



**PURSUANT** to Sections 28, 29, 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 104, Amendment 5**  
**Gliders - Operating Rules**  
*Docket 1/CAR/1357*

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**Rule objective**

The objective of amendment 5 to Part 104 is to amend and update the general operating and maintenance requirements for gliders to align these requirements with the amendments made to Parts 91 and 43 regarding the maintenance of aircraft, and to delete redundant transitional provisions.

Amendment 5 to Part 104 is associated with the following amendments to other Parts:

- Amendment 5 to Part 43
- Amendment 15 to Part 91
- Amendment 6 to Part 103
- Amendment 7 to Part 119
- Amendment 15 to Part 121
- Amendment 11 to Part 125
- Amendment 15 to Part 135
- Amendment 4 to Part 137

**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 05-06, containing the proposed rule amendments to Parts 119, 103, 104, 121, 125, 135, and 137 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 05-05 dealing with amendments to Parts 21, 26, 39, 146, and 148, 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 5 to Part 104 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 contributes to aviation safety by upgrading the maintenance

requirements for equipment such as SSR transponder and automatic pressure altitude reporting equipment installed in the glider to be the same as for other certificated aircraft operating in accordance with Part 91:

**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 amendments are unlikely to affect environmental sustainability.

### **Summary of submissions**

Eighty written submissions were received on the 3 NPRMs. These submissions and comments have been considered but none of the submissions related to the proposed amendments to Part 104.

Some editorial changes have been made to the final rule to clarify the requirement proscribed in the rule.

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 some existing rules and replacing them with new rules and revoking redundant existing rules.

### **Effective date of rule**

Amendment 5 to Part 104 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 104 - Amendments

### Subpart A — General

*Rule 104.7 is revoked and replaced by the following new rule:*

#### 104.7 Test flights

(a) Notwithstanding rule 91.101(c)(4), the holder of a current glider pilot certificate and an applicable type rating may act as pilot-in-command of a glider that is operated in accordance with rule 91.101(c) for the purpose of demonstrating the eligibility of the glider for the issue, renewal, or reinstatement of an airworthiness certificate.

(b) Notwithstanding rule 91.613(a)(1), the holder of a glider pilot certificate and an applicable type rating may perform an operational flight check of a glider under rule 91.613 if the glider requires an operational flight check.

*Rule 104.109 is revoked and replaced by the following new rule:*

#### 104.9 Flight manuals

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

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

### Subpart C — Equipment and Maintenance Requirements

*Rule 104.103 is revoked and replaced by the following new rule:*

#### 104.103 General maintenance requirements

An operator of a glider must ensure that—

- (1) the glider is maintained in an airworthy condition; and
- (2) every applicable airworthiness directive is complied with in accordance with the requirements prescribed in Part 39; and

- (3) the glider is inspected in accordance with—
  - (i) this Subpart; and
  - (ii) the applicable requirements prescribed in Subpart G of Part 91; and
- (4) mandatory replacement times, inspection intervals, and related procedures specified in the airworthiness limitations of the manufacturer's maintenance manual or instructions for continued airworthiness issued for the glider are complied with; and
- (5) between required inspections, a defect is rectified in accordance with Part 43.

***Rule 104.105 is revoked and replaced by the following new rule:***

#### **104.105 Maintenance inspections**

A person must not operate a glider unless, within the preceding 12 months, the glider—

- (1) has been inspected in accordance with a maintenance programme required under rule 104.107 and has been certified for released-to-service in accordance with Part 43; or
- (2) has passed an inspection for the issue of an airworthiness certificate in accordance with Part 21.

***Rule 104.107 is revoked and replaced by the following new rule:***

#### **104.107 Maintenance programmes**

An operator of a glider must maintain the glider, including the airframe, any engine or propeller, component, survival equipment, and emergency equipment, in accordance with the applicable requirements prescribed in Subpart G of Part 91 and—

- (1) the current maintenance schedule recommended by the manufacturer; or

- (2) a maintenance programme—
  - (i) authorised by a gliding organisation in accordance with rule 104.109 and the applicable procedures in the gliding organisation's exposition; or
  - (ii) approved by the Director in accordance with rule 104.109.

*Rule 104.109 is revoked and replaced by the following new rule:*

**104.109 Authorisation and Approval of maintenance programme**

(a) An operator of a glider who wishes to maintain the glider in accordance with a maintenance programme under rule 104.107(2) must submit the programme in writing to a gliding organisation for authorisation or, to the Director for approval.

(b) The programme required under rule 104.107(2) must include the following information:

- (1) a statement as to whether or not the glider is to be used for a training operation:
- (2) a schedule for performing the inspections proposed by the programme expressed in terms of the time in service, calendar time, or any combination of these:
- (3) instructions and procedures for the conduct of maintenance for the particular make and model of the glider, including necessary tests and checks. The instructions and procedures must detail the parts and areas of the airframe, engine, propeller and component, including survival and emergency equipment, required to be inspected.

(c) If the operator of a glider amends the maintenance programme that is authorised or approved under paragraph (a), the operator must apply the time-in-service or calendar times accumulated under the previous programme when determining inspection due times under the new programme.

(d) An operator of a glider who maintains the glider in accordance with a maintenance programme required under rule 104.107(2) must amend the maintenance programme in accordance with any instruction issued by the gliding organisation that authorised the programme, or the Director, if the gliding organisation or the Director determines that an amendment is required to ensure the continued adequacy of the programme.

***Rule 104.111 is revoked and the rule number reserved:***

#### **104.111 Reserved**

***Rule 104.115 is revoked and replaced by the following new rule:***

#### **104.115 Pilot maintenance**

- (a) Notwithstanding rule 43.51(b), a person who holds a current glider pilot certificate may perform the maintenance listed in A.1 and A.2 of Appendix A of Part 43 on a glider if the person is the owner or operator of the glider.
- (b) Notwithstanding rule 43.101(a)(6), a person who performs maintenance on a glider under paragraph (a) may certify the glider for release-to-service after performing the maintenance.

## 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.)*

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 three NPRM's, mostly in relation to the Part 43 and 91 changes. The CAA has worked through these submissions but none of the submissions related to Part 104.

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

The consultation details relating to amendment 5 to Part 104 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.