



PURSUANT to Section 30 of the Civil Aviation Act 1990

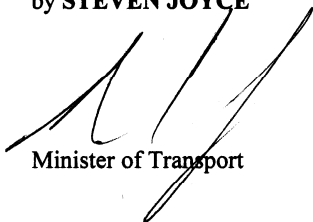
I, STEVEN JOYCE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *17th* day of *February* 2010

by **STEVEN JOYCE**



Minister of Transport

Civil Aviation Rules

Part 140, Amendment 5

Aviation Security Service Organisations - Certification

Docket 9/CAR/1

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Rule objective

The objective of amendment 5 to Part 140 is to make minor editorial and minor technical changes to facilitate clearer interpretation of the rule.

Amendment 5 to Part 140 is constituent to NPRM 09-03 which contains amendments to the following Parts:

Part 1	Part 95	Part 140
Part 12	Part 105	Part 145
Part 19	Part 106	Part 148
Part 26	Part 119	Part 172
Part 43	Part 121	Part 173
Part 65	Part 125	Part 175
Part 77	Part 129	
Part 91	Part 135	
Part 93	Part 139	

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 09-03, containing the proposed changes to Part 140 and changes to other rules was issued for public consultation under Docket 9/CAR/1 on 30 July 2009.

The publication of this NPRM was notified in the Gazette on 31 July 2009 and advertised in the daily newspapers in the five main provincial centres on 31 July 2009. The NPRM was published on the CAA web site on 30 July 2009.

A period of 37 days was allowed for comment on the proposed rule.

Summary of submissions

A total of 3 written submissions were received on NPRM 09-03 (1 submission related to Part 1, and 2 submissions related to Part 91). However, no submissions were received relating to Part 140, and consequently no changes were made to the proposed amendments.

The rule was then referred to the Minister of Transport for signing.

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 2 existing rules and 3 appendix paragraphs, and the insertion of new appendix paragraphs.

Effective date of rule

Amendment 5 to Part 140 comes into force on 25 March 2010.

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 140 Amendments

Subpart A — General

Rule 140.17 is revoked:

Rule 140.63 is revoked:

Appendix A — Security Operational Standards

Paragraph A.23 is revoked and replaced by the following paragraph:

A.23 Training

(a) The holder of an aviation security service certificate must ensure that the certificate holder's personnel do not perform the duties of an aviation security officer unless those personnel—

- (1) receive training on the topics listed in paragraph (c) as applicable to their particular duties; and
- (2) sit a written examination at the end of their training; and
- (3) meet the level of competence specified in paragraph (c) for each topic they receive training on.

(b) The grading system of the level of competence specified in paragraph (c) is as follows:

- (1) grade 1 denotes an awareness of the subject:
- (2) grade 2 denotes a basic knowledge of the subject:
- (3) grade 3 denotes the ability to apply a basic knowledge of the subject in situations likely to arise in the course of their duties:

- (4) grade 4 denotes the ability to apply a thorough knowledge of the subject in situations likely to arise in the course of their duties:
 - (5) grade 5 denotes the ability to apply a thorough knowledge of the subject and to exercise sound judgement in situations likely to arise in the course of their duties.
- (c) The topics and level of competence that personnel referred to in paragraph (a) are required to be trained and assessed on are as follows:

(1) **Legislation relating to aviation security:**

- (i) **Aviation Crimes Act 1972** to examine the powers of an aviation security officer, aircraft commander, and the police and study the crimes that are provided for under the Aviation Crimes Act 1972, to grade 4:
- (ii) **New Zealand Bill of Rights Act 1990** to examine the rights of an individual to be secure against unreasonable search or seizure, to grade 3:
- (iii) **Civil Aviation Act 1990 and Civil Aviation Rules** to examine the responsibilities, functions, and powers of an aviation security officer and offences applicable to aviation security, to grade 5:
- (iv) **Part 19** to examine the provisions of rules 19.353, 19.355, 19.357, and 19.359, to grade 3:
- (v) **Civil Aviation (Offences) Regulations 2006** to examine the offence provisions and penalties for breaches of rules 19.353, 19.355, 19.357, and 19.359, to grade 3:
- (vi) **Crimes Act 1961** to examine sections 157, 203, 300, 301, and 303 of the Crimes Act dealing with endangering transport, to grade 3:

- (vii) **Arrest and use of force** to examine the sections of the Crimes Act dealing with arrest and use of force, to grade 5:
- (2) **Screening and search of a passenger and baggage:**
 - (i) to outline the general principles governing the screening and search of a passenger and baggage, to grade 4; and
 - (ii) to be familiar with and proficient in the use of the screening equipment provided by the certificate holder, to grade 4; and
 - (iii) to have practical experience with the procedures and methods for searching a passenger and his or her baggage, to grade 4:
- (3) **Aircraft anti-sabotage checks** to examine the response required when an aircraft requires anti-sabotage checks following a threat or if the aircraft is involved in a previously unscreened service and the measures taken to ensure it is sterile before pre-flight screening, to grade 4:
- (4) **Improvised explosive devices** as they affect civil aviation to give an aviation security officer an understanding of improvised explosive devices likely to be encountered at an airport, in aircraft, or at the passenger screening point, to grade 3:
- (5) **Dealing with armed offenders** to instruct an aviation security officer on the action he or she should take to handle an armed offender and protect other persons from the threat, to grade 3:
- (6) **Hijack response procedures** to give an aviation security officer an understanding of procedures to be followed in the event of a hijacking, to grade 2:
- (7) **Foot and mobile security patrols** to make an aviation security officer familiar with every aspect of foot and mobile

preventive patrols and responding to a security incident, to grade 4:

- (8) **Aerodrome surface movements** to teach an aviation security officer the correct procedure during vehicle movements on the aerodrome, to grade 5:
- (9) **Aeronautical radio-telephone operations and procedures** to teach an aviation security officer the correct radio discipline to the standard of a restricted radio telephone operator certificate, to grade 4:
- (10) **The threat factor** to update an aviation security officer on the current terrorist and criminal trends, to grade 2:
- (11) **Weapons** to familiarise an aviation security officer with a range of firearms and similar weaponry to assist in identification of these items during pre-flight screening duties, to grade 3:
- (12) **Historical background and statistics of acts of unlawful interference** to provide an aviation security officer with a knowledge of the evolution of aviation security and the extent of occurrences, to grade 2:
- (13) **Background information on international obligations** to familiarise an aviation security officer with ICAO, the existence of the Convention, Annex 17 and manuals associated with Annex 17, Document 8973, to grade 1.

Paragraph A.24 is revoked and replaced by the following paragraph:

A.24 Recurrent testing

- (a) The holder of an aviation security service certificate must ensure that all its aviation security officers are tested without prior notice using a standard test piece.
- (b) Testing must be designed to assess the integrity of screening procedures and structured to ensure that its aviation security officers being tested have a reasonable opportunity to detect the standard test piece.

- (c) A standard test piece must not be used for recurrent testing unless it is acceptable to the Director.
- (d) Each standard test piece must—
 - (1) represent an unauthorised article; and
 - (2) be used under realistic operational conditions.
- (e) The following measure of proficiency must be applied to aviation security officers being tested or re-tested:
 - (1) if every standard test piece is detected during testing, the aviation security officer being tested meets the required standard:
 - (2) if a standard test piece is not detected during any test conducted under paragraphs (f) to (k), the aviation security officer being tested has not met the required standard and must—
 - (i) be re-tested; and
 - (ii) be removed from that duty until satisfactorily completing the re-test:
 - (3) if a standard test piece is not detected upon re-test—
 - (i) the examiner carrying out the test must advise security management; and
 - (ii) security management must record the failure; and
 - (iii) security management must have each of its aviation security officers who failed the test attend corrective training and be further tested to show that the officer can meet the standard for the task before that officer is permitted to return to duty on that task.
- (f) The certificate holder must, when metal detector testing is being carried out, ensure that—

- (1) the examiner carrying out the test conceals the standard test piece on the test courier in a manner acceptable to the Director; and
 - (2) the test courier—
 - (i) where the detector is a walk through detector, enters the metal detector in the direction of the passenger flow at normal walking speed; or
 - (ii) is seated or carried in a conveyance; and
 - (3) when a walk through metal detector alarm activates, the examiner determines whether the aviation security officer being tested locates and identifies the standard test piece by use of a hand-held metal detector or physical search; and
 - (4) when a hand-held metal detector alarm activates, the examiner determines whether the aviation security officer being tested locates and identifies the standard test piece; and
 - (5) if the alarm on the walk through or hand-held metal detector is not activated by the proximity of a standard test piece—
 - (i) the examiner informs security management that there is a fault; and
 - (ii) that metal detector is removed from service until it meets operational standards.
- (g) The certificate holder must, when x-ray testing is being carried out, ensure that the examiner carrying out the test—
- (1) places the standard test piece amongst other items in the bag being screened; and
 - (2) determines whether the aviation security officer being tested identifies the standard test piece on the x-ray monitor and locates the standard test piece by a hand search; and

- (3) assesses the aviation security officer's judgement of the need for a hand search where the contents cannot be clearly identified on the x-ray monitor.

- (h) The certificate holder must, when hand search testing is being carried out, ensure that the examiner carrying out the test—
 - (1) conceals the standard test piece amongst other items in the bag being searched; and
 - (2) determines whether the aviation security officer being tested locates the standard test piece.

- (i) The certificate holder must, when sterile area search testing is being carried out, ensure that the examiner carrying out the test—
 - (1) conceals the standard test piece in the sterile area prior to the sterile area search; and
 - (2) determines whether the aviation security officer being tested locates the standard test piece.

- (j) The certificate holder must, when aircraft search testing is being carried out, ensure that the examiner carrying out the test—
 - (1) conceals the standard test piece in any part of the aircraft to which the passengers normally have access; and
 - (2) determines whether the aviation security officer being tested locates the standard test piece.

- (k) The certificate holder must, when vehicle search testing is being carried out, ensure that the examiner—
 - (1) conceals the standard test piece in any part of the vehicle; and
 - (2) determines whether the aviation security officer being tested locates the standard test piece.

Paragraph A.25 is revoked and replaced by the following paragraph:

A.25 Security enhanced areas

Security enhanced area screening point and equipment

- (a) The certificate holder must ensure—
- (1) that persons, items, substances, and vehicles entering, or within, a security enhanced area may be screened or searched according to the specific manner or methodology approved by the Director; and
 - (2) that, when conducting screening or searching with respect to persons entering, or within, a security enhanced area, persons, including items, substances, and vehicles associated with them, are screened and searched as required by the Minister or the Director; and
 - (3) sufficient personnel and equipment are available to carry out screening and searching in accordance with the specific manner or methodology approved by the Director; and
 - (4) its aviation security officers are instructed in the use of standard test pieces to ensure that they can competently check the screening equipment; and
 - (5) any screening apparatus used at a security enhanced area screening point is tested in a manner acceptable to the Director.

Screening of persons, items, substances, and vehicles

- (b) When undertaking screening, the certificate holder must—
- (1) at each point where screening and searching is undertaken prior to a person entering the security enhanced area, inform the person who is about to undergo screening, by notice posted at each screening point, that—

- (i) screening of any person or any item, substance, or vehicle in the person's possession is only undertaken with the consent of that person; and
 - (ii) any person refusing to be screened will be denied entry beyond that point; and
 - (2) if undertaking screening within the security enhanced area, inform every person about to undergo screening that—
 - (i) screening of the person or any item, substance, or vehicle in the person's possession is only undertaken with the consent of that person; and
 - (ii) any person refusing to be screened will be required to leave the security enhanced area; and
 - (3) according to the specific manner or methodology approved by the Director, ensure that a record is made of—
 - (i) the method of screening;
 - (ii) the time taken for screening as required by the Minister or the Director;
 - (iii) the number of people, items, substances, and vehicles screened; and
 - (4) if an unauthorised article is found, ensure that a record is made of—
 - (i) the names of the officers carrying out the screening; and
 - (ii) the unauthorised articles found; and
 - (iii) any disposal action taken of the unauthorised article.
- (c) While screening is in progress, the certificate holder must—

- (1) ensure that its aviation security officers, when screening any person, item, substance, or vehicle, ensure that the person is not carrying or in possession of any unauthorised article; and
- (2) ensure that its aviation security officers refuse a person's entry to a security enhanced area if the person is found to be in possession of an unauthorised article; and
- (3) ensure that its aviation security officers require a person to leave a security enhanced area if that person is found to be in possession of an unauthorised article; and
- (4) carry out tests or checks, and record the results of those tests or checks, to confirm—
 - (i) the thoroughness of any screening, within each 28-day cycle; and
 - (ii) the proficiency of each aviation security officer carrying out the screenings, within each 150-day cycle, in accordance with the recurrent testing provisions under paragraph A.24.

Hand search of items or substances

- (d) The certificate holder must ensure that, if there is any cause to suspect that an item or substance contains an explosive device, or a suspected explosive device has been discovered, its aviation security officers comply with the procedure required by paragraph A.11(b)(5).
- (e) The certificate holder must carry out tests or checks, and record the results of those tests or checks, to confirm—
 - (1) the thoroughness of any hand search, within each 28-day cycle; and
 - (2) the proficiency of each aviation security officer carrying out hand searches, within each 150-day cycle, in accordance with the recurrent testing provisions under paragraph A.24.

Consultation Details

(This statement does not form part of the rules contained in Part 140. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 09-03 Omnibus 2009, containing the proposed rule amendments for Part 140, and other proposed rule amendments in various Parts, was issued for public consultation under Docket 9/CAR/1 on 30 July 2009.

A period of 37 days was allowed for comment on the proposed rule.

A total of 3 written submissions were received on NPRM 09-03 (1 submission related to Part 1, and 2 submissions related to Part 91). However, no submissions were received relating to Part 140.

The purpose of NPRM 09-03 was to make minor editorial and minor technical amendments to various Parts of the Civil Aviation Rules (CAR). The proposed amendments included the correction of spelling and grammatical errors, the updating of various rules in accordance with current International Civil Aviation Organization (ICAO) standards, definitions and abbreviations, and the revocation of specific transitional arrangements.