

Annex A

Legislative Changes: Amendments to CARs 166 and 166A, Introduction of New CARs 166B – 166E, and Consequential Amendments to CAR 167

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Civil Aviation Amendment Regulations 2010 (No.)¹

Select Legislative Instrument 2010 No.

I, QUENTIN BRYCE, 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 2010

Governor-General

By Her Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure, Transport, Regional Development
and Local Government

1 Name of Regulations

These Regulations are the *Civil Aviation Amendment Regulations 2010* (No.).

2 Commencement

These Regulations commence on 3 June 2010.

3 Amendment of *Civil Aviation Regulations 1988*

Schedule 1 amends the *Civil Aviation Regulations 1988*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 2 (1), definition of *aerodrome reference point*, paragraph (a)

omit

the document known as the Rules and Practices for Aerodromes that is published by CASA; or

insert

‘Manual of Standards Part 139—Aerodromes’; or

[2] Part 12, Division 2, heading

substitute

Division 2 Operation on and in the vicinity of aerodromes

Subdivision 1 General

[3] After regulation 165

insert

**Subdivision 2 Operating on and in the vicinity of
non-controlled aerodromes**

[4] Regulations 166, 166A and 167

substitute

166 Definitions for Subdivision 2

- (1) In this Subdivision:

in the vicinity of, in relation to a non-controlled aerodrome, has the meaning given by subregulation (2).

radiotelephone qualification includes a certificate, relating to the operation of radiotelephone equipment, issued by any of the following organisations in accordance with the organisation's operations manual:

- (a) Australian Ballooning Federation Incorporated;
- (b) Australian Sport Rotorcraft Association Incorporated;
- (c) The Gliding Federation of Australia Incorporated;
- (d) Hang Gliding Federation of Australia Incorporated;
- (e) Recreational Aviation Australia Incorporated.

- (2) An aircraft is *in the vicinity of* a non-controlled aerodrome if it is within:

- (a) airspace other than controlled airspace; and
- (b) 10 miles from the aerodrome; and
- (c) a height above the aerodrome that could result in conflict with operations at the aerodrome.

- (3) For paragraphs (2) (b) and (c), if an aerodrome reference point for the aerodrome is published in the AIP, the distance or height must be measured from that point.

166A General requirements for aircraft on the manoeuvring area or in the vicinity of a non-controlled aerodrome

- (1) The pilot in command of an aircraft commits an offence if:
- (a) the aircraft is being operated on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) the pilot engages in conduct; and
 - (c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

- (2) The rules are the following:
- (a) the pilot must maintain a lookout for other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome to avoid collision;
 - (b) the pilot must ensure that the aircraft does not cause a danger to other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome;
 - (c) if the pilot is flying in the vicinity of the aerodrome, the pilot must:
 - (i) join the circuit pattern for the aerodrome; or
 - (ii) avoid the circuit pattern for the aerodrome;
 - (d) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns in accordance with subregulation (3);
 - (e) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns in accordance with subregulation (3) while the aircraft is flying in the circuit pattern for the aerodrome;
 - (f) subject to subregulation (4), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;
 - (g) the pilot must not:
 - (i) take off from a part of the aerodrome that is outside the landing area of the aerodrome; or
 - (ii) land the aircraft on a part of the aerodrome that is outside the landing area of the aerodrome;

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- (h) if the pilot takes off from, or lands at, the aerodrome, the pilot must take off or land into the wind if, at the time of the take-off or landing:
- (i) the pilot is not permitted under subregulation (5) to take off or land downwind; and
 - (ii) it is practicable to take off or land into the wind.
- (3) For paragraphs (2) (d) and (e), the turns must be made:
- (a) if CASA has, under subregulation 92 (2), directed that all turns at the aerodrome be made in a particular direction — in accordance with CASA's directions; or
 - (b) if paragraph (a) does not apply and visual signals are displayed at the aerodrome indicating a direction to make all turns — in accordance with the visual signals; or
 - (c) in any other case — to the pilot's left.
- Note* Directions under subregulation 92 (2) are published in the AIP.
- (4) The rule in paragraph (2) (f) does not apply if a change to the track is necessary to avoid the terrain.
- (5) For subparagraph (2) (h) (i), the pilot in command of an aircraft may take off or land downwind at a non-controlled aerodrome if:
- (a) the aircraft's flight manual allows the aircraft to take off or land downwind; and
 - (b) after considering any other aircraft that are being operated on the manoeuvring area of, or in the vicinity of, the aerodrome, the pilot believes that it is safe to do so.
- (6) An offence against subregulation (1) in relation to any of paragraphs (2) (a) to (g) is an offence of strict liability.

Note The pilot in command of an aircraft must comply with the flight manual, or other equivalent document for the aircraft, as required by regulation 138.

166B Carrying out a straight-in approach

- (1) The pilot in command of an aircraft commits an offence if:
- (a) the pilot carries out a straight-in approach to land at a non-controlled aerodrome; and

- (b) the pilot engages in conduct; and
- (c) the conduct results in the contravention of a rule set out in subregulation (2).

Penalty: 25 penalty units.

- (2) The rules are the following:
 - (a) before starting the approach, the pilot must determine:
 - (i) the wind direction at the aerodrome; and
 - (ii) the runways in use at the aerodrome;
 - (b) the pilot must give way to any other aircraft flying in the circuit pattern for the aerodrome;
 - (c) subject to subregulation (3), the pilot must carry out all manoeuvring, to establish the aircraft on final approach, at least 3 miles from the threshold of the runway that the pilot intends to use for landing.
- (3) The rule in paragraph (2) (c) does not apply to the pilot if he or she is carrying out the approach:
 - (a) using an instrument approach procedure; and
 - (b) in IMC.
- (4) An offence against subregulation (1) in relation to paragraph (2) (a) or (b) is an offence of strict liability.

166C Responsibility for broadcasting on VHF radio

- (1) If:
 - (a) an aircraft is operating on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome; and
 - (b) the aircraft is carrying a serviceable aircraft VHF radio; and
 - (c) the pilot in command of the aircraft holds a radiotelephone qualification;the pilot is responsible for making a broadcast on the VHF frequency in use for the aerodrome in accordance with subregulation (2).

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- (2) The pilot must make a broadcast that includes the following information whenever it is reasonably necessary to do so to avoid a collision, or the risk of a collision, with another aircraft:

- (a) the name of the aerodrome;
- (b) the aircraft's type and call sign;
- (c) the position of the aircraft and the pilot's intentions.

Note 1 See the AIP for the recommended format for broadcasting the information mentioned in this regulation.

Note 2 For the requirement to maintain a listening watch, see regulation 243.

166D Designation of non-controlled aerodromes

- (1) For paragraph 98 (5A) (a) of the Act, CASA may issue a legislative instrument that states that a specified non-controlled aerodrome is a designated non-controlled aerodrome.
- (2) CASA must ensure that details of the designation of an aerodrome under subregulation (1) are published in AIP or NOTAMS.

166E Requirements for operating on or in the vicinity of certified, military, registered or designated non-controlled aerodromes

- (1) The pilot in command of an aircraft commits an offence if:
 - (a) he or she operates the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome that is:
 - (i) a certified aerodrome; or
 - (ii) a military aerodrome; or
 - (iii) a registered aerodrome; or
 - (iv) specified as a designated non-controlled aerodrome in a legislative instrument issued by CASA under regulation 166D; and

- (b) he or she is not permitted to do so by subregulation (2), (3) or (4).

Penalty: 25 penalty units.

Note 1 For the definitions of *certified aerodrome* and *registered aerodrome*, see the CASR Dictionary.

Note 2 For the definition of *military aerodrome*, see subregulation 2 (1).

Aircraft with serviceable radio and pilot with radiotelephone qualification

- (2) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1) (a) if:
 - (a) the aircraft is carrying a serviceable aircraft VHF radio; and
 - (b) the pilot holds a radiotelephone qualification.

Flight in VMC during the day and in company

- (3) The pilot in command of an aircraft may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1) (a) if:
 - (a) either:
 - (i) the aircraft is not carrying a serviceable aircraft VHF radio; or
 - (ii) the pilot does not hold a radiotelephone qualification; and
 - (b) the aircraft is being operated for a flight:
 - (i) that is in VMC; and
 - (ii) that is not a night flight; and
 - (iii) that is undertaken in company with another aircraft; and
 - (c) the other aircraft is carrying a serviceable aircraft VHF radio; and
 - (d) the pilot in command of the other aircraft holds a radiotelephone qualification.

Unserviceable radio

- (4) The pilot in command of an aircraft that is carrying an unserviceable aircraft VHF radio may operate the aircraft on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome mentioned in paragraph (1) (a) if:
- (a) either:
 - (i) the radio became unserviceable 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) for an aircraft that is flying in the vicinity of the aerodrome — the pilot ensures that each of the following are 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) for an aircraft arriving at the aerodrome — the pilot joins the circuit pattern for the aerodrome on the cross-wind leg of the circuit pattern.
- (5) An offence against subregulation (1) is an offence of strict liability.

Subdivision 3 Controlled aerodromes, aerodromes at which the operation of aircraft is not restricted to runways, and preventing collisions on water

167 General requirements for aerodrome traffic at controlled aerodromes

- (1) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome must:
- (a) maintain a lookout for other aerodrome traffic to avoid collision; and

(b) either:

- (i) maintain a continuous listening watch on the radio frequency specified in the AIP for communications with the aerodrome control service for the aerodrome; or
- (ii) if it is not possible to maintain a continuous listening watch as mentioned in subparagraph (i) — keep a watch for any instructions given by visual signals by the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

- (2) The pilot in command of an aircraft that is part of the aerodrome traffic at a controlled aerodrome commits an offence if:
- (a) he or she carries out any manoeuvre preparatory to, or associated with, taxiing, landing or taking off; and
 - (b) he or she has not, before carrying out the manoeuvre, obtained, by radio or visual signals, authorisation to do so from the aerodrome control service for the aerodrome.

Penalty: 25 penalty units.

- (3) The pilot in command of an aircraft commits an offence if:
- (a) the aircraft is part of the aerodrome traffic at a controlled aerodrome; and
 - (b) the pilot engages in conduct; and
 - (c) the conduct results in the contravention of a rule set out in subregulation (4); and
 - (d) the aerodrome control service for the aerodrome has not instructed or permitted the pilot to engage in that conduct.

Penalty: 25 penalty units.

- (4) The rules are the following:
- (a) subject to subregulation (5), if the pilot takes off from the aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain;
 - (b) if the pilot joins the circuit pattern for the aerodrome for a landing at the aerodrome, the pilot must, after joining the circuit pattern, make all turns to the pilot's left;

- (c) if the pilot takes off from the aerodrome, the pilot must, after taking off, make all turns to the pilot's left while the aircraft is flying in the circuit pattern for the aerodrome.
- (5) The rule in paragraph (4) (a) does not apply if a change to the track is necessary to avoid the terrain.
- (6) An offence against subregulation (1) or (2) is an offence of strict liability.

Note 1 Under subregulation 100 (1), the pilot in command of an aircraft must comply with air traffic control instructions.

Note 2 The pilot in command of an aircraft must comply with the flight manual, or other equivalent document for the aircraft, as required by regulation 138.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.