

## Where does it say I'm not allowed to do that?

### A dog's breakfast

Rules for carrying passengers? CAO 20.16.3. Radio phraseology? AIP GEN 3.4. How low are you allowed to fly over houses? CAR 157. Hemispherical cruising levels? AIP ENR 1.7. Registration of aircraft? CASR 47. Are you allowed to carry passengers when doing PFLs? CAR 249. What instruments must you have in flight? CAO 20.18.

One of the aims of CASA's regulation reform in recent years has been to consolidate the dog's breakfast of different rule books. Eventually CAR's and CAO's will cease to exist, and all the laws will be in Civil Aviation Safety Regulations (CASR's). A recent example of the consolidation is putting all the rules about licensing – previously in CAR's and CAO's – into one place in CASR 61, which is why we all now have "Part 61" licences. Another useful example is the one that came into force on December 2<sup>nd</sup>, which is CASR Part 91. CASR 91 has been around for a while, but it didn't have much in it. It's still titled "General Operating and Flight Rules", but as of this month it contains a lot of the rules you'd previously have found (after much searching) in CAR's and CAO's as well as CASR's.

A number of the CASR Parts, including Part 91, are supported by Manuals of Standards (MOS) as well as the AIP.

### Legalese

Like the CAR's, the CASR's are laws, therefore they have to stand up in court, which means they're written by lawyers for lawyers: "Subject to subregulations (4) and (4B), for subregulation (1), the holder is taken to have a valid instrument proficiency check for an aircraft type ....." The AIP is meant to be a more practical everyday set of rules, written in plainer English. For example, CAR 172 states, in legalese, that a pilot of a VFR flight must maintain the visibility and distance from cloud specified by CASA. AIP sets out the actual distances based on different classes of airspace. If CASA wanted to prosecute you for breaking the rules, they'd prosecute you for breaching CAR 172, not AIP ENR 1.2.

As an aside, the CAR's and CASR's contain plenty of instances of the term "strict liability". All that means is that the prosecution doesn't need to prove intent. A speeding fine is an example of strict liability. The cops don't care whether you were hooning, playing with your phone, playing hanky-panky with your front-seat passenger, or just not paying attention. "75 in a 60 zone, \$200 and 2 points. There's your ticket Sir, have a nice day."

### CASR Part 91 scope

Most of Part 91 is rules that already exist, but some of the main changes that may affect us as VFR pilots include rules to:

- Restrict the practice of certain in-flight emergencies and who can be on board at the time;
- Give greater discretion for the pilot in command to decide if it's okay for a passenger to use a portable electronic device;
- Permit the carriage of documents electronically;
- Amend the minimum altitude at which a cruising level must be used during VFR flight.

To illustrate the scope of the updated Part 91, including rules that haven't changed but have simply been added to this Part, here's a plain English sample of some of the rules that are included:

- 91.105 – you must carry your licence and medical when flying;

- 91.185 – you are not allowed to do aerobatics in cloud (well, who'da thunk that?);
- 91.265 – you're not allowed to fly lower than 1000 ft over a town;
- 91.395 – if you're doing a straight-in approach you must give way to other aircraft in the circuit;
- 91.455 – you must carry fuel as required by the MOS;
- 91.565 – you must give your passengers a safety briefing as per the MOS;
- 91.805 – your weight and balance must be within limits.

Most of these rules were previously scattered throughout the arcane depths of the CAR's.

### Manual of Standards

The Part 91 MOS elaborates on the rules set out in CASR. For instance, CASR 91.235 states that the MOS may prescribe alternate requirements. Chapter 8 of the MOS sets out those requirements, most of which are also in AIP ENR 1.1.

Examples of items in the MOS that are or have been in the AIP or CAO include:

- Chapter 2 – VMC criteria (previously in AIP ENR 1.2, which now refers you to the MOS);
- Chapter 9 – flight notification requirements (also in AIP ENR 1.10);
- Chapter 19 – fuel requirements (previously in CAR 234, with Civil Aviation Advisory Publication [CAAP] 234 outlining the actual numbers);
- Chapter 20 – safety of people and cargo, including safety briefings (CAO 20.11 and 20.16);
- Chapter 26 – aircraft equipment (CAO 20.18).

Because there's also quite a bit of legalese in the MOS, CASA has seen fit to avoid the need for you to consult a lawyer who charges a GA pilot's weekly pay packet for ten minutes of his or her time. To this end, they've produced a plain English guide: <https://www.casa.gov.au/publication/plain-english-guide-new-flight-operations-regulations>. Each rule in this guide has a reference to the relevant rule in Part 91 and, where applicable, the MOS. The guide only costs a couple of dollars (the postage will cost you more than the booklet), so it could be a great Christmas present for your favourite rule-breaker!

Again, most of the rules haven't changed. They're just a bit more accessible, and as far as most of your everyday operational rules go, CASR Part 91 and its MOS are as close as CASA has got to a one-stop shop.

Merry Christmas, and remember as summer takes hold, keep your speed up in the climb!