



## Strict liability

Breaches of most of the civil aviation rules are offences of strict liability.

### What it means

If you are charged with a strict liability offence, the prosecution doesn't have to prove intention, knowledge, recklessness or even negligence. In other words, it doesn't matter whether you meant to break the rules or knew you were doing it.

### Why we use it

Strict liability is imposed where the benefit to the community overrides any potential disadvantage to the person charged. In other words, where it's in the public interest that you know what the rules are and take all reasonable steps to follow them.

That's why it applies to most road rules, as well as a wide range of other laws involving public health, safety, the environment and financial or corporate regulation. It's common in aviation too—almost every civil aviation rule in New Zealand is a strict liability offence.

### You are still innocent until proven guilty

If you are charged with a strict liability offence, you aren't automatically guilty.

It's not up to you to prove your innocence but up to a prosecutor to prove that you have broken the rules and prove it beyond a reasonable doubt.

### You can still defend yourself

You can successfully defend yourself against a strict liability offence by showing that you made an honest and reasonable mistake of fact. This means that you knew the rule, assumed you were complying, but relied on fact that was ultimately false.

An example is a pilot who has committed an offence of low flying. If this pilot could show that their altimeter was faulty, but they didn't know and had no reason to know, that would be a defence to the charge.



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## REGULATORY PROGRAM

**Finally, in an emergency, a pilot's overriding responsibility is for the safety of their flight. It would normally be a defence against breaking any rule, if breaking the rule were necessary in responding to an emergency.**

### **CASA's just culture**

Under our regulatory philosophy, we use a 'just culture' approach when applying and enforcing rules.

We won't punish you for actions, omissions or decisions that correspond with your experience, qualifications and training. However, we won't tolerate gross negligence, recklessness or wilful violations.

In practice, this means that if you break a rule it's unlikely you'll be referred for criminal prosecution.

### **It's not new**

Strict liability is not new. Even though it first appeared in the civil aviation legislation only in the late 1990s, strict liability had always been implied by the courts before then.

In the interest of transparency, the government decided to include references to strict liability in all regulations where it applies.

For more information: [Flight Safety Australia](#)