of aerodrome traffic at a controlled aerodrome; and
 - (b) a requirement mentioned in subregulation (2) is not met.
 - (2) The requirements are the following:
 - (a) if a continuous listening watch on the frequency specified in the authorised aeronautical information for the flight for communications with Air Traffic Services for the aerodrome can be maintained—the continuous listening watch must be maintained;
 - (b) if paragraph (a) does not apply—a continuous watch for instructions given visually by Air Traffic Services for the aerodrome must be maintained;
 - (c) authorisation to conduct a manoeuvre preparatory to, or associated with, taxiing, landing or take-off must be obtained from Air Traffic Services for the aerodrome before the manoeuvre is conducted.
 - (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is part of aerodrome traffic at a controlled aerodrome; and
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- (b) a requirement mentioned in subregulation (4) is not met.
- (4) The requirements are the following:
 - (a) if the aircraft takes off from the aerodrome and a change to the aircraft's track is not necessary to avoid the terrain—the aircraft must maintain the same track from the take-off until the aircraft is 500 ft AGL;
 - (b) if the aircraft joins the circuit pattern for the aerodrome for a landing—the aircraft must, after joining the circuit pattern, make all turns in the direction of the circuit pattern;
 - (c) if the aircraft takes off from the aerodrome—the aircraft must, after taking off, make all turns in the direction of the circuit pattern while the pilot is flying in the circuit pattern for the aerodrome.
- (5) Subregulation (3) does not apply if:
 - (a) Air Traffic Services for the aerodrome instructed or permitted the pilot to engage in the conduct that would otherwise result in the contravention of that subregulation; or
 - (b) the aircraft is being flown in accordance with an authorised instrument departure procedure or an authorised instrument approach procedure.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

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

Division 91.D.6—Ground operations

91.535 Taxiing aircraft

- (1) A person contravenes this subregulation if:
 - (a) the person taxis an aircraft; and
 - (b) any of the following apply:
 - (i) for an aeroplane that is an Australian aircraft—the person is not authorised under Part 61 or 64 to taxi the aeroplane;
 - (ii) for a rotorcraft that is an Australian aircraft—the person is not authorised under Part 61 to taxi the rotorcraft;
 - (iii) for an aeroplane that is a foreign registered aircraft—the person is not qualified to taxi the aeroplane under the law of the aeroplane's State of registry or authorised under Part 64;
 - (iv) for a rotorcraft that is a foreign registered aircraft—the person is not qualified under the law of the aeroplane's State of registry to pilot the rotorcraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

91.540 Parked aircraft not to create hazard

- (1) A person contravenes this subregulation if the person parks an aircraft in a place where the aircraft is a hazard to the movement of other aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 25 penalty units.

91.545 Safety when aeroplane operating on ground

- (1) A person contravenes this subregulation if:
 - (a) the person starts the engine of an aeroplane, or causes the engine to be started, while the aeroplane is on the ground; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the person who starts the engine or causes the engine to be started must be:
 - (i) if the aeroplane is an Australian aircraft—a person authorised to pilot the aeroplane under Part 61 or a person authorised to taxi the aeroplane under Part 64; or
 - (ii) if the aeroplane is a foreign registered aircraft—a person qualified under the law of the aeroplane's State of registry to pilot or taxi the aeroplane; or
 - (iii) a person of a kind prescribed by the Part 91 Manual of Standards; and
 - (b) if subparagraph (a)(iii) applies—the aeroplane must be secured from moving.
- (3) Subregulation (1) does not apply if:
 - (a) the person starting the engine of the aeroplane is hand-starting the propeller of the aeroplane; and
 - (b) assistance is not readily available; and
 - (c) adequate provision is made to prevent the aeroplane moving forward; and
 - (d) no person is on board the aircraft.
- (4) A person contravenes this subregulation if:
 - (a) the person operates an aeroplane on the ground, or causes an aeroplane to be operated on the ground; and
 - (b) the person permits another person to board the aeroplane or to remain on the aeroplane while a pilot seat of the aeroplane is not occupied by a person who is competent to apply the brakes and control the engine.
- (5) For paragraph (4)(b), a person is *competent to apply the brakes and control the engine* of an aeroplane if:
 - (a) the person has been given instructions on how, and assessed as competent to, apply the brakes and control the engine (including how to shut the engine down) by another person; or
 - (b) the person is authorised under Part 61 or Part 64 to taxi the aeroplane; or
 - (c) if the aeroplane is a foreign registered aircraft—the person is qualified to pilot or taxi the aeroplane under the law of the aircraft's State of registry.

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

Penalty: 50 penalty units.

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

91.550 Safety when rotorcraft operating on ground

- (1) A person contravenes this subregulation if:
- (a) the person operates a rotorcraft on the ground; and
 - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that the person must be:
- (a) for an Australian aircraft—authorised under Part 61 to pilot the rotorcraft; or
 - (b) for a rotorcraft that is a foreign registered aircraft—qualified to pilot the rotorcraft under the law of the rotorcraft’s State of registry.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.D.7—Causing or simulating failures etc.

Subdivision 91.D.7.1—Causing or simulating instrument failure etc.

91.555 Causing or simulating failure of flight instruments

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) the failure of an instrument of any of the following kinds is caused or simulated:
 - (i) an attitude indicator;
 - (ii) a gyrocompass or an equivalent instrument;
 - (iii) an airspeed indicator;
 - (iv) an altimeter; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the flight must be conducted for the purpose of pilot training, checking or testing;
 - (b) only crew members that are required for the training, checking or testing are carried on the flight;
 - (c) a person who is authorised to pilot the aircraft under Part 61 (or in the case of a foreign aircraft, under the law of the aircraft’s State of registry):
 - (i) must occupy a pilot seat fitted with a fully functioning set of flight controls; and

EXPOSURE DRAFT

Schedule 1 Amendments Part 1 Main amendments

- (ii) if the flight is in IMC or at night—must have a clear view of an operative instrument of the same kind as the instrument subjected to failure or simulated failure.
- (3) Subregulation (1) does not apply if the pilot in command is carrying out a procedure to diagnose or isolate a failure of an instrument or system.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.560 Simulating engine failure

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) an engine failure is simulated; and
 - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that one of the following must apply to the aircraft:
 - (a) the aircraft must be type-certificated to carry not more than 9 passengers, or must have a maximum take-off weight of not more than 8,618 kg;
 - (b) for an aircraft that is type certificated to carry more than 9 passengers but not more than 19 passengers:
 - (i) there must be no flight simulator for the type of aircraft in Australia; or
 - (ii) if subparagraph (i) does not apply—the operator must hold an approval from CASA under regulation 91.045 to simulate the failure of the engine;
 - (c) for an aircraft that is type certificated to carry more than 19 passengers, or that has a maximum take-off weight greater than 8,618 kg:
 - (i) there must be no flight simulator for the type of aircraft in Australia; and
 - (ii) there must be no flight simulator approved by a recognised national aviation authority in a foreign country for the type of aircraft; and
 - (iii) if subparagraphs (i) and (ii) do not apply—the operator must hold an approval from CASA under regulation 91.045 to simulate the failure of the engine;
 - (d) the aircraft must be conducting a flight of the following kind in accordance with the requirements in Subpart 91.T for the kind of flight:
 - (i) a test flight of a provisionally certificated aircraft;
 - (ii) if a special flight permit allows the aircraft to simulate a failure of the engine—a flight under the special flight permit;
 - (iii) if an experimental certificate allows the aircraft to simulate a failure of the engine—a flight under the experimental certificate.
- (3) An application for an approval mentioned in subparagraph (2)(b)(ii) or (2)(c)(iii) must include a safety risk management plan.
- (4) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.565 Simulating IMC flying

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) during the flight, IMC conditions are simulated; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) a pilot (the *safety pilot*) must:
 - (i) occupy a pilot seat fitted with fully functioning flight controls; and
 - (ii) have adequate vision forward and to each side of the aircraft;
 - (b) a pilot (the *second pilot*) flying under simulated IMC must occupy a pilot seat fitted with fully functioning flight controls;
 - (c) the safety pilot must be authorised or qualified to pilot the aircraft:
 - (i) for an Australian aircraft—under Part 61; or
 - (ii) for a foreign registered aircraft—under the law of the aircraft’s State of registry.

Note: If the flight manual for an aircraft requires that it be flown by 2 pilots, Part 61 requires both pilots to have a type rating for the aircraft.

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

Penalty: 50 penalty units.

91.567 Training flight limitations etc.

- (1) In this regulation:

permitted person, in relation to an aircraft, means:

- (a) a person who is carried on the aircraft for the purpose of:
 - (i) giving or receiving flying training or flight engineer training; or
 - (ii) practising for the grant of a flight crew licence, rating or endorsement; or
 - (iii) being assessed for the grant of a flight crew licence, rating or endorsement; or
 - (b) a person authorised by the operator of the aircraft to conduct an audit of the operation involved, or to supervise it; or
 - (c) an authorised officer carrying out an examination, inspection or test of the work of the aircraft’s crew under these Regulations.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) a person other than a permitted person is carried on the aircraft; and
 - (b) the pilot in command permits any of the following:
 - (i) flight training for a flight crew member who does not hold a class rating or type rating for the aircraft;
 - (ii) the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft;
 - (iii) training below 500 ft AGL (other than training for take-off and landing);

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (iv) training mentioned in Part 61 for a low-level rating, an aerial application rating, an aerobatic endorsement or a spinning endorsement, or training for an equivalent qualification under a law of a foreign country.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) a person other than the following is carried on the aircraft:
 - (i) a permitted person;
 - (ii) a member of the aircraft's maintenance personnel who is required, as part of his or her duties, to be on the aircraft; and
 - (b) the pilot in command permits a test of the aircraft, or any of its components, power units or equipment (other than a test of the aircraft during the course of checks associated with the normal operation of the aircraft).
- (4) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) for a flight for which the activity mentioned in subparagraph (2)(b)(i) is permitted—more than 4 permitted persons, including the pilot, are on the aircraft; or
 - (b) for a flight for which the activity mentioned in subparagraph (2)(b)(ii) or (iv) is permitted—more than 3 permitted persons, including the pilot, are on the aircraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (2), (3) or (4).

Penalty: 50 penalty units.

Subdivision 91.D.7.2—Causing or simulating engine failure etc. for aeroplanes

91.570 IFR flights and VFR flights at night—engine not to be shut down

- (1) The pilot in command of an aeroplane for a flight contravenes this subregulation if:
 - (a) the flight is:
 - (i) an IFR flight; or
 - (ii) a VFR flight at night; and
 - (b) an engine is shut down.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.575 Single-engine aeroplane—VFR flights by day—engine not to be shut down

- (1) The pilot in command of a single-engine aeroplane for a flight contravenes this subregulation if:
 - (a) the flight is a VFR flight by day; and
 - (b) the engine is shut down; and

(c) a requirement mentioned in subregulation (2) is not met.

- (2) The requirements are the following:
- (a) the flight must be conducted for the purpose of pilot training, checking or testing;
 - (b) only flight crew members are carried on the flight;
 - (c) the pilot in command must hold a flight instructor rating, flight examiner rating or other authorisation under these Regulations that authorises the activity of shutting down an engine;
 - (d) while the engine is shut down, the aeroplane must remain within gliding distance of a safe forced landing area.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.580 Single-engine aeroplane—simulating engine failure

- (1) The pilot in command of a single-engine aeroplane for a flight contravenes this subregulation if:
- (a) the flight is:
 - (i) in IMC; or
 - (ii) at night; and
 - (b) an engine failure is simulated; and
 - (c) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the flight must be conducted for the purpose of pilot training, checking or testing;
 - (b) only flight crew members are carried on the flight;
 - (c) the pilot in command must hold a flight instructor rating, flight examiner rating or other authorisation under these Regulations that authorises the activity of simulating an engine failure;
 - (d) for a simulation at night:
 - (i) the simulation must commence above 1,000 ft AGL; and
 - (ii) a lighted runway must be available for landing;
 - (e) for a simulation in IMC:
 - (i) the simulation must commence above the lowest safe altitude for the route or route segment of the flight; and
 - (ii) VMC conditions must exist below that altitude.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.585 Multi-engine aeroplane—simulating engine failure

- (1) The pilot in command of a multi-engine aeroplane for a flight contravenes this subregulation if:

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (a) the flight is:
 - (i) in IMC; or
 - (ii) at night; and
 - (b) an engine failure is simulated; and
 - (c) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the pilot in command must hold a flight instructor rating, flight examiner rating or other authorisation under these Regulations that authorises the activity of simulating an engine failure;
 - (b) the flight must be conducted for the purpose of pilot training, checking or testing;
 - (c) only flight crew members are carried on the flight;
 - (d) the pilot in command must brief the pilot under instruction before the simulation and must supervise the simulation;
 - (e) for an aeroplane flown in IMC that is not conducting an approach to land mentioned in paragraph (f)—the aeroplane must be at or above the minimum height mentioned in subregulation 91.390(2);
 - (f) for an aeroplane conducting an asymmetric instrument approach and missed approach:
 - (i) the simulation must be initiated above the initial approach altitude; and
 - (ii) the flight must be conducted with visual reference to the terrain when below a height of 1,000 ft above the relevant minima according to the aeronautical chart in use for the approach;
 - (g) for an aeroplane flown at night in VMC—the aeroplane must be flown:
 - (i) if the aeroplane is not conducting an approach to land or within the circling area of an aerodrome—above the minimum height mentioned in subregulation 91.390(2) or 91.395(2) (as the case requires); or
 - (ii) if the aeroplane is conducting an approach to land and is not within the circling area of an aerodrome—in accordance with an authorised instrument approach procedure; or
 - (iii) within the circling area of an aerodrome (as determined in accordance with the method specified in the authorised aeronautical information for the flight for determining the circling area for the aerodrome);
 - (h) for an aeroplane flown at night in VMC—the simulation must be initiated at or above circuit height and not below 1,000 ft AGL;
 - (i) the simulation must be carried out in accordance with procedures specified in:
 - (i) the aircraft flight manual instructions for the aeroplane (if any); or
 - (ii) if procedures are not specified in the aircraft flight manual instructions for the aeroplane, and the operator of the aeroplane is required to have an exposition by these Regulations—the exposition; or
 - (iii) if procedures are not specified in the aircraft flight manual instructions for the aeroplane, and the operator of the aeroplane is not required to have an exposition by these Regulations—the operator's operation's manual.

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

Penalty: 50 penalty units.

Subdivision 91.D.7.3—Causing or simulating engine failure etc. for rotorcraft

91.590 Single-engine rotorcraft—engine not to be shut down

- (1) The pilot in command of a single-engine rotorcraft for a flight contravenes this subregulation if, during the flight, the engine is shut down.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.595 Single-engine rotorcraft—engine failure not to be simulated and autorotation of main rotor system not to be initiated in IMC

- (1) The pilot in command of a single-engine rotorcraft for a flight in IMC contravenes this subregulation if:
- (a) an engine failure is simulated; or
 - (b) an autorotation of the rotorcraft's main rotor system is initiated.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.600 Single-engine rotorcraft—simulating engine failure or initiating autorotation of main rotor system at night

- (1) The pilot in command of a single-engine rotorcraft for a flight contravenes this subregulation if:
- (a) the flight is at night; and
 - (b) an engine failure is simulated or an autorotation of the main rotor system is initiated; and
 - (c) the rotorcraft is not:
 - (i) taxiing or hovering below the hover height for the surface specified in the rotorcraft's flight manual; or
 - (ii) at a height at or above 1,000 ft AGL; and
 - (d) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the pilot in command must hold a flight instructor rating, flight examiner rating or other authorisation under these Regulations that authorises the activity of simulating an engine failure or initiating an autorotation of the main rotor system (as the case requires);
 - (b) the flight must be carried out for the purpose of pilot training, checking or testing;

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (c) only flight crew members are carried on the flight;
 - (d) the pilot in command must brief the pilot under instruction before the simulation or autorotation and must supervise the simulation or autorotation;
 - (e) the simulation or autorotation must be carried out in VMC; and
 - (f) power termination of the autorotation must be initiated so that full power is available before the rotorcraft goes below 100 ft AGL;
 - (g) the autorotation must be terminated using a power recovery termination or a baulked approach and climb out;
 - (h) the simulation or autorotation must be conducted at an aerodrome with omnidirectional runway lighting.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.605 Multi-engine rotorcraft—engine not to be shut down at certain altitudes

- (1) The pilot in command of a multi-engine rotorcraft for a flight contravenes this subregulation if:
- (a) the flight is:
 - (i) in IMC; or
 - (ii) at night; and
 - (b) an engine is shut down; and
 - (c) the rotorcraft is not at or above the lowest safe altitude for a route or route segment for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.610 Multi-engine rotorcraft—simulating engine failure

- (1) The pilot in command of a multi-engine rotorcraft for a flight contravenes this subregulation if:
- (a) the flight is:
 - (i) in IMC; or
 - (ii) at night in VMC; and
 - (b) an engine failure is simulated; and
 - (c) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
- (a) the pilot in command must hold a flight instructor rating, flight examiner rating or other authorisation under these Regulations that authorises the activity of simulating an engine failure;
 - (b) the flight must be for the purpose of pilot training, checking or testing;
 - (c) only flight crew members are carried on the flight;
 - (d) the pilot in command must brief the pilot under instruction before the simulation and must supervise the simulation;

- (e) for a rotorcraft flown in IMC—the rotorcraft must be established at or above the lowest safe altitude for a route or route segment for the flight;
- (f) for a rotorcraft flown at night in VMC:
 - (i) the rotorcraft must be flown within the circling area of an aerodrome (as determined in accordance with the method specified in the authorised aeronautical information for the flight determining the circling area for the aerodrome); and
 - (ii) in the climb during take-off, the simulation must be initiated before the take-off decision point, or above 500 ft AGL; and
 - (iii) after the climb during take-off, the simulation must be initiated at or above 1,000 ft AGL;
- (g) the simulation must be carried out in accordance with:
 - (i) procedures specified in the aircraft flight manual instructions for the rotorcraft (if any); or
 - (ii) if procedures are not specified in the aircraft flight manual instructions for the rotorcraft, and the operator of the rotorcraft is required by these Regulations to have an exposition—the exposition; or
 - (iii) if procedures are not specified in the aircraft flight manual instructions for the rotorcraft, and the operator of the rotorcraft is not required by these Regulations to have an exposition—the operator's operations manual.

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

Penalty: 50 penalty units.

Division 91.D.8—Fuel requirements

91.620 Contaminated, degraded or inappropriate fuels

- (1) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if, before the flight begins, the operator or pilot in command does not ensure that the aircraft has been fuelled with fuel that is not contaminated, degraded or inappropriate.
- (2) A person contravenes this subregulation if:
 - (a) the person supplies fuel for fuelling an aircraft; and
 - (b) the fuel is contaminated, degraded or inappropriate fuel for the aircraft.
- (3) A person contravenes this subregulation if:
 - (a) the person fuels an aircraft; and
 - (b) the fuel is contaminated, degraded or inappropriate fuel for the aircraft.
- (4) A person commits an offence if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.625 Fire hazards

- (1) A person contravenes this subregulation if:
 - (a) an aircraft is being fuelled; and
 - (b) the person creates a fire hazard within 15 m of the aircraft or the equipment used to fuel the aircraft.
- (2) A person contravenes this subregulation if:
 - (a) a fire hazard exists within 15 m of an aircraft or the aircraft's fuelling equipment; and
 - (b) the person fuels the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

91.630 Fire fighting equipment

- (1) A person who fuels an aircraft contravenes this subregulation if a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) at all times during the fuelling, at least 2 fire extinguishers:
 - (i) must be on the fuelling equipment or positioned at a distance of not less than 6 m and not more than 15 m from the fuelling point; and
 - (ii) must be readily available for use by the person;
 - (b) each fire extinguisher:
 - (i) must be of a type and capacity suitable for extinguishing fuel and electrical fires; and
 - (ii) for a fuelling operation in Australian territory—must comply with Australian/New Zealand Standard AS/NZS 1841, as in force from time to time.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.635 Electrical bonding

- (1) A person contravenes this subregulation if:
 - (a) the person is fuelling an aircraft; and
 - (b) the aircraft and the equipment used to fuel the aircraft are not electrically bonded.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.640 Equipment or electronic devices operating near aircraft

Operation of equipment or electronic device near aircraft during fuelling

- (1) A person contravenes this subregulation if:
- (a) an aircraft is being fuelled; and
 - (b) the person operates equipment or an electronic device within 15 m of a critical fuelling point for the aircraft.

Fuelling aircraft while equipment or electronic device is operated near aircraft

- (2) A person contravenes this subregulation if:
- (a) equipment or an electronic device is being operated within 15 m of a critical fuelling point for the fuelling of an aircraft; and
 - (b) the person fuels the aircraft.

Exceptions

- (3) Subregulations (1) and (2) do not apply if:
- (a) the equipment or electronic device being operated:
 - (i) is part of the aircraft or the aircraft's fuelling equipment; or
 - (ii) is designed for use during fuelling operations; or
 - (iii) performs an aircraft servicing function and is safe for use within 15 m of a critical fuelling point for the fuelling of the aircraft; or
 - (iv) complies with an industry standard about the safe use of equipment or electronic devices within 15 m of a critical fuelling point for the fuelling of the aircraft; or
 - (b) the equipment being operated is an auxiliary power unit of the aircraft and the following requirements are met:
 - (i) the operation of the auxiliary power unit starts before the person begins fuelling the aircraft;
 - (ii) the aircraft flight manual instructions for the aircraft permit the auxiliary power unit to be operated during fuelling; or
 - (c) the electronic device being operated:
 - (i) is hazardous to the process of fuelling the aircraft only because it is designed to produce radio emissions (within the meaning of the *Radiocommunications Act 1992*); and
 - (ii) is operated at least 6 m from each critical fuelling point for the fuelling of the aircraft; or
 - (d) for a turbine-engine aircraft—the electronic device being operated is a low-risk electronic device and is operated in accordance with regulation 91.645.

Offence

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

Penalty: 50 penalty units.

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

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.645 Fuelling turbine-engine aircraft—low-risk electronic devices

Use of device inside cabin of aircraft

- (1) A person on a turbine-engine aircraft for a flight contravenes this subregulation if:
 - (a) the person operates a low-risk electronic device inside the cabin of the aircraft while the aircraft is being fuelled; and
 - (b) the pilot in command of the aircraft has not given the person permission to operate the device while the aircraft is being fuelled.
- (2) The pilot in command of a turbine-engine aircraft for a flight contravenes this subregulation if:
 - (a) the pilot in command gives permission to a person to operate a low-risk electronic device inside the cabin of the aircraft while the aircraft is being fuelled; and
 - (b) the requirement mentioned in subregulation (3) is not met.
- (3) The requirement is that during fuelling, each cabin door within 3 m of a critical fuelling point for the fuelling of the aircraft must be closed.

Use of device outside cabin of aircraft

- (4) A person contravenes this subregulation if:
 - (a) the person operates a low-risk electronic device outside the cabin of a turbine-engine aircraft while the aircraft is being fuelled; and
 - (b) the requirement mentioned in subregulation (5) is not met.
- (5) The requirement is that the device must be operated at a distance of greater than 3 m from each critical fuelling point for the fuelling of the aircraft.
- (6) A person commits an offence if the person contravenes subregulation (1), (2) or (4).

Penalty: 50 penalty units.

91.650 Only turbine-engine aircraft to be hot fuelled

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is hot fuelled; and
 - (b) the aircraft is not a turbine-engine aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.655 Hot fuelling aircraft—general

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is hot fuelled; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are that, at the time of the hot fuelling:

- (a) it must be safe to hot fuel; and
 - (b) if the aircraft is a turbine-engine propeller-driven aeroplane:
 - (i) an aeroplane propeller must not be within 2.5 m of the fuelling point used for the hot fuelling; and
 - (ii) a person using the fuelling point must be separated from the propeller by a part of the aeroplane's structure (such as a wing) and must not be able to move directly into the propeller's arc from the fuelling point; and
 - (c) doors on the fuelling side of the aircraft must be closed; and
 - (d) at least one door on the non-fuelling side of the aircraft must be open; and
 - (e) a system of fuelling must not be used that allows fuel to be exposed to the atmosphere; and
 - (f) there must be a means available to the person fuelling the aircraft to quickly cut off the fuel supply at its point of entry into the aircraft's fuel tank; and
 - (g) the person in charge of the aircraft, or the person at the aircraft's controls, must maintain communication with the person fuelling the aircraft by means of:
 - (i) an electronic communication system; or
 - (ii) visual contact and an agreed system of signals.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.660 Hot fuelling aircraft—procedures etc.

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is hot fuelled; and
 - (b) the following are not set out in the aircraft flight manual instructions for the aircraft:
 - (i) procedures for the hot fuelling of the aircraft;
 - (ii) the circumstances in which the aircraft can be hot fuelled;
 - (iii) the procedures to be followed if an emergency occurs during hot fuelling.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) a requirement of a procedure mentioned in subparagraph (1)(b)(i) or (iii) is not met in relation to the fuelling of the aircraft for the flight; or
 - (b) the aircraft is fuelled in a circumstance that is not mentioned in subparagraph (1)(b)(ii).
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is hot fuelled; and
 - (b) before the hot fuelling begins, a person who is directly involved with the hot fuelling has not been briefed about compliance with the procedures and circumstances mentioned in paragraph (1)(b).
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1), (2), or (3).

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

Penalty: 50 penalty units.

91.665 Fuelling aircraft—persons boarding or disembarking

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is being fuelled with a highly volatile fuel; and
 - (b) the fuelling begins or continues when a person who is not a crew member of the aircraft is:
 - (i) on the aircraft; or
 - (ii) boarding the aircraft; or
 - (iii) disembarking from the aircraft.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is being fuelled with fuel other than a highly volatile fuel; and
 - (b) the fuelling begins or continues when a person who is not a crew member of the aircraft is:
 - (i) on the aircraft; or
 - (ii) boarding the aircraft; or
 - (iii) disembarking from the aircraft; and
 - (c) the pilot in command does not hold an approval under regulation 91.045 to fuel the aircraft in those circumstances.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

91.667 Fuelling aircraft if fuel vapour detected

- (1) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is being fuelled; and
 - (b) a person who is not a crew member of the aircraft is:
 - (i) on the aircraft; or
 - (ii) boarding the aircraft; or
 - (iii) disembarking from the aircraft; and
 - (c) fuel vapour is detected in the aircraft; and
 - (d) the aircraft continues to be fuelled.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.D.9—Cargo

91.670 Carriage of cargo—restraint

- (1) This regulation does not apply in relation to the following kinds of cargo on an aircraft:
 - (a) an assistance animal carried in a passenger cabin;
 - (b) carry-on baggage;

- (c) equipment that is required or permitted under these Regulations to be carried on the aircraft without being restrained or stowed;
 - (d) cargo dropped from the aircraft during a dropping operation.
- (2) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if cargo carried on the flight is not:
- (a) restrained using equipment that is approved under regulation 21.305 or 21.305A; or
 - (b) securely stowed in a place designed and approved for that purpose under Part 21; or
 - (c) for equipment of a foreign registered aircraft operating in Australian territory—restrained or stowed in accordance with any requirements under the law of the aircraft’s State of registry.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.675 Restraint and stowage of carry-on baggage

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) either:
 - (i) the aircraft is taking off or landing; or
 - (ii) the pilot in command has directed that carry-on baggage be securely stowed; and
 - (b) an item of carry-on baggage is not:
 - (i) securely stowed in a place designed and approved under Part 21 (or in the case of a foreign aircraft, under the law of the aircraft’s State of registry) for that purpose; or
 - (ii) otherwise safely restrained.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.677 Restraint and stowage of certain aircraft equipment

- (2) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if:
- (a) either:
 - (i) the aircraft is taking off or landing; or
 - (ii) the pilot in command has directed that passenger service equipment or galley equipment be restrained or securely stowed; and
 - (b) the passenger service equipment or galley equipment is not restrained or securely stowed in a place intended for the purpose.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

91.680 Carriage of cargo—general

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are the following:
 - (a) cargo must not be carried in a place where the cargo may damage, obstruct or cause the failure of:
 - (i) a control, electrical wiring or a pipeline of the aircraft; or
 - (ii) any other equipment that is essential to the safe operation of the aircraft;
 - (b) cargo must not be carried in a place where the weight of the cargo exceeds the load limitations for the floor structure or any other load bearing components of that place, as set out:
 - (i) in the aircraft flight manual instructions for the aircraft; or
 - (ii) on a placard on the aircraft;
 - (c) cargo (other than passenger service equipment or galley equipment in an aisle on a temporary basis while in use) must not obstruct an aisle;
 - (d) either:
 - (i) cargo must not obstruct, or restrict access to, an emergency exit; or
 - (ii) the operator or the pilot in command must hold an approval from CASA under regulation 91.045 for cargo to be carried in a manner that obstructs, or restricts access to, the emergency exit.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.685 Carriage of cargo—cargo compartments

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) more than one flight crew member is required for the flight; and
 - (b) cargo is carried in a cargo compartment; and
 - (c) the design of the cargo compartment is such that if a fire were to occur during the flight, a crew member would need to enter the compartment to extinguish the fire; and
 - (d) the cargo is not loaded in a manner to allow a crew member to reach, at any time during the flight, all parts of the compartment with the contents of a hand-held fire extinguisher.
- (2) A flight crew member is **required** for a flight if he or she is one of the number of flight crew members required for the flight by:
 - (a) the aircraft flight manual instructions for the aircraft; or
 - (b) if a greater number is required by these Regulations—these Regulations.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.690 Carriage of cargo—unoccupied seats

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) cargo is carried on an unoccupied seat; and
 - (b) a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the cargo must not weigh more than:
 - (i) 77 kg; or
 - (ii) if the seat manufacturer permits a greater weight for the seat—that weight;
 - (b) the cargo, and the means of restraint of the cargo, must not interfere with the safe operation of the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.695 Carriage of cargo—loading instructions

- (1) This regulation applies in relation to cargo other than cargo that:
 - (a) is carry-on baggage that weighs less than 9 kg and is stowed under a seat or in a place designed for that purpose; or
 - (b) is carried on an unoccupied seat in accordance with regulation 91.690.
- (2) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if, during the flight, cargo is not carried in the aircraft in a place that has a placard bearing the instructions for the carriage of the cargo in that place.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

Division 91.D.10—Signals, emergencies and hazards

91.700 Display of standard visual signals

- (1) A person contravenes this subregulation if:
 - (a) the person displays a signal to an aircraft for the purposes of marshalling the aircraft; and
 - (b) the signal is not a standard visual signal.
- (2) A person contravenes this subregulation if:
 - (a) the person displays a standard visual signal to an aircraft; and
 - (b) the safety of the aircraft, or of any person or property, is likely to be endangered as a result of the display of the signal.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Penalty: 50 penalty units.

- (4) In this regulation:

standard visual signal means a visual signal or mark prescribed by the Part 91 Manual of Standards for the purposes of this definition.

91.705 Pilot in command to report hazards to air navigation

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) the pilot in command becomes aware that a hazard to air navigation exists; and
 - (b) information about the hazard is not published in the authorised aeronautical information for the flight; and
 - (c) the pilot in command does not, as soon as circumstances permit, report the hazard to:
 - (i) Air Traffic Services; and
 - (ii) if the hazard is on an aerodrome—the operator of the aerodrome.
- (2) Subregulation (1) does not apply if:
- (a) the pilot believes that the hazard has previously been reported as required by subregulation (1); and
 - (b) the belief is reasonable in the circumstances.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.710 Pilot in command to report emergencies

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) an emergency occurs that threatens the safety of the aircraft or the persons on the aircraft; and
 - (b) the aircraft is fitted with, or carries, a means for the pilot in command to communicate with Air Traffic Services; and
 - (c) it is practicable to inform Air Traffic Services of the emergency; and
 - (d) the pilot does not inform Air Traffic Services, at the time that it is practicable to do so, of:
 - (i) the emergency; and
 - (ii) if the aircraft is carrying dangerous goods—the nature and state of the goods.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.715 Multi-engine aircraft—pilot in command to land at nearest suitable aerodrome if emergency occurs

- (1) The pilot in command of a multi-engine aircraft for a flight contravenes this subregulation if, during the flight:
 - (a) an emergency occurs that threatens the safety of the aircraft or the persons on the aircraft; and
 - (b) the pilot does not land at the aerodrome that is, in the circumstances, the nearest suitable aerodrome for the aircraft to land at.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.720 Pilot in command to report contraventions relating to emergencies

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) during the flight, an emergency occurs that threatens the safety of the aircraft or the persons on the aircraft; and
 - (b) the emergency requires the pilot flying the aircraft to take action that involves a contravention of a provision of these Regulations; and
 - (c) the pilot in command does not give CASA written notice of the contravention, and the circumstances of the contravention, within 2 business days after the day the emergency occurs.
- (2) The pilot in command is not excused from giving notice under subregulation (1) on the ground that the giving of the notice, or the information in the notice, might tend to incriminate the pilot in command or expose the pilot in command to a penalty.
- (3) The following are not admissible in evidence against the pilot in command in criminal proceedings other than proceedings for an offence against subsection 136.1(1) or (4), 137.1(1) or 137.2(1) of the *Criminal Code*:
 - (a) the information in the notice;
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the notice.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.722 Interception of aircraft

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft (the *intercepted aircraft*) is intercepted by another aircraft during the flight; and
 - (b) a requirement prescribed by the Part 91 Manual of Standards is not complied with.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

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

Penalty: 50 penalty units.

91.723 Availability of instructions for flight data and combination recorders

- (1) The operator of an aircraft for a flight contravenes this subregulation if, when the aircraft begins the flight:
- (a) the aircraft is required to be fitted with a flight data recorder or combination recorder by these Regulations; and
 - (b) the operator does not have the instructions for the recorder available for immediate provision to the Australian Transport Safety Bureau.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.724 Flight recorders—preserving recordings of immediately reportable matters

- (1) The operator of an aircraft for a flight contravenes this subregulation if:
- (a) the aircraft is fitted with an operative flight data recorder, operative cockpit voice recorder or operative combination recorder; and
 - (b) an immediately reportable matter occurs in relation to the aircraft; and
 - (c) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that recordings from the flight data recorder, cockpit voice recorder and combination recorder related to the occurrence of the matter, and the recorders, are preserved:
- (a) if the Australian Transport Safety Bureau notifies the operator, within 72 hours of the matter being reported to the Australian Transport Safety Bureau under section 18 of the *Transport Safety Investigation Act 2003*:
 - (i) that the operator is not required to preserve the recordings and recorders—until the time of that notification; or
 - (ii) that the operator is required to preserve the recordings and recorders for a certain period—until the end of that period; or
 - (iii) that the operator is required to preserve the recordings for a certain period but is not required to preserve the recorders—until the end of that period for the recordings, and until the time of that notification for the recorders; or
 - (b) in any other case—until 72 hours after the matter is reported to the Australian Transport Safety Bureau under section 18 of the *Transport Safety Investigation Act 2003*.
- (3) Subregulation (1) does not apply if:
- (a) the recordings or recorders are not preserved; and
 - (b) the operator took reasonable steps in the circumstances to preserve the recordings or recorders.

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

Penalty: 50 penalty units.

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

91.725 Aviation distress signals

- (1) A person on an aircraft for a flight contravenes this subregulation if:
- (a) the person has made an aviation distress signal; and
 - (b) the reason for making the signal no longer exists; and
 - (c) the state of the aircraft's radio and the location of the aircraft are such that the signal is able to be cancelled; and
 - (d) the person does not cancel the signal as soon as circumstances permit.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 25 penalty units.

91.730 Dropping things from aircraft

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

Penalty: 50 penalty units.

91.735 Picking up or setting down people or things during flight

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) a person or thing is picked up or set down by the aircraft during the flight; and
 - (b) the requirement mentioned in subregulation (2) is not met.
- (2) The requirement is that:
- (a) the pilot in command must hold an approval under regulation 91.045 for the person or thing to be picked up or set down during the flight; or
 - (b) another provision of these Regulations must permit the person or thing to be picked up or set down during the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.740 Flight in icing conditions—adherence of frost, ice or snow

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the aircraft begins the flight, frost, ice or snow is adhering to any of the aircraft's wings, flaps, control surfaces, rotors, propellers, horizontal stabilisers or vertical stabilisers.
- (2) Subregulation (1) does not apply if the take-off for the flight is conducted in accordance with the aircraft flight manual instructions for the aircraft that relate to taking off under the conditions mentioned in that subregulation.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the aircraft begins a flight:
 - (a) the aircraft has frost, ice or snow adhering to the top of the aircraft's fuselage; and
 - (b) either:
 - (i) the aircraft has rear-mounted engines; or
 - (ii) the adherence of the frost, ice or snow to the top of the aircraft's fuselage is a hazard to the safe operation of the aircraft for the flight.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1) or (3).

Penalty: 50 penalty units.

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

91.745 Flight in icing conditions—requirements for flight

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is flown in icing conditions; and
 - (b) the aircraft is not type certificated as complying with the airworthiness standards relating to flight in icing conditions.
- (2) A person commits an offence if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.750 Persons not to be carried in certain parts of aircraft

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) during the flight, a person is carried on or in:
 - (i) a part of the aircraft that is not designed to carry crew members or passengers; or
 - (ii) a thing attached to the aircraft; and
 - (b) neither the operator nor the pilot in command of the aircraft holds an approval under regulation 91.045 to carry the person on or in that part of the aircraft or that thing during the flight.
- (2) Subregulation (1) does not apply to the temporary carriage of a crew member in a part of the aircraft that is not designed to accommodate crew members or passengers if:

- (a) the carriage of the crew member in that part of the aircraft is for the purpose of doing anything for the safety of the aircraft or any person or cargo carried in it; or
- (b) both:
 - (i) goods or stores are carried in that part of the aircraft; and
 - (ii) there is a proper means of access for crew members to the goods or stores.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

Division 91.D.11—Safety of persons on aircraft

91.753 Seating for persons on aircraft

- (1) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) a person is assigned a seat (or a berth) on the aircraft for the flight; and
 - (b) the seat or berth is not fitted with a seatbelt or shoulder harness; and
 - (c) the aircraft begins the flight.
- (2) Subregulation (1) does not apply if circumstances prescribed by the Part 91 Manual of Standards apply in relation to the carriage of the person for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.755 Seating for flight crew members

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight, a requirement mentioned in subregulation (2) is not met.
- (2) The requirements are the following:
 - (a) the flight must be conducted by at least one pilot who:
 - (i) for an Australian aircraft—holds a pilot licence and is permitted under regulation 61.385 to conduct the flight; or
 - (ii) for a foreign aircraft—is qualified to pilot the aircraft under the law of the aircraft's State of registry;
 - (b) at all times during the flight, such a pilot must occupy a pilot seat, with his or her seatbelt securely fastened;
 - (c) during take-off, landing or any other period that the pilot in command directs, each flight crew member required for the flight must occupy his or her crew station with his or her seatbelt and shoulder harness securely fastened;

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

(d) when occupying a crew station, a flight crew member must keep his or her seatbelt securely fastened.

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

Penalty: 50 penalty units.

91.760 Seating for crew members other than flight crew members

- (1) A crew member (other than a flight crew member) for a flight of an aircraft contravenes this subregulation if, during take-off, landing or any other period that the pilot in command directs, the crew member is not:
- (a) occupying his or her crew station; and
 - (b) wearing, securely fastened, the seatbelts and harnesses provided at that station.
- (2) Subregulation (1) does not apply if:
- (a) a direction is given by the pilot in command during turbulence; and
 - (b) the crew member occupies a seat other than his or her crew station; and
 - (c) the crew member is wearing, securely fastened, the seatbelts and harnesses provided at that seat.

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

Penalty: 50 penalty units.

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

91.765 Safety during turbulence

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) a crew member (other than a flight crew member) is carried on the flight; and
 - (b) before the flight begins, the pilot in command has not implemented procedures for:
 - (i) the protection of such crew members during turbulence or during a period when turbulence is expected; or
 - (ii) the limiting or ceasing of crew member duties during turbulence or during a period when turbulence is expected.

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

Penalty: 50 penalty units.

91.770 Passengers—safety briefings and instructions

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
- (a) a passenger is not given a safety briefing and instructions in accordance with the requirements prescribed by the Part 91 Manual of Standards for the purposes of this paragraph; and

- (b) the aircraft takes off for the flight.
- (2) Subregulation (1) does not apply if:
 - (a) the passenger has been previously carried on the aircraft; and
 - (b) the passenger has previously been given a safety briefing and instructions in accordance with this regulation; and
 - (c) in the circumstances it is not reasonably necessary to give the same safety briefing and instructions.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.780 Passengers—safety directions by pilot in command

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, before doing a thing mentioned in subregulation (2), a passenger is not directed to do the following:
 - (a) to fasten his or her seatbelt or shoulder harness;
 - (b) if the seat back of the seat (or berth) in which the passenger is sitting is adjustable—to ensure that the seat back is in an upright position or other position permitted by the aircraft flight manual instructions for the aircraft while the aircraft is doing a thing mentioned in subregulation (2);
 - (c) if there are attachments to or for the seat (including a tray table or footrest)—to stow the attachments or to position them as permitted by the aircraft flight manual instructions for the aircraft while the aircraft is doing a thing mentioned in subregulation (2).
- (2) The things are the following:
 - (a) taxiing;
 - (b) taking off;
 - (c) landing.
- (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the pilot in command has reason to believe it is necessary, for the safety of passengers, that a passenger's seatbelt or shoulder harness is fastened; and
 - (b) the pilot in command does not direct the passenger to fasten his or her seatbelt or shoulder harness.
- (4) For subregulations (1) and (3), a direction that seatbelts or shoulder harnesses are to be fastened may be given by the operation of an illuminated sign.
- (5) A direction mentioned in paragraph (1)(a) does not apply to a person occupying a seat (or berth) on an aircraft if:
 - (a) the person's health may suffer a detriment by being restrained by a seatbelt; and
 - (b) the pilot in command agrees that the person is otherwise safely restrained.
- (6) A direction mentioned in paragraph (1)(b) does not apply to a person occupying a seat (or berth) on an aircraft if:

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (a) the person is ill or incapacitated; and
- (b) the pilot in command agrees to the passenger not adjusting their seat (or berth); and
- (c) the person is otherwise safely restrained and will not affect the safety of other passengers.

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

Penalty: 50 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in subregulations (5) and (6): see subsection 13.3(3) of the *Criminal Code*.

91.785 Passengers—compliance with safety directions

- (1) A passenger on an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a direction mentioned in regulation 91.780 is given to the passenger; and
 - (b) the person does not comply with the direction.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.790 Passengers—compliance with safety instructions by cabin crew

- (1) A cabin crew member of an aircraft may, during a flight, give an instruction to a passenger:
- (a) relating to the safety of the aircraft; or
 - (b) relating to the safety of a person on the aircraft.
- (2) A passenger on the aircraft contravenes this subregulation if:
- (a) a cabin crew member gives a passenger an instruction under subregulation (1); and
 - (b) the passenger does not comply with the instruction.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.800 Means of passenger communication

- (1) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if:
- (a) due to the design or configuration of the aircraft, the pilot in command is unable to see all seats (and berths) on the aircraft from his or her pilot seat; and
 - (b) before the aircraft begins the flight, the aircraft is not fitted with a means to communicate with all passengers during all phases of the flight (including emergencies).

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

Penalty: 50 penalty units.

91.805 Restraint of infants and children

- (1) A passenger on an aircraft for a flight contravenes this subregulation if, during the flight:
- (a) a direction is given to passengers under regulation 91.780 to fasten seatbelts or shoulder harnesses (as the case requires); and
 - (b) the passenger is responsible for an infant or child carried on the flight; and
 - (c) the passenger does not ensure that the infant or child is restrained in accordance with the requirements prescribed by the Part 91 Manual of Standards for the purposes of this paragraph.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.820 Smoking not permitted during certain periods of flight

- (1) A person on an aircraft for a flight contravenes this subregulation if the person smokes:
- (a) during take-off or landing; or
 - (b) during a period when the pilot in command has directed the person not to smoke.
- Note: Section 37 of the *Air Navigation Regulation 2016* prohibits smoking anywhere on an aircraft if the aircraft is engaged in certain operations.
- (2) A person on an aircraft for a flight contravenes this subregulation if the person smokes in the aircraft's toilet.
- (3) For paragraph (1)(b), the pilot in command is taken to have directed a person on an aircraft not to smoke if:
- (a) a permanent "no smoking" sign is displayed in the aircraft's cabin; or
 - (b) the pilot has switched on an illuminated "no smoking" sign in the aircraft's cabin.

- (4) For the purposes of this regulation, smoking is taken to include the use of electronic cigarettes.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

91.830 Offensive or disorderly behaviour on aircraft

- (1) A person on an aircraft for a flight contravenes this subregulation if:
- (a) the person behaves in an offensive or disorderly manner; and
 - (b) as a result of that behaviour, the safety of the aircraft or persons on the aircraft is endangered.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (2) The operator or a crew member of an aircraft may refuse to allow a person to board the aircraft if there are reasonable grounds to believe that the person is likely to behave in an offensive or disorderly manner that is likely to endanger the safety of the aircraft or persons on the aircraft.
- (3) Without limiting subregulation (1) or (2), a person is taken to behave in an offensive or disorderly manner if he or she:
 - (a) assaults, intimidates or threatens another person (whether the assault, intimidation or threat is verbal or physical, and whether or not a weapon or object is used); or
 - (b) intentionally damages or destroys property.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.835 Unauthorised travel or placing of cargo on aircraft

- (1) A person contravenes this subregulation if the person:
 - (a) travels on an aircraft; and
 - (b) at the time of the travel, does not have the consent of the operator of the aircraft, or the pilot in command of the aircraft for the flight, to travel on the aircraft.
- (2) A person contravenes this subregulation if the person:
 - (a) places cargo on an aircraft; and
 - (b) at the time of placing the cargo on the aircraft, does not have the consent of the operator of the aircraft, or the pilot in command of the aircraft for the flight, to place cargo on the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Division 91.D.12—Psychoactive substances

91.845 Passengers—alcohol

- (1) A passenger on an aircraft for a flight contravenes this subregulation if:
 - (a) the passenger consumes alcohol; and
 - (b) either:
 - (i) a crew member has not provided the alcohol to the passenger; or
 - (ii) if there is no crew member other than the pilot in command on the aircraft—the pilot in command has not permitted the passenger to consume the alcohol.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.850 Crew—supply of alcohol

- (1) A crew member of an aircraft for a flight contravenes this subregulation if:
 - (a) the crew member provides alcohol to a passenger on the aircraft; and
 - (b) there are reasonable grounds to believe the passenger is affected by one or more psychoactive substances to an extent that his or her behaviour may present a hazard to the aircraft or to a person on the aircraft.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.855 Prohibiting person affected by psychoactive substances from boarding

The operator, or a crew member, of an aircraft may prohibit a person from boarding the aircraft if there are reasonable grounds to believe that the person is affected by a psychoactive substance to an extent that may present a hazard to the aircraft or to a person on the aircraft.

Division 91.D.13—Radio usage

91.895 Use of radio—qualifications

- (1) A person contravenes this subregulation if:
 - (a) the person transmits on a radio frequency published in the AIP or NOTAMs that is:
 - (i) used by Air Traffic Services; or
 - (ii) used in aeronautical emergencies; or
 - (iii) of a kind prescribed by the Part 91 Manual of Standards for this subparagraph; and
 - (b) the person is not authorised or qualified to do so:
 - (i) for an Australian aircraft—under Part 61, 64 or 65; or
 - (ii) for a foreign registered aircraft—under the law of the aircraft's State of registry.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.900 Use of radio—broadcasts and reports

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is fitted with, or carries, a radio; and
 - (b) during the flight, the pilot in command does not make a broadcast or a report relating to the flight that is prescribed by the Part 91 Manual of Standards for this paragraph.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.905 Use of radio in controlled airspaces—listening watch of ATC frequency

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) during the flight, the aircraft is flown in controlled airspace; and
 - (b) the pilot in command does not maintain a continuous listening watch on the radio frequency used by ATC while flying in that airspace.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.910 Use of radio outside controlled airspaces—listening watch of radio transmissions

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is fitted with or carries a radio; and
 - (b) the aircraft is flown by a pilot who is qualified, or eligible, to use the radio:
 - (i) for an Australian aircraft—under Part 61 or 64; or
 - (ii) for a foreign registered aircraft—under a law of the aircraft’s State of registry; and
 - (c) the aircraft is outside controlled airspace; and
 - (d) radio transmissions are not continuously monitored by:
 - (i) the pilot in command of the aircraft for the flight; or
 - (ii) another pilot who occupies a pilot seat during the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.915 When aircraft may be flown with inoperative radio

An aircraft may begin a flight with an inoperative radio if:

- (a) the flight begins from a departure aerodrome at which there is no facility for the radio to be repaired or replaced; and
- (b) the flight is to the nearest facility at which the radio can be repaired or replaced; and
- (c) if the flight is conducted in controlled airspace:
 - (i) Air Traffic Services is informed, before the flight begins, of the inoperative radio; and
 - (ii) clearance is obtained from Air Traffic Services for the flight.

Division 91.D.14—Navigation

91.930 VFR flights

- (1) The Part 91 Manual of Standards may prescribe requirements relating to the operation of an aircraft for a VFR flight.

- (2) The pilot in command of an aircraft for a VFR flight contravenes this subregulation if a requirement mentioned in subsection (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.933 IFR flights

- (1) The Part 91 Manual of Standards may prescribe requirements relating to the operation of an aircraft for an IFR flight.
- (2) The pilot in command of an aircraft for an IFR flight contravenes this subregulation if a requirement mentioned in subsection (1) is not met for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.935 RVSM airspace

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is flown in RVSM airspace; and
 - (b) the requirement mentioned in subregulation (2) is not met.
 - (2) The requirement is that either or both of the following apply:
 - (a) the operator of the aircraft holds:
 - (i) for an Australian aircraft—an approval under regulation 91.045; or
 - (ii) for a foreign aircraft—an approval by the national aviation authority of the aircraft's State of registry;for the aircraft to be flown in RVSM airspace;
 - (b) the pilot in command has been given an air traffic control clearance or an air traffic control instruction for the aircraft to be flown in the RVSM airspace.
 - (3) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) the aircraft is in RVSM airspace; and
 - (b) the aircraft becomes unable to operate with RVSM separation; and
 - (c) the pilot in command does not inform air traffic control as soon as practicable after the aircraft becomes unable to operate with RVSM separation.
 - (4) A person commits an offence of strict liability if the person contravenes subregulation (1).
- Penalty: 50 penalty units.
- (5) A person commits an offence if the person contravenes subregulation (3).

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Penalty: 50 penalty units.

91.940 PBN flights

- (1) The Part 91 Manual of Standards may prescribe requirements relating to the operation of an aircraft for a PBN flight.
- (2) The pilot in command of an aircraft for a PBN flight contravenes this subregulation if:
 - (a) the pilot is subject to a requirement mentioned in subregulation (1); and
 - (b) the pilot does not comply with the requirement.
- (3) The operator of an aircraft for a PBN flight 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 (2) or (3).

Penalty: 50 penalty units.

- (5) In this regulation:

PBN flight has the meaning given by the Part 91 Manual of Standards.

Subpart 91.F—Performance

91.1035 Take-off weights

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if the aircraft's take-off weight for the flight is greater than:
 - (a) the maximum take-off weight for the aircraft; or
 - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight determined in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 91 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for an aircraft for a flight must be determined under this subregulation; and
 - (b) methods for determining that weight.
- (3) Subregulation (1) does not apply if the aircraft is being operated in accordance with a special flight permit.
- (4) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

91.1040 Landing weights

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if the aircraft's landing weight for the flight is greater than:
 - (a) the maximum landing weight for the aircraft; or
 - (b) if circumstances prescribed under paragraph (2)(a) apply—the weight for the aircraft for the flight determined in accordance with the method prescribed under paragraph (2)(b).
- (2) The Part 91 Manual of Standards may prescribe:
 - (a) the circumstances in which a weight for an aircraft for a flight must be determined under this subregulation; and
 - (b) methods for determining that weight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 91.J—Weight and balance

91.1090 Loading of aircraft

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if, when the flight begins the aircraft is loaded in a way that contravenes the aircraft's weight and balance limits.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if, during the flight, the aircraft ceases to be operated in accordance with the aircraft's weight and balance limits.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Subpart 91.K—Instruments, indicators, equipment and systems

91.1150 Aircraft instruments, indicators, equipment and systems

- (1) The Part 91 Manual of Standards may prescribe the following:
 - (a) instruments, indicators, items of equipment or systems that must be fitted to, or carried on, an aircraft for a prescribed flight;
 - (b) instruments, indicators, items of equipment or systems that must not be fitted to, or carried on, an aircraft for a prescribed flight;
 - (c) requirements in relation to an instrument, indicator, item of equipment or system fitted to, or carried on, a prescribed aircraft for a prescribed flight (whether or not the instrument, indicator, item of equipment or system is required by these Regulations to be fitted to, or carried on, the aircraft).

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

- (2) Without limiting paragraph (1)(c), requirements prescribed under that paragraph in relation to an instrument, indicator, item of equipment or system may include the following:
 - (a) requirements that the instrument, indicator, item of equipment or system must meet;
 - (b) requirements relating to the fitting or carriage of the instrument, indicator, item of equipment or system;
 - (c) requirements relating to the approval of the instrument, indicator, item of equipment or system;
 - (d) requirements that a prescribed crew member for a prescribed flight of the aircraft must meet in relation to the instrument, indicator, item of equipment or system;
 - (e) requirements relating to the operation and use of the instrument, indicator, item of equipment or system;
 - (f) requirements that must be met if the instrument, indicator, item of equipment or system is inoperative.
- (3) The operator and pilot in command of an aircraft for a flight each contravene this subregulation if, when the flight begins:
 - (a) an instrument, indicator, item of equipment or system prescribed under paragraph (1)(a) for the flight is not fitted to, or carried on, the aircraft (as the case requires); or
 - (b) an instrument, indicator, item of equipment or system prescribed under paragraph (1)(b) for the flight is fitted to, or carried on, the aircraft (as the case requires).
- (4) The operator of an aircraft contravenes this subregulation if a requirement mentioned in paragraph (1)(c) is not met in relation to the aircraft.
- (5) The pilot in command of an aircraft for a flight contravenes this subregulation if a requirement mentioned in paragraph (1)(c) is not met for the flight.
- (6) A person commits an offence of strict liability if the person contravenes subregulation (3), (4) or (5).

Penalty: 50 penalty units.

Subpart 91.P—Cabin crew

91.1460 Cabin crew—when required

- (1) Subject to subregulations (2) and (3), a cabin crew member must be carried on a flight of an aircraft if 20 or more passengers are carried on the flight.
- (2) Subregulation (1) does not apply if the flight involves a parachuting activity to which Part 105 applies.
- (3) Subregulation (1) does not apply if:
 - (a) the flight crew for the flight includes at least 2 pilots; and
 - (b) no more than 22 passengers are carried on the flight; and
 - (c) no more than 19 of the passengers are adults or children.

91.1465 Cabin crew—number

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) under regulation 91.1460, a cabin crew member must be carried on the flight; and
 - (b) when the aircraft begins the flight, the number of cabin crew members for the flight is not at least equal to the sum of one cabin crew member for each 50, or part of 50, passengers carried on the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.1470 Cabin crew—knowledge of emergency and safety equipment and procedures

- (1) This regulation applies in relation to a flight of an aircraft if, under regulation 91.1460, a cabin crew member must be carried on the flight.
- (2) The operator, a cabin crew member, and the pilot in command, of an aircraft for a flight each contravene this subregulation if:
 - (a) the cabin crew member is not competent to:
 - (i) operate and use emergency and safety equipment on the aircraft that is relevant to the cabin crew member's duties; and
 - (ii) implement emergency evacuation procedures for the aircraft; and
 - (b) the cabin crew member begins to carry out cabin crew member duties for the flight.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Subpart 91.T—Operations under certain special certificates of airworthiness and special flight permits

Division 91.T.1—Preliminary

91.1520 Aircraft with more than one certificate of airworthiness—application of Subpart 91.T

If a certificate of airworthiness in more than one category has been issued for an aircraft, this Subpart applies in relation to the operation of the aircraft only for the category in relation to which the aircraft is being operated.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Division 91.T.2—Restricted category aircraft—operating requirements

91.1525 Restricted category aircraft—general operating requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) a special certificate of airworthiness in the restricted category has been issued for the aircraft; and
 - (b) the aircraft begins a flight; and
 - (c) a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are as follows:
 - (a) the certificate of airworthiness must be in force;
 - (b) if the certificate of airworthiness is granted subject to a condition or requirement—the condition or requirement must be complied with;
 - (c) the flight must not be an air transport operation;
 - (d) the flight must be an operation of a kind mentioned in regulation 91.1530;
 - (e) a person may only be carried on the flight who is:
 - (i) a crew member; or
 - (ii) if the flight is a special purpose operation—a person who is needed to accomplish a work activity directly associated with the special purpose operation for which the certificate of airworthiness was issued; or
 - (iii) a person carried as part of an operation mentioned in paragraph 91.1530(1)(j).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.1530 Restricted category aircraft—kinds of operations permitted

- (1) For paragraph 91.1525(2)(d), the kinds of operation are as follows:
 - (a) a special purpose operation for which the special certificate of airworthiness for the aircraft was issued;
 - (b) participation in an air display;
 - (c) taking the aircraft to or from a place where a demonstration or display of the aircraft is to take place;
 - (d) practice in flying the aircraft for participation in an air display;
 - (e) taking the aircraft to a place where maintenance on the aircraft is to be done;
 - (f) taking the aircraft from a place where maintenance on the aircraft has been done;
 - (g) testing the aircraft after maintenance;
 - (h) flying training (other than for the issue of a pilot licence);
 - (i) pilot proficiency training or practice in flying the aircraft;
 - (j) carrying out a demonstration or test of the aircraft for sale;

- (k) delivering the aircraft to a person under a contract of sale.
- (2) For paragraph (1)(a), a reference to a special purpose operation for which the special certificate of airworthiness for the aircraft was issued includes a reference to the following:
 - (a) training in the special purpose operation;
 - (b) taking the aircraft to a place where the special purpose operation is to start;
 - (c) taking the aircraft from a place where the special purpose operation has ended;
 - (d) any other operation necessary to accomplish the special purpose operation.

Division 91.T.3—Provisionally certificated aircraft—operating requirements

91.1535 Provisionally certificated aircraft—operating requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) a provisional certificate of airworthiness has been issued for the aircraft; and
 - (b) the aircraft begins a flight; and
 - (c) a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are as follows:
 - (a) the certificate of airworthiness must be in force;
 - (b) if the certificate of airworthiness is granted subject to a condition or requirement—the condition or requirement for the flight must be complied with;
 - (c) the flight must not be an air transport operation;
 - (d) the flight must be an operation of a kind mentioned in regulation 91.1540;
 - (e) if the aircraft is being flown to obtain type certification or supplemental type certification for the aircraft—the requirements in regulation 91.1545 are met;
 - (f) if paragraph (e) does not apply to the flight—the aircraft must be flown within the limitations:
 - (i) displayed on a placard in the aircraft; or
 - (ii) stated in the aircraft flight manual instructions for the aircraft;
 - (g) the requirements for the carriage of people mentioned in regulation 91.1550 must be complied with;
 - (h) the pilot must comply with the procedures mentioned in subregulation 91.1555(1).
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.1540 Provisionally certificated aircraft—kinds of operations permitted

For paragraph 91.1535(2)(d), the kinds of operation are as follows:

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (a) an operation that is required to obtain type certification or supplemental type certification for the aircraft;
- (b) training flight crew members, including by means of simulated air transport operations;
- (c) a demonstration flight by the aircraft's manufacturer for prospective purchasers;
- (d) an operation by the aircraft's manufacturer for the purpose of conducting a market survey;
- (e) an operation conducted for the purpose of flight checking of instruments, accessories, and items of equipment that do not affect the airworthiness of the aircraft;
- (f) service testing of the aircraft.

91.1545 Provisionally certificated aircraft—operation for type certification or supplemental type certification

- (1) For paragraph 91.1535(2)(e), the requirements are as follows:
 - (a) if the aircraft's provisional certificate of airworthiness is subject to a condition limiting the area within which the aircraft may be flown—the flight must not take place outside, or partly outside, that area unless the holder of the provisional certificate of airworthiness for the aircraft holds an approval under regulation 91.045 or 91.050 for the purposes of this paragraph;
 - (b) if the flight is over a populous area—the holder of the provisional certificate of airworthiness for the aircraft must hold an approval under regulation 91.045 or 91.050 for the purposes of this paragraph;
 - (c) either:
 - (i) the flight must take place by day and under the VFR; or
 - (ii) the holder of the provisional certificate of airworthiness for the aircraft must hold an approval under regulation 91.045 or 91.050 for the purposes of this subparagraph.
- (2) It is a requirement for a grant of an approval mentioned in paragraphs (1)(a) and (b) that CASA or an authorised person is satisfied that the aircraft:
 - (a) is controllable throughout its normal range of speeds and throughout all of the manoeuvres to be executed; and
 - (b) has no hazardous operating characteristics or design features.

91.1550 Provisionally certificated aircraft—requirements for the carriage of people

- (1) For paragraph 91.1535(2)(g), the requirements for the carriage of people are as follows:
 - (a) each person carried on the aircraft must be notified before boarding the aircraft that the aircraft is provisionally certificated;
 - (b) a person must not be carried on the aircraft unless subregulation (2) applies to the person.
- (2) This subregulation applies to a person if:
 - (a) the person has a function in the aircraft's operations; or

- (b) both of the following apply:
 - (i) carriage of the person is authorised by the manufacturer;
 - (ii) the holder of the provisional certificate of airworthiness for the aircraft holds an approval under regulation 91.045 or 91.050 for the carriage of the person.

91.1555 Provisionally certificated aircraft—additional requirements for operators

- (1) The operator of a provisionally certificated aircraft must hold an approval under regulation 91.045 or 91.050 for procedures for use by flight crew and personnel who carry out a ground support duty in both:
 - (a) operating the aircraft in accordance with this Division; and
 - (b) landing at and taking off from an aerodrome if take-off or approach over a populous area is necessary.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.T.4—Experimental aircraft—operating requirements

91.1560 Experimental aircraft—operating requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) an experimental certificate has been issued for the aircraft; and
 - (b) the aircraft begins a flight; and
 - (c) a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are as follows:
 - (a) the experimental certificate must be in force;
 - (b) if the experimental certificate is granted subject to a condition or requirement—the condition or requirement must be complied with;
 - (c) the flight must not be an air transport operation;
 - (d) the flight must be either:
 - (i) for a purpose mentioned in regulation 21.191 for which the experimental certificate for the aircraft was issued; or
 - (ii) an operation of a kind mentioned in regulation 91.1565;
 - (e) either:
 - (i) the flight must take place by day and under the VFR; or
 - (ii) the holder of the experimental certificate must hold an approval under regulation 91.045 or 91.050 for the purposes of this subparagraph;
 - (f) if the flight is over a populous area—the holder of the experimental certificate must hold an approval under regulation 91.045 or 91.050 for the purposes of this paragraph;
 - (g) if the flight is over a public gathering—the holder of the experimental certificate must hold an approval under regulation 91.045 or 91.050 for the purposes of this paragraph;

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (h) if the aircraft's experimental certificate is subject to a condition limiting the area within which the aircraft may be flown—the flight must take place within that area;
- (i) if the aircraft is carrying a passenger:
 - (i) the total number of persons on board the aircraft for the flight must not be more than the number of persons allowed under regulation 91.1570; and
 - (ii) each passenger must be notified before boarding the aircraft that the design, manufacture and airworthiness of the aircraft are not required to meet any standards recognised by CASA; and
 - (iii) a placard that complies with the requirements prescribed by the Part 91 Manual of Standards must be displayed inside the aircraft.
- (3) It is a requirement for the grant of an approval mentioned in paragraph (2)(f) that CASA or an authorised person is satisfied that the operation of the aircraft for the flight meets the requirements relating to conducting operations over populous areas prescribed by the Part 91 Manual of Standards.
- (4) It is a requirement for the grant of an approval mentioned in paragraph (2)(g) that CASA or an authorised person is satisfied that the operation of the aircraft for the flight meets the requirements relating to conducting operations over public gatherings prescribed by the Part 91 Manual of Standards.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.1565 Experimental aircraft—kinds of operations permitted

For subparagraph 91.1560(2)(d)(ii), the kinds of operation are as follows:

- (a) taking the aircraft to a place where maintenance on the aircraft is to be done;
- (b) taking the aircraft from a place where maintenance on the aircraft has been done;
- (c) testing the aircraft after maintenance;
- (d) flying training (other than for the issue of a pilot licence);
- (e) practice in flying the aircraft;
- (f) carrying out a demonstration or test of the aircraft for sale;
- (g) delivering the aircraft to a person under a contract of sale;
- (h) for an amateur-built aircraft or a kit-built aircraft—flying training given to the aircraft's owner;
- (i) glider towing.

91.1570 Experimental aircraft—maximum number of persons to be carried

For subparagraph 91.1560(2)(i)(i), the number of persons allowed on board the aircraft is:

- (a) if the holder of the experimental certificate for the aircraft holds an approval under regulation 91.045—the number specified in the approval;
or

- (b) otherwise—the lesser of the following:
 - (i) the number of persons the aircraft was designed to carry;
 - (ii) 6.

91.1575 Experimental aircraft—only essential persons or approved persons to be carried

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is an experimental aircraft; and
 - (b) the aircraft carries a person during the flight; and
 - (c) the person is not a crew member whose presence is essential to the operation of the aircraft; and
 - (d) the holder of the experimental certificate for the aircraft does not hold an approval under regulation 91.045 or 91.050 to carry the person.
- (2) It is a requirement for a grant of an approval mentioned in paragraph (1)(d) that CASA or an authorised person is satisfied that the aircraft:
 - (a) is controllable throughout its normal range of speeds and throughout all of the manoeuvres to be executed; and
 - (b) has no hazardous operating characteristics or design features.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

Division 91.T.5—Primary category aircraft and intermediate category aircraft—operating requirements

91.1580 Primary category aircraft and intermediate category aircraft—operating requirements

- (1) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft is a primary category aircraft or an intermediate category aircraft; and
 - (b) the aircraft begins the flight; and
 - (c) a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are as follows:
 - (a) if the aircraft is an intermediate category aircraft—a special certificate of airworthiness in the intermediate category must be in force for the aircraft;
 - (b) if the aircraft is a primary category aircraft—a special certificate of airworthiness in the primary category must be in force for the aircraft;
 - (c) the flight must not be an air transport operation.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

Division 91.T.6—Light sport aircraft—operating requirements

91.1600 Light sport aircraft—operators

- (1) The operator of an aircraft for a flight contravenes this subregulation if:
 - (a) a special certificate of airworthiness for light sport aircraft has been issued for the aircraft; and
 - (b) the certificate of airworthiness is not in force for the flight.
- (2) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

91.1605 Light sport aircraft—pilots

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) a special certificate of airworthiness for light sport aircraft has been issued for the aircraft; and
 - (b) the aircraft begins the flight; and
 - (c) a requirement mentioned in subregulation (2) is not met for the flight.
- (2) The requirements are as follows:
 - (a) the certificate of airworthiness must be in force;
 - (b) the aircraft is operated for the flight:
 - (i) solely under Part 91; or
 - (ii) for flying training;
 - (c) a placard that complies with the requirements prescribed by the Part 91 Manual of Standards must be displayed inside the aircraft;
 - (d) each person who boards the aircraft must be notified of the contents of the placard mentioned in paragraph (c);
 - (e) the aircraft operating instructions issued for the aircraft (including instructions for necessary equipment in the aircraft manufacturer's equipment list for the aircraft) must be complied with;
 - (f) any safety direction or requirement issued by the aircraft's manufacturer must be complied with.
- (3) Paragraph (2)(e) or (f) does not apply if the operation of the aircraft in contravention of the instruction, direction or requirement has been approved by the aircraft's manufacturer.
- (4) For subregulations (2) and (3), if the manufacturer of the aircraft:
 - (a) no longer exists; or
 - (b) can no longer provide instructions for the continuing airworthiness of the aircraft;references to the *manufacturer* of the aircraft include references to a person appointed by CASA to perform the functions of the manufacturer in relation to the continuing airworthiness of the aircraft.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1).

Penalty: 50 penalty units.

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

Division 91.T.7—Special flight permits—operating requirements

91.1610 Flights under special flight permits

- (1) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) a special flight permit is in force for the aircraft; and
 - (b) the aircraft begins the flight; and
 - (c) the flight is not authorised by the permit.
- (2) The pilot in command of an aircraft for a flight contravenes this subregulation if:
 - (a) a special flight permit is in force for the aircraft; and
 - (b) the aircraft begins the flight; and
 - (c) a condition imposed on the special flight permit is not complied with.
- (3) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) a special flight permit is in force for the aircraft; and
 - (b) the aircraft begins the flight; and
 - (c) if the only person on the aircraft during the flight is the pilot in command—a copy of the flight permit is not carried on the aircraft; and
 - (d) if a person in addition to the pilot in command is carried on the aircraft during the flight—a requirement mentioned in subregulation (4) is not met.
- (4) The requirements are:
 - (a) a copy of the special flight permit must be displayed in the aircraft in a place where the person will see the permit; and
 - (b) before boarding the aircraft, the operator or the pilot in command must tell the person:
 - (i) that the aircraft is operated under a special flight permit; and
 - (ii) the reasons for the issue of the permit; and
 - (iii) what the permit authorises.
- (5) A person commits an offence of strict liability if the person contravenes subregulation (1), (2) or (3).

Penalty: 50 penalty units.

Division 91.T.8—Miscellaneous

91.1615 Application of Division 91.T.8

This Division applies to the operation of an aircraft for which a special certificate of airworthiness is in force.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 1 Main amendments

91.1620 Aircraft with special certificates of airworthiness—maintenance release etc.

- (1) This regulation does not apply to an aircraft for which a special flight permit is in force.
- (2) The operator and the pilot in command of an aircraft for a flight each contravene this subregulation if:
 - (a) the aircraft begins the flight; and
 - (b) a maintenance release or a certificate of release to service is not in force for the aircraft.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 50 penalty units.

91.1625 Aircraft with special certificates of airworthiness—flight tests to be conducted in certain areas

- (1) The pilot in command of an aircraft contravenes this subregulation if:
 - (a) the pilot flight tests the aircraft; and
 - (b) the flight test is not conducted over:
 - (i) open water; or
 - (ii) a sparsely populated area; or
 - (iii) an unpopulated area; or
 - (iv) for an amateur-built aircraft—over an area for which the holder of the certificate of airworthiness holds an approval under regulation 91.045 or 91.050 for the purposes of this subparagraph.
- (2) The pilot in command of an aircraft contravenes this subregulation if:
 - (a) the pilot flight tests the aircraft; and
 - (b) the flight test is not conducted:
 - (i) in an area where, in the event of a loss of control of the aircraft, there would be minimal risk to other air traffic; or
 - (ii) for an amateur-built aircraft—in an area for which the holder of the certificate of airworthiness holds an approval under regulation 91.045 or 91.050 for the purposes of this subparagraph.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (1) or (2).

Penalty: 50 penalty units.

Subpart 91.Y—Minimum equipment lists

Division 91.Y.1—Preliminary

91.1680 Definitions

In these Regulations:

master minimum equipment list or *MMEL*, for a type of aircraft, means the document:

- (a) that includes a list of items in the aircraft that may (subject to any conditions or limitations specified in the document) be inoperative for a flight of the aircraft; and
- (b) prepared by the holder of the type certificate for the aircraft; and
- (c) approved by the national aviation authority that issued the type certificate for the aircraft.

minimum equipment list or *MEL*, for an aircraft, means a document:

- (a) that includes a list of items in the aircraft that may (subject to any conditions or limitations specified in the document) be inoperative for a flight of the aircraft; and
- (b) prepared by the operator of the aircraft; and
- (c) approved under regulation 91.1690; and
- (d) that complies with the requirements mentioned in regulation 91.1685; and includes any variation to the document approved under regulation 91.1695.

rectification interval, for an item in a MEL that may become inoperative, means the period within which the item must be rectified after the discovery that the item is inoperative.

91.1685 Part 91 Manual of Standards may prescribe requirements

- (1) The Part 91 Manual of Standards may prescribe requirements relating to MELs for aircraft.
- (2) Without limiting subregulation (1), the Part 91 Manual of Standards may prescribe requirements relating to the following:
 - (a) the contents of MELs;
 - (b) the calculation and specification of rectification intervals for items in a MEL;
 - (c) conditions and limitations that may or must be included in a MEL.

Division 91.Y.2—Approval of minimum equipment lists

91.1690 Approval of minimum equipment lists

- (1) The operator of an aircraft may apply, in writing, for the approval of a MEL for the aircraft.
- (2) The application may be made to:
 - (a) CASA; or
 - (b) a continuing airworthiness management organisation that is permitted, in accordance with Part 42, to approve the MEL; or
 - (c) if the aircraft is not operated for either Part 121 operations or operations to which Part 133 or 135 applies—an authorised person.
- (3) The application must include the proposed MEL.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (4) If an application for the approval of a MEL is made under subregulation (1), CASA, the continuing airworthiness management organisation or the authorised person (as the case may be) may approve the MEL if satisfied that the MEL:
 - (a) complies with the requirements mentioned in regulation 91.1685; and
 - (b) will enable the operator to operate the aircraft safely.

Note: Not all aircraft are required to have a MEL. Other provisions of these Regulations require certain aircraft to have a MEL. This regulation sets out how a MEL for an aircraft must be approved.

Division 91.Y.3—Variations of minimum equipment lists

91.1695 Approval of variations

- (1) The operator of an aircraft may apply, in writing, for an approval of a variation of a MEL for the aircraft.
- (2) The application may be made to:
 - (a) CASA; or
 - (b) a continuing airworthiness management organisation that is permitted, in accordance with Part 42, to approve a variation of the MEL; or
 - (c) if the aircraft is not operated for either Part 121 operations or operations to which Part 133 or 135 applies—an authorised person.
- (3) The application must include the proposed variation of the MEL.
- (4) If an application for the approval of a variation of a MEL is made under subregulation (1), CASA, the continuing airworthiness management organisation or the authorised person (as the case may be) may approve the variation if satisfied that the MEL as proposed to be varied:
 - (a) complies with the requirements mentioned in regulation 91.1685; and
 - (b) will enable the operator to operate the aircraft safely.

Division 91.Y.4—Extensions of rectification intervals

91.1700 Approval of extensions of rectification intervals

Approval of extension on application

- (1) The operator of an aircraft may apply, in writing, for the approval of an extension of the rectification interval for an item specified in a MEL for the aircraft.
- (2) An application under subregulation (1) may be made to:
 - (a) if the operator is not a continuing airworthiness management organisation, and there is a continuing airworthiness management organisation for the aircraft that is permitted, in accordance with Part 42, to approve the extension—the continuing airworthiness management organisation; or
 - (b) in any case—CASA.
- (3) If an application for the approval of an extension of a rectification interval is made under subregulation (1), CASA or the continuing airworthiness

management organisation (as the case may be) may, subject to subregulation (5), approve the extension.

Approval of extension without application—continuing airworthiness management organisation is the operator

- (4) A continuing airworthiness management organisation for an aircraft may, subject to subregulation (5), approve an extension of the rectification interval for an item specified in a MEL for the aircraft, if:
- (a) the continuing airworthiness management organisation is the operator of the aircraft; and
 - (b) the continuing airworthiness management organisation is permitted, in accordance with Part 42, to approve the extension.

Requirements for approval of extension

- (5) An extension of the rectification interval (the **original rectification interval**) for an item specified in a MEL for an aircraft must not be approved under subregulation (3) or (4) unless:
- (a) the item is inoperative; and
 - (b) the original rectification interval is a rectification interval of a kind prescribed by the Part 91 Manual of Standards for the purposes of this paragraph; and
 - (c) the operator is unable to rectify the item before the end of the original rectification interval because of circumstances beyond the operator's control; and
 - (d) the original rectification interval has not previously been extended in accordance with this regulation during the same continuous period throughout which the item has been inoperative; and
 - (e) the MMEL for the aircraft type does not prohibit an extension of the rectification interval for the item; and
 - (f) if a provision of these Regulations (other than this Subpart) permits the aircraft to operate with the item inoperative for a maximum period—the extended rectification interval for the item will not exceed that period; and
 - (g) the extended rectification interval will not exceed the period prescribed by the Part 91 Manual of Standards for the purposes of this paragraph.

Matters to be set out in approval

- (6) An approval of an extension under subregulation (3) or (4) must:
- (a) be in writing; and
 - (b) set out the following:
 - (i) details of the inoperative item;
 - (ii) a statement to the effect that the operation of the aircraft with the inoperative item is permitted in accordance with this regulation;
 - (iii) the day on which the extended rectification interval starts (being a day not earlier than the day the notice is given);
 - (iv) the day on which the extended rectification interval ends; and
 - (c) for an approval by a continuing airworthiness management organisation—also include the following:

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

- (i) the name and approval certificate reference number of the continuing airworthiness management organisation;
- (ii) the name and signature of the individual who approved the extension on behalf of the continuing airworthiness management organisation.

91.1702 Effect of approval

- (1) If an extension of the rectification interval for an item specified in a MEL for an aircraft is approved under subregulation 91.1700(3) or (4), the operation of the aircraft with the inoperative item during the extended rectification interval is taken, for the purposes of these Regulations, to be permitted by the MEL.
- (2) If Part 42 does not apply to the aircraft, subregulation (1) applies to the operation of the aircraft only if a copy of the approval of the extension is kept with the maintenance release for the aircraft throughout the period of the extension.

91.1704 CASA to be notified of extensions approved by a continuing airworthiness management organisation

- (1) This regulation applies if an extension of the rectification interval for an item specified in a MEL for an aircraft is approved under subregulation 91.1700(3) or (4) by a continuing airworthiness management organisation.
- (2) The operator of the aircraft must notify CASA, in writing, of the following within 10 days of the start of the extended rectification interval:
 - (a) the aircraft's registration mark;
 - (b) details of the inoperative item;
 - (c) the original rectification interval (as referred to in subregulation 91.1700(5)) for the item;
 - (d) the extended rectification interval;
 - (e) the day the extended rectification interval took effect;
 - (f) the reason why the item could not be rectified before the end of the original rectification interval.
- (3) A person commits an offence of strict liability if the person contravenes subregulation (2).

Penalty: 20 penalty units.

Division 91.Y.5—Other

91.1705 Operation of aircraft with multiple inoperative items not permitted in certain circumstances

- (1) This regulation applies if:
 - (a) an aircraft begins a flight with more than one inoperative item, in accordance with a MEL for the aircraft; and
 - (b) the number and kinds of inoperative items for the flight, or the relationship between the items:
 - (i) reduces the level of safety of the operation of the aircraft; or
 - (ii) increases the flight crew's workload; to the extent that it is unsafe for the flight to be conducted.

- (2) For the purposes of these Regulations, the operation of the aircraft for the flight with the inoperative items is not permitted by the MEL for the aircraft.

Subpart 91.Z—Foreign aircraft

91.1710 Foreign registered aircraft—Chicago Convention

- (1) The operator and the pilot in command of a foreign registered aircraft each contravene this subregulation if:
- (a) the aircraft is flown in Australian territory; and
 - (b) the aircraft does not comply with a requirement of the Chicago Convention relating to:
 - (i) the nationality mark and registration mark of the aircraft; or
 - (ii) the aircraft's certificate of airworthiness; or
 - (iii) the number and description of, and the holding of, licences and ratings by the crew members of the aircraft; or
 - (iv) the documents to be carried by the aircraft; or
 - (v) the flight and manoeuvre of the aircraft; or
 - (vi) radio equipment carried by, or fitted to, the aircraft.

- (2) Subparagraph (1)(b)(ii) does not apply if a special flight authorisation has been granted and is in force.

Note: The requirements of the Chicago Convention about certificates of airworthiness relate to aircraft with a standard certificate of airworthiness. Foreign aircraft with the equivalent of a special certificate of airworthiness or a special flight permit require a special flight authorisation to be flown in Australian territory: see regulation 91.1715.

- (3) Subparagraphs (1)(b)(iv), (v) and (vi) do not apply in relation to a requirement of the Chicago Convention to the extent that the requirement is inconsistent with a requirement under another provision of this Part.

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

Penalty: 50 penalty units.

Note 1: A defendant bears an evidential burden in relation to the matters in subregulation (2) or (3): see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also sections 25, 26 and 27A of the Act for conditions that may be imposed by CASA on the operation of foreign registered aircraft in Australian territory.

91.1715 Foreign registered aircraft—special flight authorisations

- (1) A person may apply to CASA for a special flight authorisation in respect of a foreign registered aircraft to fly the aircraft in Australian territory without the certificate of airworthiness required by subparagraph 91.1710(1)(b)(ii).
- (2) Subject to regulation 11.055, CASA must grant the authorisation.
- (3) The pilot in command of a foreign registered aircraft contravenes this subregulation if:
- (a) the aircraft is flown in Australian territory; and
 - (b) a special flight authorisation is in force in respect of the aircraft; and

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Main amendments

(c) the pilot in command fails to comply with a condition of the special flight authorisation for the flight.

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

Penalty: 50 penalty units.

91.1720 Foreign state aircraft—approval to fly in Australian territory

- (1) The operator and the pilot in command of a state aircraft of a foreign country for a flight each contravene this subregulation if:

- (a) the aircraft is flown in Australian territory; and
(b) the operator does not hold an approval under regulation 91.045 for the flight.

- (2) The pilot in command of a state aircraft of a foreign country for a flight contravenes this subregulation if:

- (a) the aircraft is flown in Australian territory; and
(b) the pilot in command fails to comply with a condition of the approval held by the operator under regulation 91.045 for the flight.

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

Penalty: 50 penalty units.

91.1725 Foreign registered aircraft—major defect—CASA direction

- (1) If CASA is satisfied that a foreign registered aircraft in Australian territory has a major defect, CASA may issue a written direction to a person imposing conditions on the operation of the aircraft that:

- (a) for an aircraft registered in a Contracting State—are requested by the national aviation authority of the State; or
(b) CASA is satisfied are necessary for the safety of air navigation.

- (2) A person contravenes this subregulation if the person contravenes a direction issued under subregulation (1).

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

Penalty: 50 penalty units.

91.1730 Foreign registered aircraft—CASA to notify Contracting State of direction

If CASA issues a direction under regulation 91.1725 in relation to an aircraft that is registered in a Contracting State, CASA must give the national aviation authority of the State:

- (a) notice in writing of the action taken by CASA, together with a copy of the direction; and
(b) a report, in writing, of the defect.

91.1735 Foreign registered aircraft—CASA may revoke direction

Revocation following notification by Contracting State

- (1) CASA may revoke, in writing, a direction issued under regulation 91.1725 in relation to an aircraft registered in a Contracting State, if the national aviation authority of the State tells CASA, in writing, that it:
 - (a) has revoked any suspension of the certificate of airworthiness of the aircraft that the authority had imposed; or
 - (b) considers that the defect giving rise to the direction is not of such a nature as to prevent the aircraft from fulfilling the minimum safety requirements adopted by the Contracting State under the Chicago Convention; or
 - (c) considers that, in the circumstances of the case, the aircraft should be permitted to fly, with no persons on the aircraft other than crew members, to a place where the defect can be repaired.
- (2) However, CASA must not revoke the direction if it is satisfied that doing so would adversely affect the safety of air navigation.

Revocation if CASA satisfied direction no longer necessary

- (3) CASA may revoke, in writing, a direction issued under regulation 91.1725 if CASA is satisfied that the direction is no longer necessary for the safety of air navigation.

91.1740 Foreign registered aircraft—when direction or revocation takes effect

- (1) A direction issued under regulation 91.1725 does not have effect in relation to a person until it has been served:
 - (a) on the person; or
 - (b) by affixing the direction to the aircraft to which it relates.
- (2) Revocation of a direction under regulation 91.1735 has effect when:
 - (a) it is served on the person on whom the direction was served; or
 - (b) if the direction was affixed to the aircraft to which the direction relates—CASA affixes the revocation to the aircraft.

Note: For service of documents on a person, see section 28A of the *Acts Interpretation Act 1901*.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 2 Transitional and consequential provisions

Part 2—Transitional and consequential provisions

Civil Aviation Safety Regulations 1998

2 Subpart 202.EB (heading)

Repeal the heading, substitute:

Subpart 202.EB—Transitional provisions for Part 91 (General operating and flight rules)