



**WELLINGTON NEW ZEALAND**

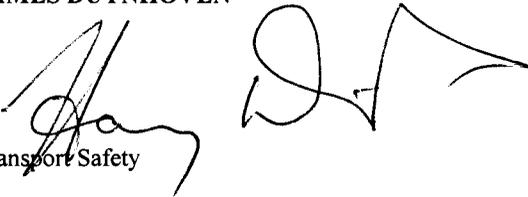
**PURSUANT** to Section 28 of the Civil Aviation Act 1990

**I, HARRY JAMES DUYNHOVEN**, Minister for Transport Safety,

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This *10<sup>th</sup>* day of *April* 2006  
by **HARRY JAMES DUYNHOVEN**

  
Minister for Transport Safety

**Civil Aviation Rules**

**Part 19, Amendment 8**

**Transition Rules**

*Docket 2/CAR/1*

## Contents

Rule objective .....	3
Extent of consultation.....	3
Summary of submissions .....	3
Examination of submissions.....	4
Insertion of Amendments .....	4
Effective date of rule.....	4
Availability of rules.....	4
<b>Part 19 Transition Rules</b>	<b>5</b>
<b>Subpart I — Personnel</b>	<b>5</b>
19.405 Test pilots .....	5
19.407 Reserved .....	5
<b>Consultation Details</b>	<b>6</b>
Comments arising from the NPRM .....	6

**Rule objective**

The objective of Amendment 8 to Part 19 is to amend rule 19.405 Test Pilots and to revoke rule 19.407 First of Type Authorisation as a consequence of Amendment 7 to Part 61 (re-issue) Pilot Licences and Ratings.

**Extent of consultation**

A Notice of Proposed Rulemaking, NPRM 04-02, containing the proposed changes to Part 61 including amendments to Part 19 was issued for public consultation under Docket 2/CAR/1 on 4 June 2004.

The publication of this NPRM was notified in the Gazette on 3 June 2004 and advertised in the daily newspapers in the five main provincial centres on 5 June 2004. The NPRM was published on the CAA web site and 163 copies were mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal and flight training organisations. A series of nationwide presentations were made to industry to support the NPRM publication and assist people in making submissions. The Part 61 presentations were made at 12 regional aviation training venues and at seven main centre public meetings along with one additional regional public meeting at industry request.

A period of 56 days was allowed for comment on the proposed rule.

The NPRM was published for public consultation prior to 1 December 2004 when the Civil Aviation Amendment Act (No.2) 2004 came into force. With no direction having been made by the Minister under section 13(2)(b) of that Act, subsequent development and signing of the rule has been undertaken in accordance with the law as it was in force immediately prior to 1 December 2004.

**Summary of submissions**

Fifty written submissions were received on the NPRM. Four submissions were received on Part 19 changes and all related to rule 19.405 Test Pilots. The submissions and comments of Dee Bond Wakelin have been considered and as a result the wording of rule 19.405 has been amended for clarity. This change was noted in the Summary of Public Submissions which was published on the CAA web site on 8

November 2004. No changes have been made in regard to the revocation of rule 19.407 as proposed in the NPRM.

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 and substitution of an existing rule, and the revocation of an existing rule.

### **Effective date of rule**

Amendment 8 to Part 19 comes into force on 11 May 2006.

### **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 19 Transition Rules

### Subpart I — Personnel

*Rule 19.405 is revoked and the following new rule is substituted:*

#### **19.405 Test pilots**

A person must not act as a test pilot for the purpose of testing a prototype aircraft or carrying out experimental flying in an aircraft, unless—

- (1) the person holds a valid pilot licence or validation permit issued in accordance with Part 61 and is approved by the Director to act as a test pilot for the type of prototype testing or experimental flying that is being undertaken; or
- (2) the aircraft is a microlight, and the person is authorised by a microlight organisation for the purpose if the organisation's Part 149 certificate authorises the holder to approve a test pilot for the type of prototype testing or experimental flying that is being undertaken; or
- (3) the aircraft is a glider, and the person is authorised by a gliding organisation for the purpose if the organisation's Part 149 certificate authorises the holder to approve a test pilot for the type of prototype testing or experimental flying that is being undertaken.

*Rule 19.407 – First of type authorisation - is revoked and the rule number reserved:*

#### **19.407 Reserved**

## Consultation Details

(This statement does not form part of the rules contained in Part 19. It provides details of the consultation undertaken in making the rules.)

### Comments arising from the NPRM

Amendment 8 to Part 19 is consequential to amendment 7 to Part 61. The rule amendment was developed under docket 2/CAR/1 and published as NPRM 04-02. Fifty written submissions were received on the NPRM and four commented on the proposed amendments to Part 19.

### Comments on Part 19

#### 19.405 Test pilots

Dee Bond Wakelin, CFI Auckland Aero Club, submits all test pilots should hold a valid pilot licence issued or validated in accordance with Part 61. Why should microlights or gliders be any different from any other category of aircraft? Microlights and gliders should be under the same rules as aeroplanes. Microlights are becoming more sophisticated with some out performing aeroplanes so have similar risks associated with them. Alternatively the same authority should be divested to an "aeroplane organisation" for that purpose - which would not happen. The terms "microlight organisation" and "glider organisation" are too loose in this context and the Director should approve all test pilots.

*CAA Comment: The CAA disagrees as glider and microlight organisations are certified under Part 149 to administer activities of recreational flying organisations. These organisations must meet specific certification and operating requirements in Part 149 and be approved by the Director.*

(1) Dee Bond Wakelin, CFI Auckland Aero Club, submits the proposed wording suggests that there is a pilot licence specifically issued for testing or experimental flying. Suggest wording:

"the person is approved by the Director for that purpose, and holds a valid pilot licence issued or validated in accordance with Part 61."

*CAA Comment: The CAA agrees and wording is amended.*

(2) Ardmore Flying School and the Aviation Industry Association each submit this provision be deleted. Given the speed and complexity of

some microlights then microlight test pilots should come under the same as other class of aircraft i.e. require approval from the Director.

(2) Phill Hooker, CFI Bay Flight International, submits test flying microlights should remain as it is. There are a lot of experienced microlight instructors who would be better than GA pilots to test fly.

The RNZAC submits they find it difficult to accept that the test flying of microlight aircraft or gliders is largely different from that of other light aircraft given that the training offered to those operating under Rule Part 61 is substantially of greater quality and depth than those pilots operating outside this rule.

**CAA Comment:** *The CAA agrees with the Phill Hooker submission that microlight and glider organisations, especially flight instructors, are better qualified to authorise persons to be test pilots given the experience of the organisations in these specialist aircraft.*

The full consultation details relating to docket 2/CAR/1 and this amendment to Part 19 are contained in the consultation details associated with amendment 7 to Part 61.

The comments and all background material used in developing the rules are held on the docket and are available for public inspection. Persons wishing to view the docket should call at Aviation House, 10 Hutt Road, Petone and ask for docket 2/CAR/1.