



**WELLINGTON NEW ZEALAND**

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

**I, JENNIFER MARY SHIPLEY, Minister of Transport,**

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This *17<sup>th</sup>* day of *February* 1997  
by **JENNIFER MARY SHIPLEY**

Minister of Transport

**Civil Aviation Rules  
Part 92 Amendment 1**

*Docket Nr. 1246*

**Civil Aviation Rules  
Part 92 Amendment 1**

## **RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT**

The objective of Amendment No. 1 to Part 92 of the Civil Aviation Rules is to bring into force changes to Part 92.

A draft of the amendment to Part 92 was developed by the rules rewrite team, a division of the Civil Aviation Authority. A Notice of Proposed Rulemaking was issued under Docket 1246 on 16 October 1996.

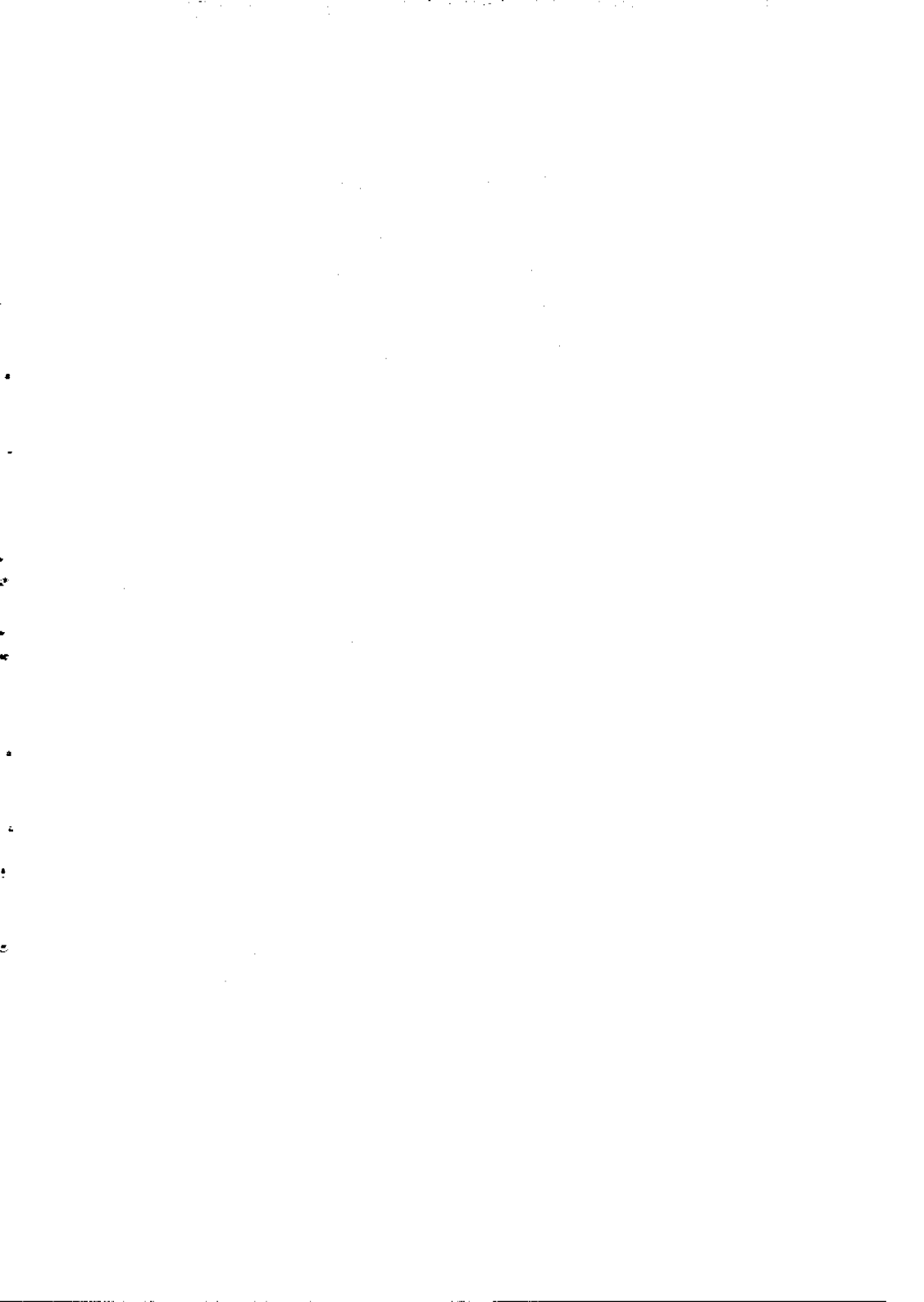
The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 17 October 1996. The notice was mailed to members of the Regulatory Review Consultative Group and to other parties, including overseas aviation authorities and organisations, who were considered likely to have an interest in the proposal.

A period of 30 days was allowed for comment on the proposed rule.

The submissions and verbal comments were considered and where appropriate the proposed rules amended to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 92 , Amendment No. 1 comes into force on 1 April 1997.



92.3 is amended by revoking the definition of **Technical Instructions**.

92.17 is amended by deleting the note that is contained within square brackets.

92.51 is amended by substituting it with the following:

**"92.51 Packaging requirements**

(a) A person shall not mark, label, certify, or offer a packaging as meeting the requirements of this Part unless the packaging is—

- (1) manufactured, fabricated, marked, maintained, reconditioned, and repaired, as applicable, in accordance with the Technical Instructions; and
- (2) tested in accordance with the Technical Instructions; and
- (3) for a New Zealand manufactured packaging—
  - (i) tested by an organisation accredited by Telarc for testing; and
  - (ii) except for class 7 dangerous goods, approved by the Director; and
  - (iii) for class 7 dangerous goods, approved by the National Radiation Laboratory of the Ministry of Health; and
- (4) for a packaging not manufactured in New Zealand, manufactured and tested in an ICAO contracting State.

(b) Paragraphs (a)(3) and (4) shall not apply to a packaging that is not required by the Technical Instructions to be tested."

92.105 is amended by substituting it with the following:

**"92.105 Dangerous goods transport document**

(a) Each person who offers dangerous goods for carriage by air shall, subject to 92.103(4), provide the operator with 2 copies of a completed and signed dangerous goods transport document that—

- (1) accurately describes the dangerous goods in the following order by their—
  - (i) proper shipping name; and
  - (ii) class or, when assigned, division, including for Class 1, compatibility group; and
  - (iii) UN number, if any, preceded by the letters UN; and

- (iv) where assigned, the appropriate packing group; and
- (2) bears the following declaration signed by the person who offered the dangerous goods for carriage by air:

*I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked, and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations; and*

- (3) complies with any additional requirements prescribed by the Technical Instructions.
- (b) The declaration required by paragraph (a)(2) may omit the reference to *placarded*, where appropriate."

## CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 92.  
It provides details of the consultation undertaken in making the rules.)

### Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on the proposed new rules, the Authority issued Notice of Proposed Rule Making 96-12 under Docket Number 1246 on 16 October 1996. This Notice proposed the introduction of Civil Aviation Rules Part 92 Amendment 1 to provide a regulatory safety boundary for Part 92.

### Supplementary Information

All comments made on the Notice of Proposed Rule Making are available in the rules docket for examination by interested persons. A report summarising each substantive contact with the Civil Aviation Authority contact person concerning this rule making has been filed in the docket.

### Availability of the Document

Any person may view a copy of these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

### Summary of Comments on Docket Number 1246 NPRM

#### 1. General comments on the NPRM

From the 6 submissions received, four did not offer any specific comment other than to support the proposal.

#### 2. Specific comments on the NPRM

Specific comments received from the 6 submissions are discussed as follows:

##### 2.1 92.3 Definitions

One commenter said that, "because the ICAO Technical Instructions are only current for a particular period as shown on the cover of this manual, I would suggest that the definition be amended to—

*Technical Instructions means the current edition of the Technical Instructions....."*

**CAA response:** The Act requires each editing of the technical instructions to be incorporated by reference by notice in the gazette. It cannot automatically form part of the NZCAR. Consequently it cannot be defined as the current

edition. The definition will appear in Part 1 as it is associated with the definition of dangerous goods which is in Part 1.

## 2.2 92.51 Packaging requirements

One commenter suggested that to ensure that it has passed the tests, as there have been cases in the past where it has not, yet still has the markings applied, add the word "*successfully*" to paragraph (3)(i) to say—  
*"successfully tested by an organisation accredited to TELARC for testing"*.

**CAA response:** The insertion of the word *successfully* is not required as the approval process is dependant on the packaging meeting the testing criteria.

The same commenter stated "it is incorrect to state that (page 6 of the NPRM) all imported packagings bear the UN specification markings and markings to indicate the approval given by the competent authority of the country of manufacture. I have known numerous situations where this is not being applied. Furthermore that the tests in some cases have not been fully in accordance with the Technical Instructions."

"Whilst it is difficult to make it 100%, I would recommend that the following is included for paragraph (4) to counter these problems—

*(4) for a packaging not manufactured in New Zealand, manufactured and successfully tested in accordance with the ICAO Technical Instructions. The packages must also bear the name of the manufacturer or other identification of the packaging specified by the appropriate national authority of the ICAO contracting state."*

**CAA response:** CAA does not agree. The competent authority of the state of manufacture allocates markings to any packaging that meets the testing criteria and requires those markings to be on the package in accordance with the Technical Instructions.

One commenter supported the rationale of the proposed amendments adding that "*It has some concern about paragraph 92.51 Packaging requirements. The exemption allowed for imported packaging requires that extra care must be expended to guard against counterfeit material being introduced to NZ that does not meet the requirements.*"

**CAA response:** The control mechanism is that these packagings can only be manufactured and tested in an ICAO contracting State. These States are obliged to comply with the Technical Instructions in ensuring that the packaging is tested satisfactorily and are allocated markings to be displayed on such packaging. CAA is confident that this minimises any risk of bogus packagings.

## Implementation

Part 92 Amendment 1 will come into force on 1 April 1997.



## **Conclusion**

The Authority concludes from this consultation that the majority of the aviation industry participants do not object to this amendment to Part 92. Specific issues that were identified in the comments received from the consultative group have been addressed. The rules also meet New Zealand's international obligations under the applicable ICAO Annex. The comments and all the background material used in developing the rules are held on the docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket files 1246.