



Australian Government

Civil Aviation Safety Authority

Civil Aviation Amendment Order (No. R35) 2004 as amended

made under regulations 5.14, 5.16 and 5.18 of the *Civil Aviation Regulations 1988*.

This compilation was prepared on 19 January 2015 taking into account amendments up to *Civil Aviation Order (Flight Crew Licensing) Repeal and Amendment Instrument 2014 (No. 1)*.

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1 Name of Order

This Order is the Civil Aviation Amendment Order (No. R35) 2004.

2 Commencement

This Order commences on gazettal.

3 Replacement of section 40.2.2 of the Civil Aviation Orders

Section 40.2.2 of the Civil Aviation Orders is omitted and a new section substituted as set out in Schedule 1.

Schedule 1 Substitution of section 40.2.2 of the Civil Aviation Orders

Section 40.2.2

Balloon grade of night V.F.R. rating

1 Application

1.1 For the purposes of subregulation 5.14 (1):

- (a) the flight tests that must be passed; and
- (b) the other requirements that must be satisfied;

for the issue of a balloon grade of night V.F.R. rating are set out in subsections 5 and 6 and paragraph 7.2.

2 Interpretation

2.2 A reference in this section to a regulation or subregulation identified by a numerical code (for example, 5.18 or 5.14 (1)) is a reference to the regulation or subregulation in the Civil Aviation Regulations 1988 identified by that code.

4 Duration

- 4.1 For the purposes of subregulation 5.17 (3), a night V.F.R. rating remains in force until the holder of the rating no longer holds a flight crew licence.

5 Aeronautical knowledge

- 5.1 Before undertaking a flight test required by subsection 7, an applicant for a balloon grade of night V.F.R. rating must pass an examination conducted or set by CASA or an approved pilot.
- 5.2 A person must not attempt an examination mentioned in paragraph 5.1 unless the person satisfies the requirements of subsection 6.

6 Aeronautical experience — night V.F.R. rating

- 6.4 An applicant for a balloon grade of night V.F.R. rating must:
- (a) hold a commercial pilot (balloon) licence; and
 - (b) satisfy the requirements set out in subsection 1A of Appendix I.

7 Aeronautical skill

- 7.2 An applicant for a balloon grade of night V.F.R. rating must pass the flight test set out in subsection 2A of Appendix I.

8 Authority given by rating

- 8.2 For the purposes of regulation 5.18:
- (a) the authority given by a balloon grade of night V.F.R. rating; and
 - (b) the limitations on that authority; and
 - (c) the flight tests that must be passed and other requirements that must be satisfied before that authority may be exercised;
- are set out in subsection 9, and in subsections 3 and 6 of Appendix I.

9 Recent experience requirements

- 9.1 The holder of a night V.F.R. rating must not exercise the authority given by the rating unless he or she satisfies the requirements set out in subsection 5 of Appendix I.

Appendix I

Night V.F.R. rating

1A Aeronautical experience — balloons

- 1A.1 For the purposes of subparagraph 6.4 (b), the aeronautical experience must include:
- (a) at least 3 hours flight time as a pilot of a balloon that was flown at night; and
 - (b) satisfactory completion of a course of training in accordance with paragraph 1A.2.
- 1A.2 For the purposes of subparagraph 1A.1 (b), the course of training must include:
- (a) at least 3 flights at night with:
 - (i) a person who holds a flight instructor (balloon) rating and a balloon grade of night V.F.R. rating; or
 - (ii) an approved person; and
 - (b) training in the aeronautical skills needed to control a balloon by reference to instruments.
- 1A.3 CASA may approve a person for the purposes of sub-subparagraph 1A.2 (a) (ii).

2A Flight test — balloons

- 2A.1 An applicant for a balloon grade of night V.F.R. rating must satisfy CASA, an approved testing officer or an approved person that he or she can safely carry out the following manoeuvres:
- (a) take-off;
 - (b) climb to 1 500 feet above the ground at nominated rate ($\pm 20\%$);
 - (c) level-off and maintain ± 100 feet for 5 minutes;
 - (d) descend to 500 feet above the ground at nominated rate ($\pm 20\%$);
 - (e) level-off and maintain ± 50 feet for 2 minutes;
 - (f) carry out necessary fuel management during night flight whilst maintaining height ± 100 feet;
 - (g) carry out passenger management during night flight;
 - (h) in surveyed area, descend to not more than 100 feet above the ground at a rate of not more than 100 feet per minute during the last 100 feet, for approach and overshoot to an emergency landing area.
- 2A.2 The manoeuvre mentioned in sub-subparagraph 2A.1 (h) may be followed by either a landing or a climb to a height of at least 100 feet above the ground to continue the flight.

3 Authority given by rating

Subject to subsections 5 and 6, a balloon grade of night VFR rating authorises the holder of the rating to fly as pilot in command of balloons on aerial work, or charter, flights by night under the V.F.R.

5 Recent experience requirements

For the purposes of paragraph 9.1, a balloon grade of night VFR rating does not authorise the holder of the rating to fly as pilot in command of a balloon by night unless, within the period of 1 year immediately before the day of the proposed flight, the holder has completed 1 or more of the following:

- (a) carried out at least 1 flight of at least 30 minutes duration of a balloon at night as pilot in command, as pilot acting in command under supervision or in dual flying; or
- (b) satisfactorily completed a balloon proficiency check that was conducted at night; or
- (c) passed a flight test that was conducted at night for the purpose of the issue of a balloon pilot licence, or the issue, or renewal, of a balloon pilot rating.

6 Balloon grade of night V.F.R. rating — limitations on authority

6.1 A balloon grade of night V.F.R. rating does not authorise the holder of the rating:

- (a) to land a balloon at night, unless he or she lands the balloon:
 - (i) in the course of giving or receiving flying training; or
 - (ii) in an emergency; or
- (b) to carry passengers in a particular class of balloon that is flying:
 - (i) at night; and
 - (ii) in charter operations;

unless he or she has passed the flight test set out paragraph 2A.1 in a balloon of that class.

7 Balloon grade of night V.F.R. rating — conditions

7.1 For the purposes of regulation 11.068 of the *Civil Aviation Safety Regulations 1998*, it is a condition of each balloon grade of night V.F.R. rating that the holder of the grade of rating must not exercise the authority given by the grade of rating in a balloon unless the balloon:

- (a) has at least 2 independent fuel systems; and
- (b) takes-off not more than 1 hour before first light; and
- (c) carries sufficient fuel to enable it to remain airborne until at least 1 hour after first light; and
- (d) carries at least 2 torches; and
- (e) carries a light that is capable of lighting sufficient ground for the balloon to be landed at night in an emergency.

Notes to Civil Aviation Order 40.2.2

Note 1

The Civil Aviation Order (in force under the *Civil Aviation Regulations 1988*) as shown in this compilation comprises Civil Aviation Order 40.2.2 amended as indicated in the Tables below.

Table of Orders

Year and number	Date of notification in <i>Gazette</i> / registration on FRLI	Date of commencement	Application, saving or transitional provisions
CAO 2004 No. R35	8 December 2004 (F2005B00858)	8 December 2004 (s. 2)	
CAO (Flight Crew Licensing) Repeal and Amendment Instrument 2014 (No. 1)	FRLI 29 August 2014 (F2014L01177)	1 September 2014 (s. 2)	Sections 3 and 31 (Table A)

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
s. 40.2.2	rs. CAO 2004 No. R35
Heading	rs. F2014L01177
subs. 1	am. F2014L01177
subs. 2	am. F2014L01177
subs. 4	am. F2014L01177
subs. 5	rs. F2014L01177
subs. 6	am. F2014L01177
subs. 6A	rep. F2014L01177
subs. 7	am. F2014L01177
subs. 8	am. F2014L01177
subs. 9	am. F2014L01177
Appendix I	am. F2014L01177
Appendix II	rep. F2014L01177

Table A Application, saving or transitional provisions

Sections 3 and 31 of Civil Aviation Order (Flight Crew Licensing) Repeal and Amendment Instrument 2014 (No. 1) read as follows:

3 Definitions

(1) In this instrument:

continued authorisation has the meaning given by regulation 202.261 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*.

new authorisation has the meaning given by regulation 202.261 of CASR 1998.

(2) A reference in this instrument to a Civil Aviation Order identified by a specified number is taken to include a reference to the section of the Civil Aviation Orders with that number.

Note Some existing legislative instruments are referred to as a Civil Aviation Order followed by a number. Other instruments are referred to as a section of the Civil Aviation Orders. For consistency, in this instrument, all such instruments are referred to as a Civil Aviation Order followed by a number. For example, a reference to Civil Aviation Order 40.2.2 is taken to include a reference to section 40.2.2 of the Civil Aviation Orders.

31 Transitional — application of Civil Aviation Orders

The Civil Aviation Orders apply to a continued authorisation as if it were the equivalent new authorisation.