



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 *22nd* day of *November* 2006

by **HARRY JAMES DUYNHOVEN**


Minister for Transport Safety

Civil Aviation Rules

Part 26, Amendment 1

Additional Airworthiness Requirements

Docket 1/CAR/1357

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Rule objective

The objective of amendment 1 to Part 26 is to amend the terminology and update the various rule requirements regarding additional airworthiness requirements for aircraft and in particular to upgrade the fire safety standards for “Class D” cargo and baggage compartments for air transport aircraft with a type certificated capacity of more than 19 passengers.

Amendment 1 to Part 26 is associated with the following amendments to other Parts:

- Amendment 7 to Part 21
- Amendment 1 to Part 39
- Amendment 1 to Part 146
- Amendment 2 to Part 148

Extent of consultation

In 1999 the Civil Aviation Industry Rules Advisory Group (CIRAG) Executive established a Technical Study Group (TSG) to participate in a rule making project to amend and update various rules relating to the airworthiness and maintenance requirements for aircraft. A number of the issues to be addressed arose from an investigation carried out by the CAA in 1997 into the concerns about maintenance standards and practices for aircraft less than 5,700 kg maximum certified take-off weight (MCTOW). Other issues to be addressed arose from various petitions for amendments to be made to airworthiness and maintenance rules.

The TSG was made up of representatives from general aviation (fixed wing operators), aircraft maintenance organisations, helicopter operators, and the Aircraft Owners and Pilots Association. The TSG met 4 times and concluded its work in early 2002. The CAA continued to refine the draft rule proposals during 2002 and 2003 and released the draft rules to a representative industry group for comment before they were published for public consultation.

A Notice of Proposed Rulemaking, NPRM 05-05, containing the proposed rule amendments to Parts 21, 26, 39, 146, and 148 was issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

Two other associated Notices of Proposed Rulemaking, NPRM 05-04 dealing with amendments to Parts 1, 43, 91, and 145, and NPRM 05-06 dealing with amendments to Parts 119, 103, 104, 121, 125, 135, and 137, were also issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

The publication of these NPRMs was notified in the Gazette on 5 May 2005 and advertised in the daily newspapers in the 5 main provincial centres on 7 May 2005. The NPRMs were 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 46 days was initially allowed for comment on the proposed amendments to the rules and this was extended upon industry request for a further 10 days.

New Zealand Transport Strategy

The development of the NPRM and the proposed rule changes took into account the objectives of the New Zealand Transport Strategy (NZTS) and the provisions of the Civil Aviation Amendment Act (No 2) 2004.

Amendment 1 to Part 26 has been assessed as follows against the NZTS:

Assisting Economic Development— the rule amendment is unlikely to affect economic development:

Assisting safety and personal security— the rule amendment enhances the safety standards regarding fire safety in cargo and baggage compartments on the larger air transport aircraft:

Improving access and mobility—the rule amendment is unlikely to affect access and mobility issues:

Protecting and promoting public health— the rule amendment is unlikely to affect public health:

Ensuring environmental sustainability—the rule amendment is unlikely to affect environmental sustainability.

Summary of submissions

Eighty written submissions were received on the 3 NPRMs. One submission related to the proposed amendment to Part 26 regarding the enhanced fire suppression requirements for cargo and baggage compartments. These submissions and comments have been considered and as a result Appendix D.5 has been amended to exclude one remaining B737-200 from the upgraded fire suppression requirement for cargo and baggage compartments.

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 replacing with new rules.

Effective date of rule

Amendment 1 to Part 26 comes into force on 1 March 2007.

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 26 Amendments

Subpart A — General

Rule 26.1 is revoked and replaced by the following new rule:

26.1 Purpose

This Part prescribes airworthiness requirements that are additional to the airworthiness requirements prescribed in any other Part, for a New Zealand registered aircraft.

Subpart B — Additional Airworthiness Requirements

Rule 26.51 is revoked and replaced by the following new rule:

26.51 Additional airworthiness requirements

Airworthiness requirements additional to those prescribed in Part 21 are prescribed in—

- (1) Appendix B for every aircraft:
- (2) Appendix C for an air transport aeroplane with a type certificated seating capacity of more than 9 passenger seats:
- (3) Appendix D for an air transport aeroplane with a type certificated seating capacity of more than 19 passenger seats:
- (4) Appendix E for a helicopter.

Rule 26.53 is revoked and replaced by the following new rule:

26.53 Application of additional airworthiness requirements

(a) The additional airworthiness requirements as prescribed in rule 26.51 apply only to the stated class, category, or type of aircraft, or component and, except as provided in paragraph (b), must be complied with by—

- (1) an applicant for an airworthiness certificate; and

- (2) an applicant for the approval of technical data under rule 21.505; and
 - (3) the holder of a New Zealand certificate of registration.
- (b) Any additional airworthiness requirement that is not complied with must be compensated for by a factor that provides an equivalent level of safety acceptable to the Director.
- (c) The instruments and equipment required to meet the additional airworthiness requirements of this Part must be installed in accordance with the aircraft manufacturer's instructions or other applicable instructions acceptable to the Director, and must be in operable condition, unless otherwise approved in an MEL under rule 91.539, as applicable to the aircraft.

Appendix D — Air transport aeroplanes with a type certificated seating capacity of more than 19 passengers

Appendix D.2.4 is revoked and replaced by the following new appendix:

D.2.4 Emergency exit evacuation equipment

- (a) Except as provided in paragraph (b), every emergency exit must have a means of assisting an occupant to descend to the ground, that meets the requirements for the certification of the aeroplane type that was in effect on 30 April 1972.
- (b) For an aeroplane that is type certificated on or after 1 May 1972, every emergency exit must have a means of assisting the occupant to descend to the ground that meets the requirements for the certification of the aeroplane type.
- (c) If the means of assisting the occupant to descend to the ground required in paragraphs (a) and (b) deploys automatically, it must be capable of being armed during taxiing, takeoff, and landing.

Appendix D.3 is revoked and replaced by the following new appendix:

D.3 Lavatory fire protection

- (a) Every lavatory must be conspicuously marked—
 - (1) on each side of the door with a sign indicating that smoking is not permitted in the lavatory; and
 - (2) on every lavatory paper receptacle door or waste disposal receptacle door with a sign indicating that a cigarette must not be disposed of in the receptacle.
- (b) Except for a dedicated non-smoking aeroplane, every lavatory must be provided with a self contained removable ash tray outside of the entrance to the lavatory or near by.
- (c) Every lavatory paper receptacle or waste disposal receptacle must have a—
 - (1) door fitted that provides a seal to contain a fire within the receptacle; and
 - (2) built-in fire extinguisher designed to discharge automatically upon the occurrence of a fire in the receptacle.
- (d) Every lavatory must be equipped with a smoke detector system or equivalent that provides—
 - (i) a warning light in the cockpit; or
 - (ii) a warning light or audio warning that is readily detectable by a crew member during every phase of a flight.

Appendix D.5 is revoked and replaced by the following new appendix:

D.5 Cargo and baggage compartments

- (a) Except as provided in paragraph (c), for an aeroplane that is type certificated after 1 January 1958—

- (1) a Class C or D cargo or baggage compartment, as defined in FAR 25.857 that was in effect on 16 June 1986, that is greater than 200 cubic feet in volume must have ceiling and sidewall liner panels that are constructed of—
 - (i) glass fibre reinforced resin; or
 - (ii) materials that meet the test requirements of FAR Part 25, appendix F, part III; or
 - (iii) aluminium, in the case of liner installations approved prior to 20 March 1989; and
 - (2) from 1 January 2008—
 - (i) a Class D cargo or baggage compartment, as defined in FAR 25.857 that was in effect on 16 June 1986, regardless of volume, must meet the standards for a Class C compartment defined in FAR 25.857(c), effective 17 February 1998, and FAR 25.858, effective 17 February 1998; or
 - (ii) if the aeroplane is used for an all-cargo operation, a Class D cargo compartment may meet the standards for a Class E cargo compartment defined in FAR 25.857(e), effective 17 February 1998.
- (b) For the purposes of paragraph (a)(1), the term “liner” includes any design feature such as a joint or fastener which would affect the capability of the liner to safely contain a fire.
- (c) The requirements of paragraph (a)(2) do not apply to a Boeing 737-200 aeroplane if—
- (1) the details specified under rule 47.55(b) in respect of the aeroplane already appear in the New Zealand Register of Aircraft on 1 January 2006; and
 - (2) the aeroplane is operated under the authority of the air operator certificate, issued in accordance with Part 119, that was in force on 1 January 2006.

Consultation Details

(This statement does not form part of the rules contained in Part 26. It provides details of the consultation undertaken in making the rules.)

A review of the continuing airworthiness and maintenance requirements for New Zealand aircraft has been under development since 1998 following a review of the state of aircraft maintenance that was carried out in 1997. The changes to Part 43 are the central part of a package of changes that update rules relating to the maintenance of aircraft. The package was developed under docket 1/CAR/1357 and published in May 2005 as 3 separate Notices of Proposed Rule Making, NPRM 05-04 dealing with Part 43 and related rule Parts 91, and 145, NPRM 05-05 dealing with Part 21 and related Parts 26, 39, 146, and 148, and NPRM 05-06 dealing with Part 119 and related Parts 103, 104, 121, 125, 135, and 137. The changes to the various rules are based on the 1997 review of aircraft maintenance and proposals arising from a CAA-Industry Technical Study Group set up in 1999.

The 3 Notices of Proposed Rulemaking, NPRM 05-04 Part 43 General Maintenance Rules, NPRM 05-05 Part 21 Certification of Products and Parts, and NPRM 05-06 Part 119 Air Operator – Certification, containing the proposed rules were issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

Comments arising from the NPRM

A total of eighty written submissions were received on the 3 NPRMs, mostly in relation to the Part 43 and 91 changes. One submission related to the proposed upgrade requirements for Class D cargo and baggage compartments.

The structure of some rules has been amended and editorial changes have been made to provide clarity and, in some cases, to maintain consistency in the terminology used.

The detailed summary of consultation details relating to the 3 NPRMs are contained in the consultation details of amendment 5 to Part 43. 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 +64 560 9603 and ask for docket 1/CAR/1357.