



PURSUANT to Sections 28 and 30 of the Civil Aviation Act 1990

I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *3rd* day of *September* 2008
by **HARRY JAMES DUYNHOVEN**

A handwritten signature in black ink, appearing to read 'Harry J. Duynhoven', is written over a large, stylized, hand-drawn signature box that resembles a triangle with a horizontal line through it.

Minister for Transport Safety

Civil Aviation Rules

Part 12, Amendment 3

Accidents, Incidents, and Statistics

Docket 4/CAR/3

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Rule objective

The objective of amendment 3 to Part 12 is to add a definition of *cargo security incident* and to include a requirement to notify, investigate and report incidents relating to the security of cargo or mail. This amendment is consequential to the new Rule Part 109 – Regulated Air Cargo Agent – Certification.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 07-07, containing the proposed amendments to Part 12 was issued for public consultation under Docket 4/CAR/3 on 03 July 2007.

The publication of this NPRM was notified in the Gazette on 05 July 2007 and advertised in the daily newspapers in the five main provincial centres on 04 July 2007. The NPRM was published on the CAA web site and mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 42 days was allowed for comment on the proposed rule. Four submitters requested, and were granted, an extension of 18 more days to lodge their submissions.

Summary of submissions

Eleven written submissions were received on the NPRM. One submission was received on Part 12. This submission was considered and as a result the rule was amended so that only tampering or evidence of damage that could be an act, or an attempted act, of unlawful interference needs to be reported. A detailed summary of the submissions and the CAA responses is attached to the end of the primary Rule Part 109.

The rule as amended was then referred to Parliament's Regulations Review Committee before being signed by the Minister for Transport Safety.

Examination of submissions

Submissions may be examined by application to the Docket Clerk at the Civil Aviation Authority between 8:30 am and 4:30 pm on weekdays, except statutory holidays.

Insertion of Amendments

The amendments to the rules in this Part are reflected by the revocation of existing rules and the insertion of amended and new rules.

Effective date of rule

Amendment 3 to Part 12 comes into force on 9 October 2008.

Availability of rules

Civil Aviation Rules are available from–

CAA web site: <http://www.caa.govt.nz/>

Freephone: 0800 GET RULES (0800 438 785)

Part 12 Amendments

Subpart A — General

12.3 Definitions

The following new definition of cargo security incident is inserted after the definition of Bird incident:

Cargo security incident means an incident involving cargo or mail that is carried, or has been accepted by a regulated air cargo agent or an air operator for carriage, by air on an aircraft conducting an international regular air transport operation passenger service, and—

- (1) there is evidence of tampering or suspected tampering with the cargo or mail which could be an act or an attempted act of unlawful interference; or
- (2) a weapon, explosive, or other dangerous device, article or substance, that may be used to commit an act of unlawful interference is detected in the cargo or mail:

Subpart B — Notification, Investigation, and Reporting of Occurrences

Rule 12.55 is revoked and replaced with the following new rule 12.55:

12.55 Notification of incidents

(a) A holder of a certificate issued in accordance with the following Parts must notify the Authority as soon as practicable of any associated incident if the certificate holder is involved in the incident and the incident is a serious incident or is an immediate hazard to the safety of an aircraft operation:

- (1) Parts 119, 129 and 137 — aircraft incident or dangerous goods incident:
- (2) Part 172 — airspace incident:
- (3) Parts 171 and 174 — facility malfunction incident:

- (4) Parts 19, 47, 119, 129, 137, 145, 146 and 148 — defect incident:
- (5) Parts 119, 129, 139, 140, 171 and 172 — security incident:
- (6) Part 139 — aerodrome incident:
- (7) Parts 139, 171, 174, and 175 — promulgated information incident:
- (8) Parts 119, 129, and 109 — cargo security incident.

(b) A person must, as soon as practicable, notify the Authority of an incident that involves the person if the incident is a serious incident or an immediate hazard to the safety of an aircraft operation and the person—

- (1) is not employed by a certificate holder referred to in paragraph (a); and
- (2) operates, maintains, services, or does any other act in respect of an aircraft, aeronautical product, or aviation related service.

(c) A pilot-in-command of an aircraft that is involved in an airspace incident or a bird incident must, as soon as practicable, notify the Authority of the incident.

(d) The notification of an incident required by paragraphs (a), (b), and (c) must be conveyed by a means acceptable to the Authority and must contain, if ascertainable, the applicable information specified in the following applicable part of Appendix A—

- (1) for an airspace incident, Appendix A(a):
- (2) for a defect incident, Appendix A(b):
- (3) for a facility malfunction incident, Appendix A(c):
- (4) for an aircraft incident, Appendix A(d):
- (5) for a security incident, Appendix A(e):

- (6) for a promulgated information incident, Appendix A(f):
- (7) for an aerodrome incident, Appendix A(g):
- (8) for a cargo security incident, Appendix A(h).
- (9) for a dangerous goods incident, bird incident, or any other incident, Appendix A(i):

Appendix A — Information required for initial notification of incidents

Paragraph (h) is revoked and replaced with the following new paragraph (h):

- (h) **Cargo security incident** — the following information is required for notification under rule 12.55(d)(8):
 - (1) date and time of the incident:
 - (2) brief description of the nature of the incident:
 - (3) details, if known, of where the incident may have occurred:
 - (4) name, organisation, and contact details of the person notifying the incident.

New paragraph (i) is inserted after new paragraph (h):

- (i) **Dangerous goods, bird, or other incidents** – The following information is required for notification under rule 12.55(d)(9):
 - (1) date and time of the incident:
 - (2) brief description of events:
 - (3) name, organisation, and contact details of the person notifying the incident.

Consultation Details

(This statement does not form part of the rules contained in Part 12. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 07-07 Part 109 – Regulated Air Cargo Agent - Certification, containing the proposed amendments to Part 12 was issued for public consultation under Docket 4/CAR/3 on 03 July 2007.

Eleven responses to the NPRM were received. All of the submissions were from organisations. The CAA considered the submissions and comments and as a result amended the rules where appropriate. The details relating to the submissions received and the CAA responses are contained in the primary Rule Part 109. The submissions and all background material used in developing the rules are held on the docket file and are available for public inspection at Aviation House, 10 Hutt Road, Petone. Persons wishing to view the docket should contact the Docket Clerk on Phone (04) 560 9603 and ask for docket 4/CAR/3.