



## WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990


I, MAURICE WILLIAMSON, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This 10 day of June 1996

by MAURICE WILLIAMSON

  
Minister of Transport

**Civil Aviation Rules**

**Part 47**

**Aircraft Registration and Marking**

*Docket Nr. 1089*

**Civil Aviation Rules**  
**Part 47**

**Aircraft Registration and Marking**

## **RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT**

The objective of Part 47 is to establish a system for the registration of aircraft in New Zealand and for the allocation of nationality and registration markings for New Zealand registered aircraft. The system established under Part 47 provides the Authority with an up-to-date record of the persons who have possession of New Zealand registered aircraft.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process. The Register was identified as the Regulatory Review Consultative Group.

A draft of Part 47 was developed by the rules rewrite team in consultation with members of the consultative group. An initial Notice of Proposed Rulemaking was published and distributed in July 1991 under docket 1016 and a period of consultation followed. This culminated in the issue of a second Notice of Proposed Rulemaking 94-4 under Docket 1089 on 26 October 1994.

This notice was published in the Gazette and in the daily newspapers in the five main provincial centres on 27 October 1994. The notice was mailed to members of the Regulatory Review Consultative Group and to other parties, including overseas Aviation Authorities and organisations, who were considered likely to have an interest in the proposal.

A period of 32 days was allowed for comment on the proposed rule. Ten written submissions were received.

The submissions and verbal comments were considered and where appropriate the proposed rules amended to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 47 comes into force on 28 November 1996.

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## **Subpart A — General**

### **47.1      *Applicability***

This Part prescribes rules governing the registration of aircraft in New Zealand and nationality and registration marking of New Zealand registered aircraft.

### **47.3      *Exemptions***

The Director may exempt any person from any requirement in this Part following the procedures in Part 11 and in accordance with section 37 of the Act.

## **Subpart B — Aircraft Registration and Certificate of Registration**

### **47.51      *Requirement for aircraft registration and certificate***

(a) Except as provided in Parts 101, 105, and 106, every person lawfully entitled to the possession of an aircraft for 28 days or longer shall, if the aircraft flies to, from, within, or over New Zealand territory, register that aircraft and hold a valid certificate of registration for that aircraft from—

- (1) the Director; or
- (2) the appropriate aeronautical authorities of a contracting State of ICAO; or
- (3) the appropriate aeronautical authorities of another State that is party to an agreement with the Government of New Zealand or the Civil Aviation Authority of New Zealand which provides for the acceptance of each other's registrations.

(b) No aircraft shall be registered in or remain registered in New Zealand if it is registered in any other country.

### **47.53      *Application for registration and grant of certificate***

(a) Every application for the registration of an aircraft and for the grant of a New Zealand certificate of registration shall be made by, or on behalf of—

- (1) the person who is lawfully entitled to the possession of the aircraft for 28 days or longer; or
- (2) the person who, on a date specified in the application, will be lawfully entitled to the possession of the aircraft for 28 days or longer.

- (b) The applicant shall complete form CAA 24047/01, which shall require—
- (1) the manufacturer, model and serial number of the aircraft; and
  - (2) the name and address for service in New Zealand of the person specified in paragraph (a)(1) or (2); and
  - (3) such further particulars relating to the aircraft and the person specified in paragraph (a)(1) or (2) as may be required by the Director as indicated on the form—

and submit it to the Director with a payment of the appropriate application fee prescribed by regulations made under the Act.

(c) The Director may require the applicant, or, where the application is made on behalf of a person, that person, to produce all or any of the following, as may be reasonable in the circumstances:

- (1) evidence of the manufacturer, model and serial number of the aircraft;
- (2) evidence of the identity of the person specified in paragraph (a)(1) or (2);
- (3) a statutory declaration by the person specified in paragraph (a)(1) or (2) that that person is, or on a date specified in the application will be, lawfully entitled to the possession of the aircraft for 28 days or longer.

#### **47.55 Registration and grant of certificate**

(a) An applicant is entitled to have an aircraft registered and to the grant of a New Zealand certificate of registration if the Director is satisfied that—

- (1) the aircraft is not registered in any other country; and
- (2) the person lawfully entitled to the possession of the aircraft for 28 days or longer is a fit and proper person; and
- (3) the granting of the certificate is not contrary to the interests of aviation safety.

(b) If the Director is satisfied that an applicant complies with the requirements of paragraph (a), the Authority shall enter in the New Zealand Register of Aircraft—

- (1) the date of registration; and
- (2) the description of the aircraft given in the application; and

- (3) the name and address for service of the person lawfully entitled to the possession of the aircraft for 28 days or longer; and
- (4) the registration mark allocated to the aircraft by the Director.

#### **47.57 Change of possession of aircraft**

(a) If the holder of a New Zealand certificate of registration ceases to have lawful entitlement to possession of the registered aircraft for a period of 28 days or longer, the certificate expires on the date the certificate holder ceases to have lawful entitlement to possession of the aircraft.

(b) The certificate holder whose certificate expires in accordance with paragraph (a) shall—

- (1) within 14 days after the date of such expiry, ensure the completion of—
  - (i) the form printed on the reverse side of the New Zealand certificate of registration; or
  - (ii) form CAA 24047/01—

and submit the form to the Director with a payment of the appropriate fee prescribed by regulations made under the Act; or

- (2) where applicable, notify the Director in accordance with 47.67.

#### **47.59 Operation of aircraft after expiry of certificate**

(a) Notwithstanding 47.51(a), a person lawfully entitled to the possession of an aircraft which flies to, from, within, or over New Zealand territory, is not required to hold a valid New Zealand certificate of registration for a period of 28 days from the date of expiry of the certificate under 47.57(a).

(b) After 28 days have elapsed from the expiry of a New Zealand certificate of registration under 47.57(a), no person shall operate the aircraft until such time as the Director grants a certificate of registration for the aircraft.

#### **47.61 Currency of information in certificate**

(a) The holder of a New Zealand certificate of registration shall notify the Director, as soon as practicable, of any change that affects the currency of any information contained in the certificate.

(b) If, after receiving a notification under paragraph (a), the Director amends or revokes the certificate of registration and issues a new certificate in its place in accordance with section 20 of the Act, the Authority shall update the relevant particulars in the New Zealand Register of Aircraft.

**47.63 Replacement of certificate**

(a) The holder of a New Zealand certificate of registration may apply for a replacement certificate if the certificate is—

- (1) lost, stolen, or destroyed; or
- (2) so damaged that particulars are no longer clearly legible.

(b) The applicant for a replacement certificate shall complete form CAA 24047/01 and submit it to the Director with—

- (1) a payment of the appropriate application fee prescribed by regulations made under the Act; and
- (2) if the certificate is damaged, the certificate.

**47.65 Duration of certificate**

(a) A New Zealand certificate of registration remains valid until—

- (1) it expires under 47.57(a); or
- (2) it is suspended or revoked by the Director.

(b) The holder of a New Zealand certificate of registration that is suspended shall forthwith produce the certificate to the Director for appropriate endorsement.

(c) The holder of a New Zealand certificate of registration that is revoked shall forthwith surrender the certificate to the Director.

**47.67 Destruction, loss, theft, withdrawal from use, or foreign registration of aircraft**

(a) The holder of a New Zealand certificate of registration shall notify the Director in accordance with paragraph (b)—

- (1) within 14 days after becoming aware that the aircraft is—
  - (i) destroyed, lost or stolen; or
  - (ii) permanently withdrawn from use; or
- (2) forthwith upon the application for registration of the aircraft on the aircraft register of any other country.

(b) Notification under paragraph (a) shall—

- (1) be made in writing; and
- (2) be signed by the certificate holder; and
- (3) set out the circumstances of what has occurred; and



- (4) be accompanied by the certificate of registration.

**47.69 Cancellation of registration**

- (a) An aircraft remains registered until—

- (1) the holder of a certificate of registration requests the Director to revoke the certificate for the aircraft and the Director revokes it; or
- (2) the Director is satisfied that—
  - (i) the aircraft is destroyed, lost, or stolen; or
  - (ii) the aircraft is permanently withdrawn from use; or
  - (iii) a person lawfully entitled to possession of the aircraft for 28 days or longer has applied to register the aircraft in any other country; or
  - (iv) the aircraft is registered in any country other than New Zealand—

and the Director revokes the certificate of registration; or

- (3) the Director otherwise revokes the certificate of registration in accordance with the Act; or
- (4) the Director—
  - (i) is satisfied that the certificate of registration has expired under 47.57(a); and
  - (ii) has not received an application under 47.53 within 14 days after the date on which the Director was satisfied the certificate had so expired.

- (b) The Authority shall cancel the entry for the aircraft in the New Zealand Register of Aircraft if the Director—

- (1) revokes the certificate of registration of an aircraft in accordance with paragraph (a)(1), (2), or (3); or
- (2) is satisfied of the matters in paragraph (a)(4).

**47.71 Nationality of aircraft**

Each aircraft registered by the Director in accordance with 47.55(a) has New Zealand nationality.

## Subpart C — Aircraft Marking

### **47.101 Requirement for aircraft marking**

(a) Except as provided in paragraphs (b) and (c), and in Parts 101, 105, and 106, each holder of a New Zealand certificate of registration shall ensure that the aircraft bears a nationality mark, a registration mark, and an identification plate in the manner, and in accordance with, the specifications prescribed in 47.109 to 47.119 inclusive.

(b) The following New Zealand registered aircraft are not required to bear a nationality mark when operating within New Zealand:

- (1) aeroplanes with an MCTOW of 5700 kg or less;
- (2) aeroplanes operating pursuant to a special category airworthiness certificate issued under Part 21, Subpart H.

(c) The following New Zealand registered aircraft are not required to bear a nationality mark and the first letter of their registration mark when operating within New Zealand:

- (1) helicopters, where the first letter of their registration mark is H;
- (2) gliders and powered gliders;
- (3) manned balloons.

### **47.103 Nationality and registration marks**

(a) The nationality mark of a New Zealand registered aircraft shall be the capital letters ZK.

(b) The registration mark of a New Zealand registered aircraft shall—

- (1) be allocated to the aircraft by the Director; and
- (2) be a group consisting of 3 letters appearing after and separated from the nationality mark by a hyphen.

### **47.105 Reservation of registration mark**

(a) Subject to paragraphs (b) and (c), the Director shall reserve a registration mark for a period not exceeding 24 months—

- (1) at the request of a person who intends to register an aircraft in the New Zealand Register of Aircraft; and
- (2) on payment of any applicable fees or charges prescribed by regulations made under the Act.

- (b) A registration mark shall not be reserved if it is in use as an aircraft registration mark.
- (c) The Director may refuse to reserve a registration mark if the Director considers its use to be undesirable.
- (d) A registration mark that has been reserved shall not, while reserved, be allocated to an aircraft as a registration mark otherwise than at the request of the person on whose request the registration mark was reserved.

#### **47.107 Change of registration mark**

- (a) The holder of a New Zealand certificate of registration may apply to the Director for a new registration mark to replace the mark allocated to the aircraft specified in the certificate.
- (b) The applicant for a change of registration mark shall apply in writing and submit to the Director—
  - (1) the certificate of registration; and
  - (2) the registration mark sought; and
  - (3) a payment of the appropriate fee prescribed by regulations made under the Act.
- (c) On receiving an application under paragraph (b), the Director may withdraw the registration mark allocated to the aircraft and allocate the new registration mark.
- (d) On allocation of a new registration mark under paragraph (c), the Authority shall enter in the New Zealand Register of Aircraft the particulars of the new registration mark allocated to the aircraft.

#### **47.109 Display of marks**

- (a) The nationality and registration marks shall—
  - (1) be painted on the aircraft or affixed by any other means ensuring a similar degree of permanence; and
  - (2) be displayed to the best possible advantage having regard to the construction or features of the aircraft; and
  - (3) be kept clean and visible at all times.
- (b) The letters and hyphen shall be of one colour that contrasts clearly with the background on which they are painted or otherwise affixed.

**47.111 Location of marks – lighter-than-air aircraft**

- (a) The marks required by 47.101 on airships shall appear—
- (1) lengthwise on each side of the hulls near the maximum cross section of the airship and on the upper surface on the line of symmetry; or
  - (2) on the following stabilisers:
    - (i) the horizontal stabiliser, on the right half of the upper surface and on the left half of the lower surface with the tops of the letters towards the leading edge;
    - (ii) the vertical stabiliser, on each side of the bottom half stabiliser, with the letters placed horizontally.
- (b) The marks required by 47.101 on spherical balloons shall appear in 2 places diametrically opposite and located near the maximum horizontal circumference of the balloon.
- (c) The marks required by 47.101 on non-spherical balloons shall appear on each side, located near the maximum cross-section of the balloon and immediately above the rigging band or the points of attachment of the basket suspension cables.
- (d) The side marks required by this rule shall be visible both from the sides and from the ground.

**47.113 Location of marks – heavier-than-air aircraft**

- (a) The marks required by 47.101 on aeroplanes, gliders, and powered gliders shall appear—
- (1) except as provided in paragraph (c), once, on the lower surface of the wing structure. If the marks are confined to the outer half of the wing structure they shall be located on the left lower surface. The tops of the letters shall be towards the leading edge of the wing and so far as is possible, be equidistant from the leading and trailing edges of the wing; and
  - (2) on both sides of the fuselage between the wings and tail surfaces, or on the upper halves of the vertical tail surfaces. Marks on a single vertical tail surface shall appear on both sides. Marks on multi-vertical tail surfaces shall appear on the outboard sides of the outer surfaces.

- (b) The marks required by 47.101 on rotorcraft shall appear—
- (1) on the bottom surface of the fuselage or cabin with the top of the marks towards the front of the fuselage; and
  - (2) on both sides of the fuselage or cabin or tailboom in a prominent place not obstructed in normal use.
- (c) Aeroplanes, gliders, and powered gliders which operate exclusively within New Zealand territory are not required to display marks on the lower surface of the wing structure.
- (d) If a heavier-than-air aircraft does not possess parts corresponding to those mentioned in the applicable paragraph of this rule, the marks shall appear in such a manner that the aircraft can be readily identified to the satisfaction of the Director.

#### **47.115 Specification of marks**

- (a) The nationality and registration marks shall consist of capital letters in Roman characters without ornamentation.
- (b) The width of each letter (except the letter "I") and the length of the hyphen shall be two-thirds of the height of the letter.
- (c) Each letter shall be separated from the letter which immediately precedes or follows it by a space equal to one-quarter the height of the individual letters, the hyphen being regarded as a letter for this purpose.
- (d) The lines forming the letters and hyphen shall be solid and the thickness of those lines shall be one-sixth of the height of the letter.

#### **47.117 Measurement of marks**

- (a) The nationality and registration marks shall be formed of letters of equal height, and shall be so situated as to leave a margin of at least 50 mm along each edge of any surface to which they are affixed.
- (b) The height of the marks on lighter-than-air aircraft shall be not less than 500 mm.
- (c) The height of the marks on aeroplanes, gliders, and powered gliders shall be—
- (1) on the wings, not less than 500 mm; and
  - (2) on the fuselage or equivalent structure and on the vertical surfaces, not less than 300 mm, except that where the surface is not large enough to accommodate full-size marks the Director may approve

marks of a lesser measurement provided they are not less than 150 mm in height and can be readily identified.

- (d) The height of the marks on rotorcraft shall be—
- (i) on the bottom surface of the fuselage or cabin, not less than 500 mm high; and
  - (ii) on the sides of the fuselage or cabin, not less than 250 mm high; except that where the surface is not large enough for full-size marks the Director may approve marks of a lesser measurement provided they are not less than 150 mm in height and can be readily identified.

#### **47.119 Identification plate**

- (a) The identification plate shall be etched, stamped, or engraved with the aircraft's nationality and registration marks.
- (b) The identification plate shall—
- (1) be made of fireproof metal or other fireproof material of suitable physical properties; and
  - (2) be affixed to the aircraft in a prominent position near the main point of entrance to the aircraft.

#### **47.121 Obstructing identification**

No person shall place on any New Zealand registered aircraft any mark or symbol that modifies or confuses the nationality or registration marks that are allocated to and required to be displayed by the aircraft under this Part.

## **APPENDIX A – TRANSITIONAL ARRANGEMENTS**

- (a) The requirement in 47.113(a)(2) shall not apply to microlight aeroplanes for a period of 12 months from the date this Part comes into force.
- (b) The requirement in 47.113(b)(1) that the top of the required marks appear towards the front of the fuselage shall not apply to rotorcraft for a period of 12 months from the date this Part comes into force.

## CONSULTATION DETAILS

*(This statement does not form part of the rules contained in Part 47  
It provides details of the consultation undertaken in making the rules.)*

### Background to the Rules

In April 1988 the Swedavia - McGregor Report on Civil Aviation Regulation in New Zealand was completed. This report concluded that aviation safety should be a joint responsibility of both the Civil Aviation Authority and the participants in the civil aviation system. There was widespread agreement that a complete overhaul of the civil aviation regulatory system was necessary. As a result, the Government enacted the Civil Aviation Act 1990 to implement the first stage of the report's recommendations. To implement the remaining recommendations of the report the Civil Aviation Authority is undertaking a complete review and rewrite of all existing secondary civil aviation legislation.

Considerable research was carried out to determine the format for the new legislation. The Authority decided that the most suitable legislative framework should incorporate the advantages from the system being developed by the European Joint Aviation Authorities (JAA) and from the existing United States of America Federal Aviation Administration (FAA) system. The European Joint Aviation Requirements (JAR) are being structured in a manner similar to the Federal Aviation Regulations (FAR) of the FAA and aim to achieve maximum harmonisation while allowing for national variations.

New Zealand's revised requirements are being published in a series of Parts as Civil Aviation Rules (CAR). Each Part sets out a series of individual rules that relate to a particular aviation activity.

Accompanying each Part of the CAR is usually one or more associated Advisory Circular (AC). These expand, in an informative way, specific requirements of the CAR Part and show an acceptable means of compliance. For example, an AC will contain the minimum acceptable practice or practices that will be necessary to meet the rules.

The CAR numbering system is based on the FAR Part numbering system. As a general principle the subject matter of a CAR Part will harmonise with the FAR, although the title may differ to suit New Zealand terminology. Where a proposed CAR Part does not readily equate with a FAR number code, a number has been selected that does not conflict with any existing FAR Part.

The FAR has been used as the start point for the development of many of the CAR, but there are likely to be significant differences in the content of each Part of the rules. Changes have been made to conform to New Zealand legal practices and terminology.

The objective of the new rules system is to strike a balance of responsibility between the State Authority and those who provide services and exercise privileges in the civil aviation system. This balance must enable the State Authority to maintain continuing regulatory control and supervision while providing the maximum flexibility for participants to develop their own means of compliance.

Section 7 of the Civil Aviation Act 1990 (the Act) allows the Civil Aviation Rules to require participants to hold an aviation document to carry out particular activities. Section 12 of the Act requires the holders of documents to carry out their activities safely, and in accordance with the relevant prescribed safety standards and practices.

### **Notice of Proposed Rule Making**

The Authority issued a Notice of Proposed Rule Making for aircraft registration and marking under Docket Number 1089 NR on 26 October 1994 to provide public notice of, and the opportunity for comment on, the proposed new rules.

### **Supplementary Information**

All comments made on the Notice of Proposed Rule Making (NPRM) are available in the Rules Docket for examination by interested persons. A report summarising each substantive contact with the Civil Aviation Authority contact person concerning this rule making has been filed in the docket.

### **Availability of the Document**

Any person may view a copy of these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.



## Summary of Comments on Docket Number 1089 NPRM

### 1. General Comments on the NPRM

Ten written submissions were received. All submissions appeared to support in principle the intent and content of the rules. Most submissions were limited to queries or suggestions in relation to specific registration or marking rules that were most relevant to the commenter's activities. Two submissions were more general and contained reasonably substantial comments on the registration requirements.

#### 1.1 The 28 day Requirement

The New Zealand Air Line Pilots' Association Industrial Union of Workers (Inc) ("ALPA") submitted that the purpose of Part 47 of providing an accurate record of aircraft flown in New Zealand and the persons flying them is not met because -

- (a) The Authority will have no knowledge of aircraft being flown in New Zealand for periods of less than 28 days
- (b) The Authority will have no knowledge of long term operations in New Zealand of aircraft using short term lease arrangements of less than 28 days being renewed consecutively (that is, a 26 day aircraft lease being renewed for consecutive 28 day periods)
- (c) Swedavia - McGregor at page 155 of the report recommends a 14 day period.

Submission: That the words "lawfully entitled to the possession of an aircraft" in 47.5(a) and 47.51(a) be amended to read: "lawfully entitled to the possession or control of an aircraft" and that the words "for 28 days or longer" be deleted.

#### Authority Response

The Authority does not support this proposal principally because the effect of adopting the proposal would be to require a person who is given possession of an aircraft for a period limited to several weeks, or days, or as is often the case in a day hiring, a matter of hours, to have the aircraft registered in their name.

For registration purposes, the Authority is interested in the person who has ongoing custody and maintenance responsibility for the aircraft. The proposed amendment does not address this in any practical sense. It would be administratively impossible to get notice of and accurately record daily changes of aircraft possession and would not serve any legitimate regulatory purpose.

Most day to day operational requirements apply to the aircraft operator or pilot in command whether or not the aircraft is registered in their name.

Also, the 28 day period is used in other transport modes and is recognised as an appropriate means for identifying ongoing custody and control. The Authority accepts that ongoing consecutive renewals of leases of less than 28 days can be used to avoid the registration requirements. However, this practice is relatively infrequent. For information dissemination purposes the use of this practice is generally not in the interests of the person in possession, and it does not avoid day to day safety responsibilities. At this stage, the Authority does not consider that the degree of benefit from attempting to remedy this practice would warrant the associated time and financial costs.

### **1.2 Registration within New Zealand**

ALPA comments that there is no requirement in the rule for aircraft operating in New Zealand under a New Zealand aircraft operating certificate to be, or become, registered in New Zealand. They suggest that the omission of such a requirement being imposed after a specified time limitation allows for “jurisdictional difficulties in relation to standards of operation, maintenance, and responsibility”.

Submission: That a provision be included requiring the person lawfully entitled to the possession or control of an aircraft operating under the authority of a New Zealand aircraft operating certificate to apply to the Director and have that aircraft registered in New Zealand under Part 47.

#### **Authority Response**

The requirement that satisfies, at least in part, the problem identified in this submission is found in Part 119 Air Operator – Certification. Part 119 does not require aircraft operating in New Zealand under a New Zealand aircraft operating certificate to be registered in New Zealand. Part 119 does however require notification if a non-New Zealand registered aircraft is to be used by the holder of a Part 119 certificate on an air transport operation. The Director must then approve the use of that aircraft in New Zealand on air transport operations.

The notification must include the nationality and registration details of the aircraft, the names of the parties involved and the duration of the leasing arrangement. This information will enable the Authority to confirm whether the aircraft is appropriate for air transport operations and to identify which State has responsibility for airworthiness requirements for the aircraft.

### **1.3 Protection of aircraft title and security interests**

Air Post Limited expressed their uncertainty over and sought an explanation as to why their aircraft, which are currently operated by Airwork (NZ) Limited for

conveying mail, should be registered in the name of Airwork who operate but do not own the aircraft.

In their submission, Buddle Findlay, barristers and solicitors, identified and discussed various shortcomings in the existing law relating to the registration of charges over and of lessor's interests in aircraft. They described the existing system of registration of such interests as set out in the Civil Aviation Regulations 1953, the Companies Act 1955 and the Chattels Transfer Act 1926 as outdated and inadequate.

In view of this, Buddle Findlay's primary submission was that the Civil Aviation Authority should establish a title and security register as part and parcel of the New Zealand Register of Aircraft or, at least, expressly provide within the rules that notices of other economic interests in an aircraft other than the right to possession for periods of more than 28 days are also able to be noted on the New Zealand Register of Aircraft.

#### **Authority Response**

The Aircraft register records aircraft possession not legal ownership, although in many cases the person in possession will be the legal owner. For this reason a change of possession for more than a limited period requires a registration change whether or not there is a change of legal ownership.

Notwithstanding this, the submission to establish a title and security register has been received from time to time in the past and there is little doubt that the existing legal machinery for recording and securing such aircraft interests is deficient. However the view taken by the Civil Aviation Authority is that the development of legislation providing for such a register, having a commercial purpose and not a safety purpose, should be addressed as a commercial law initiative through public agencies responsible for the administration of such law. The Authority does not consider that the Civil Aviation Act 1990 contains rule making authority for such rules and is not prepared to develop such rules without clear statutory authority and guidelines.

#### **1.4 Nationality/territorial pre-requisites for registering an aircraft in New Zealand**

Only one comment was received in response to the Authority's invitation for comment as to whether Part 47 should provide restrictions on foreign nationals wishing to register their aircraft in New Zealand.

The Experimental Aircraft Association commented that in the United States an applicant for registration must be a US citizen, permanent resident, a US corporation (may be foreign owned) or have a US citizen act as a trustee for the

foreign national. They say that this has worked well and has managed to prevent misuse of aircraft by foreign nationals.

### **Authority Response**

The Authority is satisfied that the original reasons for having such restrictions in New Zealand are no longer valid. Civil Aviation rules are safety driven and the Authority does not consider that citizenship eligibility requirements would serve any clear safety purpose. The Authority also considered whether aircraft should have to be based and/or have minimum periods of use in New Zealand before they qualified for New Zealand registration (regardless of the operator's nationality). The Authority could see no immediate cause for including such requirements and decided not to include any such requirements at this time.

### **1.5 Exemptions for microlights and gliders**

Airways Corporation of New Zealand Ltd (ACNZ) raised concerns with respect to the provision for gliders and microlight aircraft to be exempt from registration in the New Zealand Register of Aircraft under Part 47 and exempt from Part 47 marking requirements. Their concern was the potential loss of a unique identifier by exempting these aircraft from Part 47. While appreciating the rationale behind devolving certain responsibilities for sport and recreation activity to the organisations concerned, they believe that the advantages associated with requiring these aircraft to comply with Part 47 (to ensure a unique identifier is maintained) will outweigh any difficulties associated with such compliance.

### **Authority Response**

The Authority has rejected its initial proposal to exempt gliders and microlights from the registration requirements of Part 47. While the proposal would have retained a unique identifier for gliders and microlights the Authority acknowledges the proposal may have resulted in difficulties in co-ordinating more than one safety register for aircraft.

## **2. Specific comments on Rules Proposed in the NPRM**

### **2.1 47.5 Requirement for Aircraft Registration and Certificate**

ALPA interpreted 47.5(a) (which mirrors section 6(1)(a) of the Act) as allowing an aircraft owner to register in New Zealand but have a certificate of registration issued by an overseas authority.

They submitted that 47.5(a) be amended to read “...register that aircraft in New Zealand and hold a valid certificate of registration for that aircraft from the Director or provide to the Director proof of registration of that aircraft with and hold a valid certificate of registration from —

- (a) the appropriate aeronautical authorities of a contracting State of ICAO
- (b) the appropriate aeronautical authorities of another State that is party to an agreement with the Government of New Zealand which provides for the acceptance of each other’s registrations.

### **Authority Response**

The wording used in 47.5(a) is taken directly from section 6(1) of the Civil Aviation Act. The purpose of 47.5(a) is to impose a basic requirement for any aircraft flying in New Zealand airspace, however temporary, to be registered *somewhere* by a recognised Aeronautical Authority.

In most cases this will be the New Zealand Authority since the aircraft is being operated within or from New Zealand. The Authority considers the present wording of the provision best describes this broad requirement.

The Authority agrees that an aircraft must not be registered in one state and hold a certificate of registration from another state. While registration and the issue of a certificate of registration are two separate acts, they cannot occur independently of one another. The Authority is confident that this is clear from the wording of section 6(1) and 47.5(a).

Rule 47.5 of the NPRM appears in the Final Rule as 47.51. It was considered to be easier for readers if all registration requirements were grouped together in Subpart B.

## **2.2 47.7 Requirement for Aircraft Marking**

The Microlight Aircraft Association of New Zealand (Inc) submitted that the exemption for microlight aeroplanes from the requirement to show the nationality letters ZK be continued under Part 47.

### **Authority Response**

This exemption, which applies for certain aircraft while they operate in New Zealand, is continued for those aircraft previously exempted. The exemption was to be placed in the various applicable operating rules but it is now considered more convenient to insert it in 47.101.

Rule 47.7 of the NPRM appears in the Final Rule as 47.101. It was considered to be easier for readers if all marking requirements were grouped together in Subpart C.

### **2.3 47.51 Application**

**2.3.1** Buddle Findlay, Barristers and Solicitors, remarked that this rule, which outlines the application procedure for registration, does not contemplate an application being made for registration by a lessee or proposed purchaser of the aircraft, prior to that lessee or purchaser taking title or possession to the aircraft. They consider this to be at odds with current and what is likely to be future practice of the Civil Aviation Authority where “a prospective lessee or purchaser will make application and have a registration mark allocated prior to taking possession of an aircraft”.

#### **Authority Response**

The Authority agrees with this submission and the rule, now numbered 47.53, has been amended accordingly. Part 47 now also provides for reservation of marks. Rule 47.105 permits any person who intends to register an aircraft to be allocated a registration mark, prior to taking possession of an aircraft.

**2.3.2** In relation to 47.51(a)(1) which requires an applicant for registration to specify the manufacturer, model and serial number of the aircraft, an individual commenter asked “what about homebuilt aircraft and aircraft made from parts of several other aircraft?”.

#### **Authority Response**

The rule applies to homebuilt aircraft. The manufacturer is the person(s) who constructed the aircraft. In order to fly the aircraft Part 91 requires the aircraft to have a current airworthiness certificate in one of the categories specified in Part 21, Subpart H. Sufficient data to identify the aircraft is required for airworthiness certification which includes the serial number of the aircraft. The constructor must therefore allocate a serial number for the completed aircraft. This information is required for registration purposes.

### **2.4 47.53 Transfer of Right to Possession of Aircraft**

**2.4.1** Wing and Rotor Aviation were concerned that the rules do not provide protection for the legal owner of an aircraft if that owner transfers lawful right of possession to another party. They say that if the other party is hiring the aircraft for 28 days or longer they can de-register the aircraft and export it overseas without the legal owner’s consent. They see no reason for even advising the Civil Aviation Authority when an owner hires or leases an aircraft and note that it is not necessary for Avis or Hertz to advise vehicle registrations when they hire out a motor vehicle.

#### **Authority Response**

The Authority’s comment in 1.3 (see above) addressing the question of protection of aircraft property interests applies equally to this situation. Neither

registration in nor de-registration from the New Zealand Register of Aircraft protect or affect legal property rights in aircraft.

A central reason for the registration of aircraft under Part 47 is to provide the Authority with an up to date record of who is currently operating New Zealand registered aircraft. This is primarily to establish who is responsible for compliance with prescribed airworthiness requirements. It enables the authority to address airworthiness directives and other related information to the appropriate party quickly and efficiently. A person who is entitled to possession of an aircraft for 28 days or longer is the appropriate responsible person.

The comparison with the motor vehicle rental situation is not helpful. Responsibility for maintenance of vehicles does not generally pass to a person hiring a vehicle. There is no equivalent for motor vehicles of the ongoing airworthiness information requiring immediate action necessary for aircraft. Hence there is no need from a safety perspective to keep track of vehicle operators, as opposed to owners, over the short periods for which vehicles are generally hired.

2.4.2 In relation to 47.53(a), which imposes notification requirements on the holder of a certificate of registration who transfers to someone else their right to possession of the registered aircraft, an individual commenter asked 'should not the transfer of lawful possession be spelt out as including a lease or charter for 28 or more days?'

#### **Authority Response**

The concept of "transfer" of the right to possession has been broadened to one of "cessation" of the right to possession. This is as a result of a submission from Buddle Findlay pointing out that changes of aircraft possession are not always voluntary.

The amended provision now covers all methods of change of possession. However it is accepted that in many cases a change of possession will be due to a lease and this is now reflected in the title of the rule.

#### **2.5 47.55 Registration and Issue of certificate**

##### *Conflict between 47.51(a) and 47.55(a)*

ALPA suggests there is a conflict between 47.51(a), which details the application procedure, and 47.55(a)(1) which indicates a Certificate of Registration will not be granted for an aircraft if the aircraft is registered in another country.

Submission: That this "conflict" ought be resolved by amending 47.51(a) as suggested in their previous submission.

### **Authority Response**

The Authority does not support ALPA's previous submission for the reasons explained in 2.1 (see above). Nor does the Authority consider there to be a conflict between 47.51(a) (now 47.53) and 47.55(a) of the NPRM. 47.51(a) does not impose a requirement on the person in possession for the stated period to register the aircraft. That requirement is in 47.5 (now 47.51). 47.51(a) states who *may* apply and the application procedure. However to avoid any doubt, this distinction has been clarified by substituting "every" for "an" as the first word of 47.51.

### **2.6 47.57 Currency of Certificate of Registration Details**

In relation to 47.57(a) which requires a certificate holder to notify the Director, of any change that affects the validity of information in the certificate of registration, an individual commenter asked "why not specify a change of name or address?" .

In relation to 47.57(b) which empowers the Authority to amend the aircraft register after receipt of information referred to in 47.57(a), the commenter asks "should it not be spelt out that the certificate will be revoked and a replacement certificate issued with the new name or address on it? Does the old certificate have to be surrendered? Do any fees apply on notification of name or address?" .

### **Authority Response**

Rule 47.57(a) (now 47.61(a)): The Authority needs to be advised if there is a change of name, address or, (though less likely), the aircraft description. As these are the 3 principal items of information on the certificate of registration and the certificate holder has possession of the certificate, it is considered to be simplest to impose this requirement by way of reference to the certificate of registration. The requirement to notify a change of address already exists (in respect of any aviation document holder) in section 8 of the Civil Aviation Act 1990.

Rule 47.57(b) (now 47.61(b)): This provision has been amended in line with the commenter's suggestion and also taking into account the document amendment and revocation provisions of the Civil Aviation Act 1990. Production of the certificate in the circumstances covered by the rule is required under the Act. The Authority does not anticipate the prescribing of a fee for certificate replacement.



## **2.7 47.61 Duration of Certificate**

In relation to 47.61(c) (now 47.65(c)) which requires production to the Director of a suspended certificate of registration, an individual commenter remarked that the circumstances under which certificates of registration are suspended appear not to be mentioned in this Part.

In relation to 47.61(d) which requires a revoked certificate of registration to be surrendered to the Director, the commenter asked if this is intended to cover the revocation when name or address changes?

### **Authority Response**

The criteria and procedure for suspension and revocation of aviation documents are contained in the Civil Aviation Act 1990. The references to suspension and revocation in this rule are declaratory of powers and obligations contained in sections 17 to 20 of the Act.

The requirement in 47.61(d), (now 47.65(c)) that a revoked certificate be surrendered to the Director will include the change of details situation where a certificate is revoked and a new certificate issued.

## **2.8 47.63 Destruction, Loss, Theft, Withdrawal from Use, or Export of Aircraft**

Buddle Findlay, Barristers and Solicitors do not believe there is any reason why the requirement to notify within 14 days after an aircraft is permanently withdrawn from use or removed permanently beyond New Zealand should not instead be a requirement to notify 14 days before the event. In the case of permanent removal of an aircraft beyond New Zealand they suggest the situation could arise where the aircraft could be used on the New Zealand Register outside New Zealand for the first 28 days of its permanent removal beyond New Zealand without contravening the rules. They remark that this would not appear to be the CAA's intention as evidenced by the inclusion of 47.63(a)(1).

### **Authority Response**

The notification provision has been amended by omitting 47.63(a)(1), the requirement to notify before transferring the aircraft outside of New Zealand on the New Zealand Register and by omitting the requirement to notify that an aircraft has become permanently useless as an aircraft.

The purpose of 47.63(a)(1) was to notify the Director where an aircraft was to be operated for an extended time overseas but was to remain on the New Zealand register. Notification is required for the Director to ensure continued compliance with airworthiness and maintenance requirements that would still apply to the aircraft under the general operating rules in Part 91. The

requirement has been omitted as the Authority considers that sufficient notification is provided by the address for service requirements and requirements in the operating rules.

The remaining notification requirements in 47.63(a)(2) (now 47.67(a)) serve three purposes. Where an aircraft is destroyed, or lost, or permanently withdrawn from use the notification is to enable the de-registration (in accordance with 47.69 and applicable revocation provisions in the Act) of an aircraft that is no longer flown or can no longer fly. Where an aircraft is stolen the notification is for information purposes pending investigation. It may or may not lead to de-registration of the aircraft.

The requirement to notify the Director of the permanent removal of an aircraft beyond New Zealand has been replaced with a requirement to notify the Director upon application to register the aircraft in foreign country. This more restricted requirement reflects the fact that there is no requirement to de-register a New Zealand registered aircraft which is operating overseas (whether temporarily or permanently) providing the Authority has the current details of the person entitled to possession of the aircraft for 28 days or more.

Where an aircraft is to be registered overseas the Authority requires prior notification of the foreign registration application and confirmation that the applicant to re-register is entitled to possession before removing the aircraft from the New Zealand register. The notification is now required immediately on application for registration in the foreign country.

## **2.9 47.65 Cancellation of Registration**

In commenting on this rule, Wing and Rotor Aviation Ltd said surely the owner of an aircraft can also cancel the registration of an aircraft if he may wish to place the aircraft in long term storage or export it providing he sends a written request to the Director.

Buddle Findlay, Barristers and Solicitors comment that this rule does not provide for:

- a situation where the holder of the aircraft's certificate of registration ceases to be lawfully entitled to possession of the aircraft through, for instance, a mortgagee retaking possession of the aircraft in terms of a mortgage document or, where the holder of the aircraft's certificate of registration is a lessee, where the lease has either expired or been prematurely terminated through default. They believe that in these circumstances the registration of the aircraft should be mandatorily cancelled at the request in writing of the person who is at that point of time lawfully entitled to possession of the aircraft.

They suggest this may be best dealt with by amending 47.53 to cover both voluntary transfer and loss of lawful possession with the concept of 'transfer' being substituted with a concept of "loss of lawful entitlement to possession, whether by transfer or otherwise":

- voluntary cancellation of registration at the request of the holder of the certificate of registration. Such a voluntary cancellation, they say, may not involve necessarily one of the circumstances referred to in 47.63(2). They suggest the rule should provide for applications to cancel registration together with surrender of the certificate of registration.

Buddle Findlay also comments on the discretion the Authority has in the rule to cancel the registration of an aircraft. They believe that for the benefit of the Authority and the other interested parties the grounds for the exercise of that discretion should be clearly stated within the rules.

### **Authority Response**

The rule has been amended to clarify that a holder of a certificate of registration can request revocation of the certificate and cancellation of registration.

47.53 (now 47.57) has been amended in line with Buddle Findlay's suggestion relating to loss of the right to possession (see 2.4.2 above).

In circumstances where the Director is advised by a mortgagee, lessor, or other holder of a legal interest, that a certificate holder has lost their right to possession, the rule provides for cancellation of registration in the absence of an application for registration by the person taking the right to possession. However as mentioned above, neither entry in nor removal from the New Zealand Register of Aircraft protect or affect legal property rights in aircraft.

The rule is also amended to ensure the exercise of discretion in relation to cancellation of registration is aligned with the discretion given to the Director to revoke documents under the Civil Aviation Act.

### **2.10 47.101 Allocation of Marks**

An individual commenter asks whether ZL and ZM should be included as nationality marks, and suggests that registration marks formerly in use not be re-allocated until 60 years after the aircraft to which they were allocated has been removed from the Register. The commenter also asks whether the system of reserving or requesting particular marks should be mentioned in the rule.

### **Authority Response**

ZL and ZM are allocated by ICAO for use by New Zealand. At present, these nationality marks are not required and so have not been included in the present

rule. If future demands require it, Part 47 can be amended to include ZL and/or ZM. The present system of not re-using a mark until an aircraft has been deregistered for one year does not create any administrative or other problems, provides for the re-allocation of selected marks by industry members, and will be continued. The CAA cannot see a reason to extend this period to 60 years. As mentioned in 2.3.1 above, the procedure for reserving marks has been added to the rule.

## **2.11 47.105(b) Display of marks**

An individual commenter suggests the words "or otherwise affixed" be added after the word "painted".

### **Authority Response**

The words have been added.

## **2.12 47.109 Location of Marks - Heavier-than-Air-Aircraft**

The Microlight Aircraft Association of New Zealand (Inc) submitted that the existing exemption for microlights in Part 103, Microlight aircraft – Certification and operating rules, from the requirement to show vertical marks should not be discontinued as contemplated under Part 47:

They do not agree with the statement in the NPRM that there have been ATC identification problems with the current display system for microlights. They point out that microlights aeroplanes have had these exemptions since their inception and that if problems were to arise they would have done so long before now and would have been communicated to MAANZ to remedy the problem in a manner acceptable to the Authority and MAANZ.

They advise that approximately 100 microlight aeroplanes do not have vertical surfaces of any kind that would enable compliance with this requirement. These include flexwing trikes, kasperwing and Pterodactyl types. They consider that a process of gaining exemptions from the proposed requirement for this number of machines would be pointless and expensive given the current blanket exemption. They point out that the vast majority of microlights do not operate out of airports and do not venture into controlled airspace.

MAANZ also dispute the assertion that safety benefits will outweigh compliance costs. They suggest that compliance costs will be such that many microlights that do not venture near airports will simply not bother, and "there can be no safety benefit by instantly creating criminals out of people who were previously in compliance".

They add that almost all Microlights in New Zealand are shoulder or high wing configuration aircraft, making identification of underwing markings easier to ATC units than low wing aircraft such as the Piper Cherokee.

### **Authority Response**

Part 47 has been amended to reflect the registration and marking requirements for all aircraft. Exemptions to this rule will be contained in the applicable operating rule. The intention, however, is for microlights to display marks on the vertical and horizontal surfaces. Nationality marks and underwing marks will not be required as long as the microlight is operated within New Zealand airspace. Discussions between the CAA and ACNZ indicate that there is a problem in some areas with difficulty being experienced in identifying some microlight aircraft, hence the need for a vertical registration mark. If necessary, due to the structure of the microlight, an exemption to this requirement can be applied for.

### **2.13 47.111 Specification of Marks**

Ansett New Zealand commented on 47.111(c) which requires letters to be separated by a space equal to 1/3 the height of the individual letter. They submit that this spacing is unnecessarily wide and leads to an imbalance in appearance. They consider that the ICAO spacing at one quarter of a character width, does not adversely affect the ready identification of Air Transport aircraft so marked. They propose that ICAO standard, Annex 7 – Aircraft Nationality and Registration marks, 4th edition dated July 1981 be adopted wherein “Each character shall be separated..., by a space of not less than one quarter of a character width”.

### **Authority Response**

The Rule has been amended to reflect the ICAO standard.

### **2.14 47.113 Measurement of Marks**

The Experimental Aircraft Association comments on the wording in 47.113(c)(2) “not less than 300 mm, except that where the surface is not large enough to accommodate full size marks the Director may approve marks of a lesser measurement...”. They ask if there is an Advisory Circular on how to get the Director’s approval and suggest there should be one.

One commenter asked whether the Authority intended following the US example of specifically exempting classic and vintage aircraft from the measurement requirements to permit authentic markings to be used.

### **Authority Response**

The Advisory Circular to Part 47 discusses the process for applying for the Director's approval.

The Authority is currently considering whether it will address the operation of classic, vintage and ex-military aircraft in a separate rule. If it does so any such exemption will be considered in the consultation process for that rule. If the Authority does not proceed with that rule then the options are to gain the Director's approval for markings of a smaller size as specified in the 47.117(c) or to seek an exemption from the requirements under the procedure prescribed in Part 11 of the rules.

### **3. Comments On Application Form shown in NPRM**

Wing and Rotor Aviation consider the date of birth of an applicant for registration (required in the application form) to be personal information that is irrelevant to owning an aircraft.

An individual commenter made the following comments:

Does the "Date of manufacture" required in 1(d) mean day that manufacture is completed or does it mean year of manufacture?

Why is the date of birth of certificate holder required? It is most unlikely that two aircraft owners would have the same names and same addresses.

The commenter suggests the words street and city in 4(f) be removed from the form and recommends instead a requirement for a postal address which could be a private box.

The commenter recommends more space under 4(a) for names of syndicate members, points out a clerical error and recommends the heading of 4. be amended by substituting "Holder of" for "Person to hold" in order to cover both people and organisations.

### **Authority Response**

Advice is now provided on the information required by the application form on the reverse of the form prescribed in Appendix B and in the Advisory Circular to Part 47.

The applicant's date of birth is not required for the registration of an aircraft and has been removed.

The date of manufacture will usually refer to the month and year of manufacture. The means of identification varies between manufacturers, therefore if not clearly stated in the aircraft documentation, the date on the statement of conformity should be used.

The address for service must specify a street address in New Zealand. This is a legal requirement to enable personal service of documents upon the document holder or the holder's representative. In the case of bodies corporate the address may be the office of the company accountant or solicitor.

The form has been amended to require a postal address as well. This is required so that airworthiness information and directives may be sent to the document holder quickly and efficiently.

The comments regarding naming of syndicate members have been addressed in the form.

### **Regulatory Evaluation**

Part 47 replaces the registration and marking requirements prescribed by regulations 151-160 of the Civil Aviation Regulations 1953. These regulations will expire when Part 47 comes into force.

Section B of the Schedule to the Civil Aviation Charges Regulations (No 2) 1991 will also be amended to remove the reference to change of ownership of an aircraft.

### **Conclusion**

The Authority concludes from this consultation that the majority of the aviation industry participants favour the direction of the new rules. Specific issues that were identified in the comments received from the consultative group have been addressed where appropriate. The rules also meet New Zealand's international obligations under the applicable ICAO Annex. The comments and all the background material used in developing the rules are held on the docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket file 1089.