

## **Interpretation of CAR Part 1 – Parachute is an Aircraft**

**Catchwords:** parachute

Aircraft

**Sponsoring area:** Sport and Recreation

### **Issue**

The purpose of this bulletin is to state the CAA’s position on the interpretation of CAR Part 1 with respect to whether a parachute is an aircraft for the purpose of the Civil Aviation Act 1990.

### **Background**

While the CAA’s position on this issue has been communicated to industry consistently in many forms in the past, the CAA is still faced with arguments regarding this issue. Accordingly it is considered appropriate to publish this Legal Information Bulletin.

The word “aircraft” is defined in section 2 of the Civil Aviation Act 1990 as follows:

**Aircraft** means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.

The same definition is given for this word in Rule Part 1 of the Civil Aviation Rules (the Rules).

The word “machine” as it is used in this definition is not defined separately in either enactment and the principles of statutory interpretation require that the dictionary definition of that word should consequently apply. The Concise Oxford Dictionary (10 ed) defines the word as follows:

**Machine** • n 1 an apparatus using or applying mechanical power and having several parts, each with definite functions and together performing a particular task. ► *technical* any device that transmits a force or directs its application. 2 an efficient and well organised group of powerful people: *the party machine* 3 a person who acts with the mechanical efficiency of a machine. • v. Make or operate on with a machine.

The word “Parachute” is defined in Part 1 of the rules as follows:

**Parachute** means any device, without a motor in operation, comprising a flexible drag, or lift/drag. Surface from which a load is suspended by shroud lines capable of controlled deployment from a packed condition.

## **CAA Position**

Section 5(1) of the Interpretation Act 1999 provides that “the meaning of an enactment must be ascertained from its text and in the light of its purpose”. The first step to be taken in ascertaining the meaning of the rules is to determine whether a parachute falls within the legal definition given for the word “aircraft”. If it does, the matter need not be taken further by reference to other rules or the use of the words “parachute” and “aircraft”.

Modern parachutes are complex pieces of equipment with numerous moving parts and controls. They are designed so as to maximise lift from the air and allow the pilot considerable precision in terms of their manoeuvrability. Parachutes come within the definition of “aircraft” in that they derive support from the atmosphere from the reactions of the air other than by the reactions of the air against the surface of the earth. They are operated through the application of physical force by the pilot in order to manoeuvre the parachute as desired.

In *Smith v AG*<sup>1</sup> the judge looked at the ordinary meaning of the word ‘machine’ and noted that there is no requirement that there be moving parts. The judge also noted that the purpose of the Act “is intended to apply to objects which might, through flight, pose a danger to human safety, by the imposition of controls on them in their own right, and not merely in respect of their interaction with other aviation elements”. The judge held the view that a hang glider is a machine therefore it is an aircraft within the meaning of the Act.

Based on the definition in the Concise Oxford dictionary, and a technical appreciation of the physical operation of a parachute, and the decision in *Smith v AG*, it is clear that a parachute is a device that may be described as a machine. This is because it has component parts that operate mechanically when the parachute is deployed.

The Rules show clearly that the use of the word “aircraft” in the Rules is intended to include parachutes. Examples are the definition of “category” in rule 61.3 and rule 61.5(n).

Part 1 also contains a definition of “parachute” due to the fact that parachutes are just one particular class of machine that come within the definition of “aircraft”. In light of this, Part 105 uses the term “parachute” where necessary to distinguish between parachutes and other aircraft such as parachute-drop aircraft. The use of the phrase “other aircraft” in rule 105.21 below makes it clear that parachutes are considered to be aircraft.

### ***105.21 Descents onto aerodromes***

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<sup>1</sup> John Roderick Smith v Attorney General (sued in respect of the Civil Aviation Authority) and Anor HC WN CIV 2007-485-2566 [12 November 2008]

*Each person making a parachute descent onto an aerodrome shall –*

- (1) have the prior agreement of the aerodrome operator; and*
- (2) if ATS is not in attendance, avoid the pattern of traffic formed by other aircraft operating within the PDZ at the aerodrome.*

**Conclusion:**

It is the CAA's position that parachutes come within the definition of "aircraft" contained in Part 1.