



PURSUANT to Section 28 of the Civil Aviation Act 1990

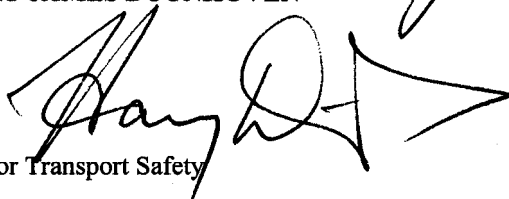
I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *16th* day of *May* 2006

by **HARRY JAMES DUYNHOVEN**


Minister for Transport Safety

Civil Aviation Rules

Part 104, Amendment 4

Gliders —Operating Rules

Docket 3/CAR/4

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Rule objective

The objective of Amendment 4 to Part 104 is to make editorial and minor technical changes as part of a general rule fix up.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 05-07, containing the proposed changes to Part 104 was issued for public consultation under Docket 3/CAR/4 on 23 June 2005.

The publication of this NPRM was notified in the *Gazette* on 23 June 2005 and advertised in the daily newspapers in the five main provincial centres on 25 June 2005. 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 37 days was allowed for comment on the proposed rule.

New Zealand Transport Strategy

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

Summary of submissions

Nine written submissions were received on the NPRM. One submission was received on the proposed amendments to Part 104. Airways Corporation submitted that rule 104.53(2) should be amended to clarify the requirements of reporting to an Air Traffic Service unit. The CAA agreed with the suggested amendment and rule 104.53(2) has been amended accordingly.

These changes were notified in the Summary of Public Submissions which was published on the CAA web site on 25 October 2005.

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 the existing rule and the substitution of the new rule.

Effective date of rule

Amendment 4 to Part 104 comes into force on 22 June 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 104 Gliders — Operating Rules

Subpart A — General

Rule 104.1 is revoked and the following new rule is substituted:

104.1 Purpose

- (a) This Part prescribes—
- (1) rules, additional to Part 91, for the operation of gliders; and
 - (2) rules, additional to Part 43, for the maintenance of gliders; and
 - (3) exceptions from Part 91 for the operation of gliders; and
 - (4) exceptions from Part 43 for the maintenance of gliders.
- (b) This Part does not apply to hang gliders.

Rule 104.3 is revoked and the following new rule is substituted:

104.3 Definitions and abbreviations

In this Part—

Certificate, in relation to a personnel qualification required by this Part, means a certificate or rating issued by the holder of a delegation from the Director for that purpose.

Rule 104.9 is revoked and the following new rule is substituted:

104.9 Flight manuals

Notwithstanding rule 91.111(2), a person may operate a glider without carrying a flight manual in the aircraft if—

- (1) the flight manual is available to the pilot for pre-flight planning; and
- (2) cockpit decals provide all the reference information necessary for a pilot to safely operate the aircraft.

Subpart B — Flight Rules

Rule 104.53 is revoked and the following new rule is substituted:

104.53 Instrument meteorological conditions

Notwithstanding rule 91.301, the pilot of a glider may fly in IMC without complying with subpart F of Part 91, if the flight is conducted within—

- (1) a restricted area designated for cloud flying; or
- (2) Class G airspace and the pilot confirms with the appropriate ATS unit at intervals not exceeding 15 minutes that there is no known IFR traffic in or near the proposed area of cloud flying.

Rule 104.59 is revoked and the following new rule is substituted:

104.59 Minimum height

Notwithstanding rule 91.311(a)(2), the pilot of a glider may operate the glider below a height of 500 feet above the surface—

- (1) for ridge soaring, if the flight does not create a hazard to a person or property on the ground; or
- (2) if a gliding instructor is conducting launch failure training.

Consultation Details

(This statement does not form part of the rules contained in Part 104. It provides details of the consultation undertaken in making the rules.)

Comments arising from the NPRM

The rule amendment was developed under docket 3/CAR/4 and published as NPRM 05-07. The consultation details relating to docket 3/CAR/4 are detailed in each affected rule.

Nine written submissions were received on the NPRM and one commented on the proposed amendments to Part 104.

Airways Corporation submit that rule **104.53(2)** should be amended by replacing “nearest” with “appropriate” ATS unit. The submitter contends that the nearest unit is not always the most appropriate and that there is sufficient information on aeronautical charts and in the AIPNZ for pilots to use the appropriate ATS unit frequencies. Airways also submit that “IFR” traffic should be “known IFR traffic”.

CAA comment: The CAA agree and this section is amended to:

104.53 Instrument meteorological conditions

Notwithstanding rule 91.301, the pilot of a glider may fly in IMC without complying with subpart F of Part 91, if the flight is conducted within—

- (1) a restricted area designated for cloud flying; or*
- (2) Class G airspace and the pilot confirms with the appropriate ATS unit at intervals not exceeding 15 minutes that there is no known IFR traffic in or near the proposed area of cloud flying*

The comments and all background material used in developing these rules are held on the docket. The docket is available for public inspection at Aviation House, 10 Hutt Road. Persons wishing to view the docket should contact the Docket Clerk on Phone 64-4-560-9603 and ask for docket 3/CAR/4.