



PURSUANT to Section 28 of the Civil Aviation Act 1990 and having had regard to the matters specified in section 33 of the Act,

I, CRAIG FOSS, Associate Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *26th* day of *August* 2015

by **HON CRAIG FOSS**

A handwritten signature in black ink, appearing to read 'CRAIG FOSS', is written over the printed name. The signature is fluid and cursive, with a horizontal line at the end.

Associate Minister of Transport

Civil Aviation Rules
Part 91, Amendment 25
General Operating and Flight Rules
Docket 14/CAR/3

Contents

Rule objective.....	3
Extent of consultation.....	3
Summary of submissions.....	3
Examination of submissions.....	3
Insertion of Amendments	3
Effective date of rule.....	4
Availability of rules.....	4
91.301 VFR meteorological minima	5
91.303 Special VFR weather minima	7
91.529 Emergency locator transmitter.....	8
 Appendix A — Instrument and equipment specifications	
A.3 Seating.....	10
A.15 Emergency locator transmitters	10
A.25 Parachute assembly for emergency use	12
Consultation Details	14

Rule objective

The objective of Amendment 25 to Part 91 is to make minor editorial corrections; and update standards in appendices A.3 and A.25.

This amendment forms part of the Omnibus 2014 rule project which also contains amendments to the following Parts:

Part 1	Part 101	Part 125
Part 12	Part 102	Part 135
Part 19	Part 108	Part 139
Part 43	Part 115	Part 145
Part 65	Part 119	Part 172
Part 93	Part 121	

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 15-01, containing the proposed changes to Part 91 and other rules was issued for public consultation under Docket 14/CAR/3 on 24 March 2015.

The publication of this NPRM was notified in the Gazette on 24 March 2015. The NPRM was published on the CAA web site and emailed to subscribers to the automatic alert service provided by the CAA.

A period of 24 days was allowed for comment on the proposed rule.

Summary of submissions

Two written submissions and no oral comments were received on the NPRM. One submission related to the proposed amendment to Part 91. That submission was considered and as a result the final rule was redrafted to improve clarity. Consultation details are listed on page 14.

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 replacing the existing rules with the amended rules.

Effective date of rule

Amendment 25 to Part 91 comes into force on 24 September 2015.

Availability of rules

Civil Aviation Rules are available from–

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

Freephone: 0800 GET RULES (0800 438 785)

Replace the existing rule 91.301 with the following rule 91.301:

91.301 VFR meteorological minima

(a) Except as provided in rule 91.303, and paragraphs (b) and (c), a pilot-in-command must not operate an aircraft under VFR—

- (1) when the flight visibility is less than that prescribed for the corresponding class of airspace in Table 4; or
- (2) at a distance from clouds that is less than that prescribed for the corresponding class of airspace in Table 4.

(b) Except as provided in rule 91.303, a pilot-in-command must not perform a take-off or landing in an aircraft, or fly in the vicinity of an aerodrome, under VFR when the flight visibility, or the cloud ceiling, is less than—

- (1) at aerodromes within a control zone, that prescribed in Table 5; and
- (2) at aerodromes in uncontrolled airspace, that prescribed in Table 6.

(c) A pilot-in-command of—

- (1) a helicopter may operate in Class G airspace with a flight visibility of less than 5 km if manoeuvred at a speed that gives adequate opportunity to observe other traffic or any obstructions in order to avoid collisions; and
- (2) an aircraft performing agricultural aircraft operations, may operate in Class G airspace with a flight visibility of less than 5 km but not less than 1500 m; and
- (3) an aircraft performing flight instruction may operate within a designated low flying zone prescribed under Part 71 with a flight visibility of less than 5 km but not less than 1500 m.

Table 4. Airspace VFR meteorological minima

Class of airspace		Distance from cloud	Flight visibility
B		Clear of cloud	8 km at or above 10 000 feet AMSL
C, D, and E		2 km horizontally 1000 feet vertically outside a control zone 500 feet vertically within a control zone	
F and G	Above 3000 feet AMSL or 1000 feet above terrain whichever is the higher	2 km horizontally 1000 feet vertically	5 km below 10 000 feet AMSL
	At or below 3000 feet AMSL or 1000 feet above the terrain whichever is the higher	Clear of cloud and in sight of the surface	5 km

Table 5. VFR minima at aerodromes within a control zone.

		Ceiling	Flight visibility
All aircraft	Day and Night	1500 feet	5 km

Table 6. VFR minima at aerodromes in uncontrolled airspace.

		Ceiling	Flight visibility
All aircraft	Day	600 feet	1500 m
All aircraft	Night	1500 feet	8 km

Replace the existing rule 91.303 with the following rule 91.303:

91.303 Special VFR weather minima

A pilot-in-command of an aircraft may perform a VFR operation within a control zone in meteorological conditions below those prescribed in 91.301 if—

- (1) the ceiling and flight visibility is—
 - (i) at least 600 feet and at least 1500 m respectively; or
 - (ii) for helicopters, less than 600 feet and less than 1500 m respectively if the helicopter is operated at a speed that will give adequate opportunity to observe other traffic or any obstructions in order to avoid collisions; and
- (2) the aircraft is equipped with two-way radio capable of communicating with ATC on the appropriate frequency; and
- (3) the operation is conducted—
 - (i) in compliance with an ATC clearance and any ATC instructions; and
 - (ii) only during the day; and
 - (iii) clear of clouds.

Replace the existing rule 91.529 with the following rule 91.529:

91.529 Emergency locator transmitter

(a) A person must not operate an aircraft without an ELT(AF) installed in the aircraft except as provided in paragraphs (b), (d), and (e), rule 121.353(b), and rule 129.109.

(b) An aircraft may be operated without an ELT(AF) installed if—

- (1) the operation is to ferry the aircraft from the place where the operator takes possession of the aircraft to a place where an ELT(AF) is to be installed; and
- (2) the aircraft does not carry any passenger.

(c) Despite rule 91.501(4), an aircraft may be operated with an inoperative ELT(AF) if—

- (3) the operation is to ferry the aircraft from a place where repairs or replacement of the ELT cannot be made to a place where the repairs or replacement can be made; and
- (4) the aircraft does not carry any passenger.

(d) Despite rule 91.501(4) and paragraph (a), an aircraft may be operated without an operable ELT(AF) for a period of not more than 7 days if the aircraft is equipped with an ELT(S) or PLB that is accessible to any person on board the aircraft.

(e) Paragraph (a) does not apply to the following aircraft:

- (1) an aircraft that is equipped with no more than 1 seat if the pilot is equipped with an ELT(S) or PLB;
- (2) a glider or microlight aircraft if at least 1 person carried in the glider or microlight aircraft is equipped with an ELT(S) or PLB;
- (3) a glider, or powered aircraft, including a microlight aircraft, that is equipped with no more than 2 seats, if the glider or powered aircraft is operated not more than 10 nm from the

aerodrome from which the glider or powered aircraft took off:

(4) a manned free balloon.

(f) A holder of a certificate of registration for a New Zealand registered aircraft that is equipped with an ELT(AF), or carries an ELT(S), EPIRB, or PLB that operates on 406 MHz must not operate the aircraft unless—

- (1) for an ELT(AF) or ELT(S), the ELT is coded with the International Telecommunication Union (ITU) country code for New Zealand, and any of the following:
 - (i) the ELT serial number;
 - (ii) the 24-bit aircraft address;
 - (iii) the ICAO aircraft operating agency designator and a serial number allocated by the operator;
 - (iv) the aircraft nationality and registration marks; and
- (2) for an EPIRB or PLB, the EPIRB or PLB is coded with—
 - (i) the International Telecommunication Union (ITU) country code for New Zealand; and
 - (ii) a unique code to identify the EPIRB or PLB; and
- (3) the holder of the certificate of registration has notified the Rescue Coordination Centre New Zealand of—
 - (i) the code, in accordance with paragraph (f)(1) or (f)(2), for each ELT, EPIRB, or PLB that is installed or carried in the aircraft; and
 - (ii) the name and emergency contact details of the aircraft operator.

(g) A person must not operate a foreign aircraft in New Zealand that is equipped with or carries an ELT that operates on 406 MHz unless the ELT is coded with—

- (1) the International Telecommunication Union (ITU) country code of the State of registry; and
- (2) any of the following:
 - (i) the ELT serial number;
 - (ii) the 24-bit aircraft address;
 - (iii) the ICAO aircraft operating agency designator and a serial number allocated by the operator;
 - (iv) the aircraft nationality and registration marks.

Appendix A — Instrument and equipment specifications

Replace the existing rule A.3 with the following rule A.3:

A.3 Seating

A seat and berth must meet the requirements of TSO C25, TSO C39, or TSO C127 as applicable.

Replace the existing rule A.15 with the following rule A.15:

A.15 Emergency locator transmitters

- (a) An ELT(AF) and an ELT(S) must—
 - (1) meet the requirements of TSO C126; and
 - (2) transmit on both frequencies of 406 MHz and 121.5 MHz.
- (b) An ELT(AF) must—
 - (1) be attached to the aircraft in such a manner that—

- (i) the probability of damage to the ELT in the event of an accident or impact is minimised; and
 - (ii) the ELT mounting is to a primary load-carrying structure provided the attachment does not degrade the structural capability of the aircraft; and
 - (iii) a force of 450 newtons applied to the ELT mounting in the most flexible direction does not cause a static deflection greater than 2.5 mm relative to a section of adjacent structure located between 0.3 m and 1.0 m from the attachment site; and
 - (iv) the ELT and any external antenna can support a 100 g load in the plus and minus directions of the 3 principal axes of the aircraft; and
 - (v) the ELT and any external antenna are as close to each other as possible; and
 - (vi) for a fixed or a deployable ELT(AF), the ELT and external antenna are attached as far aft as possible; and
- (2) have its crash activation sensor—
- (i) located so as to prevent inadvertent operation; and
 - (ii) axis orientated to sense a primary crash pulse along the longitudinal axis of the aircraft; and
- (3) have its antenna—
- (i) mounted to provide vertical polarisation with the aircraft in normal flight; and
 - (ii) for an external antenna, mounted not less than 0.6 m from any other VHF antenna unless the manufacturer specifies that a closer mounting may be used; and
 - (iii) for an internal antenna, insulated from metal parts and exposed to a window of at least 0.3 m square; and

- (4) be fitted with vibration proof RF connectors on each end of the ELT-antenna coaxial cable; and
 - (5) have its location identified near the point of access.
- (c) An EPIRB must—
- (1) meet the requirements of Australian/New Zealand Standard AS/NZ 4280.1; and
 - (2) transmit on both frequencies of 406 MHz and 121.5 MHz.
- (d) An ELT(S) and EPIRB must—
- (1) be self buoyant; and
 - (2) be water resistant; and
 - (3) be portable.
- (e) A PLB must operate on both frequencies of 406 MHz and 121.5 MHz, and must—
- (1) meet the requirements of Australian/New Zealand Standard AS/NZS 4280.2; or
 - (2) be COSPAS-SARSAT type approved.
- (f) An ELT(S) must be stowed in the aircraft in a manner that allows it to be readily available to any person on the aircraft in the event of an emergency.

Replace the existing rule A.25 with the following rule A.25:

A.25 Parachute assembly for emergency use

A parachute assembly for emergency use must meet the requirements of—

- (1) an applicable type certificate; or

- (2) TSO C23; or
- (3) a military drawing and order number or any other military designation or specification number; or
- (4) LTF 35/03; or
- (5) European Norm EN 12491; or
- (6) AFNOR and DHV standards.

Consultation Details

(This statement does not form part of the rules contained in Part 0. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 15-01Omnibus 2014, containing the proposed rules was issued for public consultation under Docket 14/CAR/2 on 24 March 2015.

One response to the NPRM was received that was pertinent to the proposed changes in Part 65.

The submitter stated:

“While the abbreviations ELT and ELT(S) are defined in Part 1 the full definitions are not. Annex 6 contains those definitions. Given Part 91.525 has an ELT(S) or EPIRB, the clarity provided by the NPRM 121.353(a)(1)(ii) is still potentially conflicting. i.e. is an ELT(S) or for that matter an EPIRB under 91.525 considered to be an ELT under 121.353(a)(1)(ii). I believe that is the intent, but it is not 100% clear. Under Annex 6 an ELT(S) is simply an ELT “stowed so as to facilitate its ready in an emergency, and manually activated by survivors”

CAA Response

The CAA acknowledges the submitter’s concerns regarding ELT, ELT(S) and EPIRB as they are currently presented in current rules 91.525, 91.529, and 121.353(a)(1)(ii).

While the submitter claims that ELT and ELT(S) are not as fully defined in Part 1 as they are in ICAO Annex 6, the CAA believes they are sufficiently defined in Part 1 as ‘Emergency locator transmitter’ and ‘Emergency locator transmitter (survival)’ and are aligned with Annex 6.

Further, the CAA believes that the narrative provided in the NPRM for rule 121.353(a)(1)(ii) is correct and represents an ELT(S) being one of the ELTs that is required in the current rule. However, the purpose of amending rule 121.353(a)(1)(ii) is to eliminate an unreasonable requirement of having a fourth type of ELT which is placing unnecessary and excessive financial burden on an operator.

Further, and as a result of the submission, the CAA will recommend clarification of the types of ELTs provided for in Part 91 and Part 121 by adding (AF) after ELT to elucidate it is an ELT(AF) or “Emergency locator transmitter (automatic fixed)” where that is the intent of the requirement.