



# Civil Aviation Amendment Regulations 2003 (No. )<sup>1</sup>

Statutory Rules 2003 No. <sup>2</sup>

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Civil Aviation Act 1988*.

Dated 2003

Governor-General

By His Excellency's Command

**[DRAFT ONLY – NOT FOR SIGNATURE]**  
Minister for Transport and Regional Services

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**DRAFT ONLY**

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**1 Name of Regulations**

These Regulations are the *Civil Aviation Amendment Regulations 2003* (No. ).

**2 Commencement**

These Regulations commence on the commencement of item 15 of Schedule 1 to the *Civil Aviation Amendment Act 2003*.

**3 Amendment of *Civil Aviation Safety Regulations 1998***

Schedule 1 amends the *Civil Aviation Safety Regulations 1998*.

**4 Amendment of *Civil Aviation Regulations 1988***

Schedule 2 amends the *Civil Aviation Regulations 1988*.

**Schedule 1 Amendments of *Civil Aviation Safety Regulations 1998***

(regulation 3)

**[1] Part 13, after Subpart 13.X**

*insert*

**Subpart 13.X1 Voluntary reporting and demerit points schemes**

**Division 13.X1.1 Aviation Self Reporting Scheme**

**13.400 Definitions**

In this Division:

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**Aviation Self Reporting Scheme** or **ASRS** means the voluntary reporting scheme established under subregulation 13.415 (1) for reporting reportable contraventions.

**Executive Director** means the person for the time being holding, occupying or performing the duties of Executive Director of Transport Safety Investigation referred to in section 12 of the *Transport Safety Investigation Act 2003*.

**report**, in relation to a reportable contravention, means a report made in accordance with regulation 13.425.

### **13.405 Contraventions that are not reportable**

For the purposes of paragraph (d) of the definition of **reportable contravention** in section 30DL of the Act, contraventions of the following provisions of CAR are prescribed:

- (a) regulation 282;
- (b) regulation 283;
- (c) regulation 285;
- (d) subregulation 288 (2);
- (e) regulation 298B;
- (f) regulation 298C;
- (g) regulation 301;
- (h) regulation 302.

### **13.410 Prescribed person (Act s 30DM)**

For the purposes of Division 3C (Protection from administrative action for voluntary reporting) of Part III of the Act, the Executive Director is prescribed.

### **13.415 Establishment and purposes of scheme (Act s 30DN)**

- (1) There is established a scheme (to be known as the Aviation Self Reporting Scheme) for the voluntary reporting of reportable contraventions.
- (2) The scheme is to be administered by the Executive Director.
- (3) The purposes of the scheme are:

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- (a) to enable holders of civil aviation authorisations to report reportable contraventions without administrative action being taken against them; and
  - (b) to strengthen the foundation of aviation human factors safety research; and
  - (c) to identify deficiencies and problems in the Australian aviation safety system; and
  - (d) to provide data for planning and improvements to the Australian aviation safety system.

#### **13.420 Powers and functions of Executive Director**

Without limiting the generality of the powers and functions of the Executive Director as administrator of the Aviation Self Reporting Scheme, the Executive Director has the following powers and functions:

- (a) to receive and process reports;
- (b) to give receipts for reports;
- (c) to review and analyse information contained in reports in order to identify potential safety deficiencies and lessen the likelihood of accidents and serious incidents;
- (d) to issue information briefs or alert bulletins to organisations in the Australian aviation safety system if, after making a review under paragraph (c), the Executive Director believes that such briefs or bulletins are necessary for aviation safety;
- (e) to publish details of reviews made under paragraph (c).

*Note 1* Regulation 13.435 affects the powers and functions of the Executive Director relating to information contained in reports.

*Note 2* For examples of accidents or serious incidents relating to the operation or maintenance of aircraft, see regulation XX (Immediately reportable matters) of the *Transport Safety Regulations 2003*.

#### **13.425 Manner in which reports to be made (Act s 30DN (2) (b))**

- (1) A holder of a civil aviation authorisation who has committed a reportable contravention may make a written report of the reportable contravention under the Aviation Self Reporting Scheme.

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- (2) The report must be made to the Executive Director not later than 10 days after the reportable contravention and must contain the following information:
- (a) the name, postal address and daytime telephone contact number of the holder;
  - (b) if applicable — the aviation reference number of the holder;
  - (c) the class or classes of civil aviation authorisation held by the holder;
  - (d) the time, date, place and nature of the contravention.
- (3) The holder making the report must include in the report:
- (a) a description of the circumstances of the reportable contravention; and
  - (b) so far as is practicable, the regulations contravened by the holder.

*Note* A report made by a holder under this regulation does not absolve the holder from any obligation to make a report under the *Transport Safety Investigation Act 2003*.

#### **13.430 Receipt to be given for report**

- (1) If a report is made to the Executive Director, the Executive Director must give to the holder making the report a receipt for the report, together with a copy of the report stamped with the date when the report was made.
- (2) The receipt must set out:
- (a) the name of the holder; and
  - (b) the date when the report was made; and
  - (c) the date and nature of the contravention.

#### **13.435 Use of information contained in reports (Act s 30DN (2) (c))**

Information contained in a report (other than information about a reportable contravention that is personal information within the meaning of the *Privacy Act 1988*) may be disclosed by the Executive Director without the consent of the holder who made

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the report but only if the information is to be used for a purpose mentioned in paragraph 13.415 (3) (b), (c) or (d).

#### **13.440 Delegation by Executive Director**

- (1) The Executive Director may, in writing, delegate to any person a power (except this power of delegation), function or duty of the Executive Director under this Division.
- (2) In exercising powers, functions and duties under a delegation, the delegate must comply with any directions of the Executive Director.

### **Division 13.X1.3 Demerit points scheme**

#### **13.445 Offences to which demerit points scheme applies (Act 30DT)**

- (1) All offences under CAR and CASR are prescribed as offences to which Division 3D (Demerit points scheme) of Part III of the Act applies.
- (2) The number of points that are incurred in relation to an offence to which that Division applies are as follows:
  - (a) if the maximum penalty for the offence is 10 penalty units or less — 1 demerit point;
  - (b) if the maximum penalty for the offence is more than 10 penalty units but less than 26 penalty units — 2 demerit points;
  - (c) if the maximum penalty for the offence is 26 penalty units or more — 3 demerit points.

#### **13.450 Classes of civil aviation authorisations**

For the purposes of section 30DU of the Act, a civil aviation authorisation mentioned in column 2 of an item in Table 13.450 belongs to the class of civil aviation authorisation mentioned in column 3 of the item.

**Table 13.450      Classes of civil aviation  
authorisations**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Particular civil aviation authorisations</b>	<b>Class of civil aviation authorisation</b>
1	a certificate issued under section 27 of the Act	Air operator certificate
2	a certificate issued under Part 3 of CAR	Certificate of registration
3	a certificate issued under regulation 30 of CAR	Certificate of approval
4	(a) a licence referred to in regulation 31 of CAR  (b) an authority referred to in regulation 33B or 33C of CAR	Maintenance authority
5	a licence referred to in paragraph 5.08 (a) of CAR	Flight radiotelephone licence
6	a licence referred to in paragraph 5.08 (b) to (m) of CAR	Pilot licence
7	a licence referred to in paragraph 5.08 (o) or (p) of CAR	Flight engineer licence
8	a certificate issued under Part 6 of CAR	Medical certificate
9	a licence issued under Part 9 of CAR	Aerodrome licence
10	a licence or authorisation referred to in regulation 102, 108, 112 or 118 of CAR	Air traffic control licence

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**13.455 Effect of subsequent suspension or cancellation in certain situations (Act s 30DV)**

If:

- (a) a civil aviation authorisation is cancelled (the *earlier cancellation*) ; and
- (b) if there had been no earlier cancellation, a subsequent suspension or cancellation under Division 3D of Part III of the Act would have had effect in relation to the authorisation; and
- (c) the earlier cancellation is later set aside by the Administrative Appeals Tribunal;

the subsequent suspension or cancellation has effect, in relation to the civil aviation authorisation, on the day immediately following the day when the Administrative Appeals Tribunal set aside the earlier cancellation.

**Schedule 2      Amendment of *Civil Aviation Regulations 1998***

(regulation 4)

**[1]      Regulation 268**

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**Notes**

- 1.      These Regulations amend Statutory Rules ^year^ No.      , as amended by ^year^ No.      .
- 2.      Notified in the *Commonwealth of Australia Gazette* on      2003.