



**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 *13* day of *November* 1995

by **MAURICE WILLIAMSON**

*Maurice Williamson*  
Minister of Transport

**Civil Aviation Rules**

**Part 175 Amendment No 1**

**Aeronautical Information Service Organisations -  
Certification**

*Docket Nr. 1160*

**Civil Aviation Rules  
Part 175 Amendment No 1**

**Aeronautical Information Service  
Organisations - Certification**

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

The objective of Amendment No. 1 to Part 175 of the Civil Aviation Rules is to amend the Part to harmonise with structural changes made to all of the rules Parts that certificate organisations and to better reflect the procedural requirements of the Civil Aviation Act 1990.

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 the amendment to Part 175 was developed by the rules rewrite team in consultation with members of the consultative group. A Notice of Proposed Rulemaking was issued under Docket 1160 on 3 May 1995.

The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 4 May 1995. 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 30 days was allowed for comment on the proposed rule.

The submissions 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 175, Amendment No. 1 comes into force 28 days after notification in the Gazette.

**Part 175****175.5**

Revoke 175.5 and substitute the following new rule:

**“175.5 Application for Certificate**

Each applicant for the grant of an aeronautical information service certificate shall complete form CAA 24175/01 and submit it to the Director with—

- (1) the exposition required by 175.69; and
- (2) a payment of the appropriate application fee prescribed by regulations made under the Act.”

**175.7**

Revoke 175.7 and substitute the following new rule:

**“175.7 Issue of Certificate**

An applicant is entitled to an aeronautical information service certificate if the Director is satisfied that—

- (1) the applicant meets the requirements of Subpart B; and
- (2) the applicant, and the applicant’s senior person or persons required by 175.51(a)(1) and (2) are fit and proper persons; and
- (3) the granting of the certificate is not contrary to the interests of aviation safety.”

**175.9**

Revoke 175.9 and substitute the following new rule:

**“175.9 Privileges of Certificate**

The aeronautical information service certificate specifies the aeronautical information services that the certificate holder is authorised to provide.”

**175.15**

Revoke 175.15 and insert the following rule 175.111 in Subpart C:

**“175.111 Safety Inspections and Audits**

(a) The Director may in writing require the holder of an aeronautical information service certificate to undergo or carry out such inspections and audits of the holder’s offices, facilities, documents, and records as the Director considers necessary in the interests of civil aviation safety and security in accordance with section 15 of the Act.

(b) The Director may require the holder of an aeronautical information service certificate to provide such information as the Director considers relevant to the inspection or audit."

**175.17**

Revoke 175.17 and substitute the following new rule:

**"175.15 Exemptions**

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

**175.51**

Omit the words "who is acceptable to the Director, and" from paragraph (a)(1).

Omit the words "who are acceptable to the Director, and" from paragraph (a)(2).

**175.101**

Amend subparagraph (4) by substituting the words "under this Part; and" for the words "under this Part."

Insert the following new subparagraph (5):

"(5) notify the Director of any change of address for service, telephone number, or facsimile number required by form CAA 24175/01 within 28 days of the change."

**175.109**

Insert the following new paragraph (f):

"(f) A certificate holder shall comply with any conditions prescribed under paragraph (e)."

Re-number paragraph (f) paragraph (g).

Re-number paragraph (g) paragraph (h).

## CONSULTATION DETAILS

(This statement does not form part of the rules contained in the General Amendment. 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. Following the recommendations contained in that report, the Air Transport Division of the Ministry of Transport commenced a complete review and rewrite of all existing civil aviation legislation and where necessary initiated new legislation for the areas not previously covered.

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

New Zealand's revised legislation will be published as Civil Aviation Rules (CAR) divided into Parts. Each Part will convey a series of individual rules which relate to a particular aviation activity.

Accompanying each Part of the CAR will be at least one associated Advisory Circular (AC) which will expand, in an informative way, specific requirements of the CAR and describe an acceptable means of compliance. For example, an AC may contain the minimum acceptable practice or standard which would be necessary to meet a rule.

The CAR numbering system is based on the FAR system. As a general principle the subject matter of a Part will be the same or similar to the FAR although the title may differ to suit New Zealand terminology. Where a CAR 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 starting point for the development of many CAR but there are likely to be significant differences in the content of the rule. The structure of Part generally follows the content of the FAR. 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.

The Minister is empowered to make rules under sections 28, 29 and 30 of the Civil Aviation Act 1990. This power includes the power to make amendments to rules made pursuant to these sections.

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

To provide public notice of, and opportunity for comment on the proposed new rules, the Authority issued Notice of Proposed Rule Making for a General Amendment to the rules under Docket Number 1160 on 3 May 1995. This Notice proposed the introduction of amendments to Parts 11, 61, 103, 137, 139, 145, 157, 171, 174, and 175 of the Civil Aviation Rules.

### **Supplementary Information**

All comments made on the Notice of Proposed Rule Making 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 1160 NPRM**

#### **1. General comments on the NPRM**

From the 9 submissions received, 5 submissions offered no comment or did not object to the proposed amendments. Of the remaining 4 submissions, 2 dealt with issues beyond the scope of this amendment rule. One submission dealt with a mixture of issues, some of which were relevant to this amendment rule.

##### **1.1 Issues beyond the scope of this amendment**

Of the submissions dealing with issues beyond the scope of this amendment one objected to the lack of amendment to rule 61.253. A second submission objected to the lack of amendment to rules 61.05(g) and 61.255(2). A third submission addressed 139.63(d)(2) regarding the required colour of aerodrome rescue and firefighting vehicles. It also proposed a general policy change to Part 157.

**CAA response:** The submissions regarding Part 61 have been noted and will be addressed in a specific amendment to Part 61 of the Civil Aviation Rules.

The remaining submissions are not within the scope of this amendment. The purpose of this amendment is to address specific legal and editing concerns, with a view in particular to enacting Offence Regulations to make the rules enforceable. It is not the aim of this amendment to address policy issues.

## **1.2 Drafting guidelines**

One commenter made the following general comments on drafting style:

- A rule imposing a number of requirements should be structured so that there is only one requirement per paragraph or subparagraph to permit easy cross reference with the proposed Civil Aviation Offence Regulations.
- Caution be exercised in subdelegating authority to the Director in rules.

**CAA response:** Civil Aviation Authority agrees with both of these comments and will incorporate them into the rules drafting manual.

## **2. Specific comments on the NPRM**

Specific comments received from the 9 submissions are discussed as follows:

### **2.1 Safety Inspections and audits**

One commenter suggested that paragraph (a) of the rules regarding safety inspections and audits (103.81, 137.211, 139.129, 145.117, 171.117, 174.111, and 175.111) should use the active voice and begin with the words "The Director may require" in the same way as paragraph (b). The submission also suggested the addition of a paragraph (c) to the rules regarding safety inspection and audits that would require compliance with inspection requirements.

**CAA response:** The Civil Aviation Authority agrees with the suggestion regarding paragraphs (a) of these provisions and has altered the proposed rules accordingly.

Regarding the proposed paragraph (c) the authority for the safety inspection and audit rules comes from section 24 of the Civil Aviation Act. There is at present no offence for failing to comply with the requirements of section 24. It is hoped that this will be remedied through a proposed amendment to the Act. It is considered more appropriate to enforce compliance with this requirement in the Act rather than in the rules.

### **2.2 Renumbering of amended paragraphs**

Regarding the amendment to 61.09 and 61.205(a)(3), one commenter considered that following the revocation of a paragraph the subsequent subparagraphs should be renumbered to avoid confusion over whether the numbering is deliberate.



**Civil Aviation Authority response:** It is intended that where paragraph (a) is revoked it will be replaced by "(a) ...". This is standard legislative style to indicate that paragraph (a) has been revoked. The reason for this style is that it signals to the reader that a provision was there but is no longer. As the letter (a) remains, the further paragraphs should not be renumbered.

### **2.3 Drafting of new 157.5(3)**

One commenter considered the proposed paragraph is poorly drafted and does not make sense in context with the introductory statement.

**Civil Aviation Authority response:** The wording has been revised to clarify this provision.

### **2.4 Removal of requirement to display certificate**

One commenter endorsed the move to remove the requirement to display organisation certificates and requested that all similar display provisions be removed.

**Civil Aviation Authority response:** The amendments remove all requirements to display organisation certificates.

## **Conclusion**

The Authority concludes from this consultation that on balance the industry participants are in favour of this proposal as amended in response to industry comments.