



PURSUANT to Sections 28, 29 and 30 of the Civil Aviation Act 1990

I, GERRY BROWNLEE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *26th* day of *November* 2012

by **Hon GERRY BROWNLEE**

A handwritten signature in blue ink, appearing to read 'Gerry Brownlee', is written over the printed name.

Minister of Transport

Civil Aviation Rules

Part 139, Amendment 9

Aerodromes - Certification, Operation and Use

Docket 7/CAR/1

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Rule objective

The objective of amendment 9 to Part 139 is to improve protection from aviation security threats affecting the travelling public.

The amendment addresses–

- vehicle security identification systems;
- the establishment of security awareness groups at airports that service regular air transport passenger services on aircraft of 19 or more passenger seats;
- security training.

Extent of consultation

Development of the rule amendment proposal included informal discussions, meetings and emails with Air New Zealand, Air Nelson, Mount Cook Airline, Air Chathams, Vincent Aviation, Air Freight, Auckland International Airport, Rotorua Airport, Christchurch International Airport, Dunedin Airport, Qantas, LAN Chile, and Avsec. Prior to the publication of the notice of proposed rulemaking (NPRM), the Security Rules Update amendment project was undertaken in consultation with a project working group (PWG) that consisted of representatives from the aviation industry. The PWG also had support from the New Zealand Air Line Pilots Association.

A Notice of Proposed Rulemaking, NPRM 12-01, containing the proposed amendment to Part 139 was issued for public consultation under Docket 7/CAR/1 on 9 February 2012.

The publication of this NPRM was notified in the Gazette on 9 February 2012 and advertised on 10 February 2012 in the following metropolitan and regional newspapers: The New Zealand Herald, The Dominion Post, The Press, the Otago Daily Times, The Waikato Times, The Daily Post, the Manawatu Standard, and the Southland Times. 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 28 days was allowed for comment on the proposed rule.

Summary of submissions

Seven written submissions and two e-mailed comments were received on the NPRM. These submissions and comments have been considered and as a result the following changes were made to the final rules:

139.207 – the proposed rule was deleted and the requirements transferred to rules 139.203 and 139.205 for simplicity of application. The transferred requirements were amended to relax the security training recurrency interval from 2 years to 3 years; and remove the training records requirement from the security training requirements to be consistent with the rest of Part 139.

139.77 – split the security training programme requirement from paragraph (a)(20) to its own new paragraph (a)(21) following the changes to 139.203 and 139.205 described above.

The wording of rule 139.203(b)(12)(ii) was simplified to remove ambiguity.

Provisions were inserted in 139.205(b) and (g) to limit applicability to aerodromes serving aeroplanes with 19 or more passenger seats.

Transitional arrangements have been added to rules 139.203 and 139.205 to allow certificate holders 6 months to implement the new requirements.

Editorial changes have been made, where appropriate, for clarity, and to reflect current legislative drafting style.

The rule as amended was then referred to Parliament's Regulations Review Committee before being signed by the Minister of Transport.

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 amending existing rules 139.77, 139.203, and 139.205.

Effective date of rule

Amendment 9 to Part 139 comes into force on 16 January 2013.

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 139 Aerodromes – Certification, Operation and Use

Subpart B — Certification Requirements

Rule 139.77 is revoked and replaced by the following rule:

139.77 Aerodrome certification exposition

(a) An applicant for the grant of an aerodrome operating certificate must provide the Director with an exposition which must contain—

- (1) a statement signed by the chief executive, on behalf of the applicant's organisation, confirming that the exposition and any included manuals—
 - (i) define the organisation and demonstrate its means and methods for ensuring ongoing compliance with this Part; and
 - (ii) is to be complied with at all times; and
- (2) the titles and names of the senior person or persons required by rules 139.55(a)(1) and (2); and
- (3) the duties and responsibilities of the senior person or persons referred to in paragraph (2) including matters for which they have responsibility to deal directly with the Director or the Authority on behalf of the organisation; and
- (4) an organisation chart showing lines of responsibility of the senior person or persons referred to in paragraph (2); and
- (5) any limitations established under rule 139.53; and
- (6) each current exemption granted to the applicant from the requirements of Subparts A, B, C, or D; and
- (7) the aerodrome emergency plan required by rule 139.57; and
- (8) a statement of the rescue and firefighting category determined under rule 139.59 with a description of the

extinguishing agents and vehicles required by rules 139.61 and 139.63, the procedure and personnel required by rule 139.65 and the procedures required by rules 139.111(d)(1) and (2); and

- (9) a description of the safeguards for public protection required by rule 139.69; and
- (10) the environmental management programme when required by rule 139.71; and
- (11) the procedures required by rule 139.73 for the notification of aerodrome data and information; and
- (12) the internal quality assurance procedures required by rule 139.75; and
- (13) the aerodrome maintenance programme required by rule 139.103(a); and
- (14) the procedures required by rule 139.105 for the preventive maintenance and checking of the aerodrome visual aids for navigation; and
- (15) the procedures and precautions required by rule 139.107 for any works on the aerodrome; and
- (16) the procedures required by rule 139.109 for the maintenance of the aerodrome emergency plan; and
- (17) the aerodrome inspection programme, procedures and reporting system required by rule 139.117; and
- (18) the procedures required by rule 139.119 for the control of ground vehicles; and
- (19) the procedures required by rule 139.125 for limiting aircraft operations if an unsafe aerodrome condition occurs; and
- (20) a description of measures taken to comply with the security requirements in Subpart D, including the procedures required by rule 139.203(d)(9); and

- (21) the security training programme required by rule 139.203(d)(8) or 139.205(c); and
 - (22) the procedures for controlling, amending and distributing the exposition.
- (b) The applicant's exposition must remain acceptable to the Director.

Subpart D Aerodrome Security

Rule 139.203 is revoked and replaced by the following rule:

139.203 Requirements for security designated aerodromes

Barrier requirements

- (a) A holder of an aerodrome operating certificate issued for a security designated aerodrome must, in addition to complying with the requirements in rule 139.69 (Public protection), provide safeguards to prevent inadvertent unauthorised access and to deter intentional unauthorised access, to any security area or security enhanced area within the aerodrome.
- (b) The safeguards required by paragraph (a) must—
- (1) consist of fences, gates, doors and other barriers between public and security areas or security enhanced areas with adequate locking or control systems; and
 - (2) ensure control of any duct, drain or tunnel giving access to any security area or security enhanced area.
- (c) The construction and height of each barrier required by paragraph (b)(1) must, considering the surrounding topography, provide an effective measure against penetration of any security area or security enhanced area and must in no case be less than 2440 millimetres in height.

Other requirements

- (d) A holder of an aerodrome operating certificate issued for a security designated aerodrome must—

- (1) designate an isolated aircraft parking position at the aerodrome for the parking of an aircraft that is known or believed to be the subject of unlawful interference, or which for other security reasons needs isolation from normal aerodrome activities; and
- (2) provide and maintain lighting, and emergency lighting in the event of failure of the normal lighting system, on any parking areas at the aerodrome used at night by aeroplanes having a certified seating capacity of 30 or more passengers that are engaged in air transport operations for the carriage of passengers; and
- (3) provide lighting, or have portable lighting available within 30 minutes, on any designated isolated aircraft parking area at the aerodrome intended to be used at night; and
- (4) provide the following areas at the aerodrome for the screening of passengers, crew and baggage:
 - (i) areas for the screening of international passengers, crew, and baggage, before aircraft boarding:
 - (ii) sterile areas where international passengers and crew subject to screening are prevented from having access to unauthorised articles or contact with unscreened persons:
 - (iii) areas for the separation of arriving passengers and crew from departing passengers and crew during international deplaning to prevent arriving, transit, and transfer passengers and crew having contact with any person who has been subject to screening; and
- (4A) when considered necessary by the Minister or the Director, provide areas at the aerodrome for the screening and searching of persons, items, substances, and vehicles entering and within security enhanced areas; and
- (5) when considered necessary by the Minister, or the Director in any case to respond to a security threat, provide areas at the

aerodrome of the kind required by paragraph (d)(4) (for the screening of international passengers, crew and their baggage) for the screening of domestic passengers, crew and their baggage; and

- (6) ensure that concession areas at the aerodrome that are situated in an area accessible to screened passengers are designed in such a way that they provide access control measures sufficient to prevent delivery to any screened person of—
 - (i) any firearm; or
 - (ii) any other dangerous or offensive weapon or instrument of any kind; or
 - (iii) any ammunition; or
 - (iv) any explosive substance or device, or any injurious substance or device of any kind that could be used to endanger the safety of an aircraft or of the persons in an aircraft; and
- (7) design all areas required by paragraphs (d)(4), (5) and (6) in such a way that they provide access control measures sufficient for preventing any unauthorised persons from entering the area; and
- (8) establish a security training programme and procedures for ensuring that every person who is employed, engaged, or contracted by the certificate holder has the appropriate level of security awareness applicable to the person's function; and
- (9) establish procedures for identifying, reporting to the Director, and dealing with, breaches of and deficiencies in, any security procedures established by the holder and any enactment relating to security at the aerodrome; and
- (10) make provision for the security of services including, but not limited to, energy supplies, communications, sewerage and water supplies, in order to minimise the risk of such services

being used to interfere unlawfully with aviation operations;
and

(11) when so required by the Director, affix signs at the perimeter of security areas or security enhanced areas within the aerodrome; and

(12) establish procedures for ensuring that—

(i) unauthorised vehicles do not enter security areas or security enhanced areas; and

(ii) unauthorised vehicles, or vehicles that appear suspicious, that are found within a security area or security enhanced area are appropriately dealt with.

(e) The training programme required by paragraph (d)(8) must include—

(1) applicable segments for initial training and recurrent training; and

(2) knowledge testing or competency assessment as appropriate for the training conducted.

(f) The holder of an aerodrome operating certificate must ensure that each segment required by paragraph (e)(i)—

(1) includes a syllabus that is acceptable to the Director; and

(2) is conducted in a structured and coordinated manner by a person authorised by the certificate holder.

(g) The holder of an aerodrome operating certificate must ensure that every person who is required to be trained under paragraph (d)(8) undertakes the recurrent training segment of the training programme at an interval of not more than 3 years.

(h) Paragraphs (d)(8), (e), (f), and (g) do not apply to a holder of an aerodrome operating certificate until 16 July 2013 provided that the holder continues to comply with rule 139.203(d)(8) that was in force on 15 January 2013.

(i) paragraph (d)(12) does not apply to a holder of an aerodrome operating certificate until 16 July 2013.

Rule 139.205 is revoked and replaced by the following rule:

139.205 Requirements for non-security designated aerodromes

(a) A holder of an aerodrome operating certificate issued for an aerodrome that is not a security designated aerodrome must, in addition to complying with the requirements in rule 139.69 (Public protection)—

- (1) have a contingency plan to provide at the aerodrome those areas that must be provided by the holder of a certificate issued for a security designated aerodrome under rule 139.203(d)(4) (as if those requirements applied to domestic passengers, crew and baggage) and under rule 139.203(d)(4A) when so required by the Minister, or the Director in response to a security threat at the aerodrome; and
- (2) comply with rules 139.203(d)(2), (3) and (9) that are prescribed for the holder of an aerodrome operating certificate issued for a security designated aerodrome.

(b) A holder of an aerodrome operating certificate for an aerodrome that is not a security designated aerodrome and serves an aeroplane having a type certificated seating capacity of 19 or more passengers engaged in scheduled air transport operations for the carriage of passengers must—

- (1) establish and facilitate a security awareness group in order to ensure sufficient information is given to other organisations at the aerodrome to motivate security awareness on the part of all personnel; and
- (2) convene, chair, and minute meetings of the security awareness group established under paragraph (1) at regular intervals not exceeding 12 months.

(c) A holder of an aerodrome operating certificate for an aerodrome that is not a security designated aerodrome and serves an aeroplane

having a type certificated seating capacity of 19 or more passengers engaged in scheduled air transport operations for the carriage of passengers must establish a security training programme and procedures for ensuring that every person who is employed, engaged, or contracted by the certificate holder has the appropriate level of security awareness applicable to the person's function.

- (d) The training programme required by paragraph (c) must include—
- (1) applicable segments for initial training and recurrent training; and
 - (2) knowledge testing or competency assessment as appropriate for the training conducted.
- (e) The holder of an aerodrome operating certificate must ensure that each segment required by paragraph (d)(1)—
- (1) includes a syllabus that is acceptable to the Director; and
 - (2) is conducted in a structured and coordinated manner by a person authorised by the certificate holder.
- (f) The holder of an aerodrome operating certificate must ensure that every person who is required to be trained undertakes the recurrent training segment of the training programme at an interval of not more than 3 years.
- (g) Paragraphs (c) (d), (e), and (f) do not apply to a holder of an aerodrome operating certificate until 16 July 2013 provided that the holder continues to comply with rule 139.203(d)(8) that was in force on 15 January 2013.

Consultation Details

(This statement does not form part of the rules contained in Part 108. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 12-01 Security Rules Update, containing the proposed rules was issued for public consultation under Docket 7/CAR/1 on 9 February 2012.

Submissions were received from Airways, Avsec, Chatham Islands Enterprise Trust, Christchurch International Airport, Federation of Air New Zealand Pilots, New Zealand Airports Association, and Qantas.

In addition to the seven formal submissions two organisations commented informally; and those comments have been included in this summary as they also resulted in changes being made to the proposed rules.

The submissions relevant to Part 139 were as follows:

Subject area

Security training recurrency interval

Two submissions were received regarding the proposed security training recurrency interval of two years.

One submitter proposed that the training recurrency interval of two years should align with the airport identity card re-issue interval of three years. This was proposed on the basis of it being an administrative and compliance advantage to have the airport identity card requirement “trigger” the training requirement.

The other submitter commented that the proposed two year interval is unreasonably short and would give rise to increased costs without significant increase in security value. An interval of three years would be more appropriate having regard to the roles of the personnel affected. They, too, noted that it would align to the validity period of airport identity cards.

One international operator commented informally that they currently use a three year interval for their recurrency training, and find that to be satisfactory.

CAA Response

In light of the submission and comment, the CAA has reviewed the proposal and agrees that the cost associated with a shorter interval may not balance the security advantage. The CAA notes that there are provisions already to respond to security threats with either advisory material or mandatory requirements which, if necessary, could apply to training if more frequent updates were required. The CAA will amend the proposed training recurrency intervals from 2 years to 3 years.

Rule Reference**Rule 139.203 Requirements for security designated aerodromes**

One submission was received regarding rule 139.203(d)(4)(iii). It was suggested that the rule more closely align with ICAO Document 8973 and make a determination on passenger separation and re-screening based on intelligence and screening standards at the port of embarkation. Unfortunately, this rule is unaffected by the proposed amendments and only included in the NPRM as a matter of presentation of complete rules; the CAA is not in a position to propose amending this rule having already consulted on the intended changes.

CAA Response

In light of this submission, the CAA will review its position on the presentation of proposed rule amendments in NPRMs to more clearly identify the changes being consulted.