



**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 *16<sup>th</sup>* day of *May* 2006

by **HARRY JAMES DUYNHOVEN**

Minister for Transport Safety

A handwritten signature in black ink, appearing to read 'Harry James Duynhoven', is written over a large, stylized graphic element that resembles a star or a stylized letter 'D'.

**Civil Aviation Rules**

**Part 172, Amendment 5**

**Air Traffic Service Organisations — Certification**

*Docket 3/CAR/4*

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**Rule objective**

The objective of Amendment 5 to Part 172 is to make editorial and minor technical changes as part of a general rule fix up project.

**Extent of consultation**

A Notice of Proposed Rulemaking, NPRM 05-07, containing the proposed changes to Part 172 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 172. Airways Corporation made a submission suggesting minor changes to several Part 172 rules. The CAA reviewed these suggestions and as a result some rule wording has been amended.

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 5 to Part 172 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 172      Air Traffic Service Organisations — Certification**

### **Subpart B — Certification Requirements**

*Rule 172.57 is revoked and the following new rule is substituted:*

#### **172.57    Facility requirements**

(a) An applicant for the grant of an air traffic service certificate must establish the following facilities that are appropriate to the air traffic services listed in the applicant's exposition:

- (1) aerodrome control towers:
- (2) approach control offices:
- (3) area control centres:
- (4) aerodrome flight information offices:
- (5) flight information centres:
- (6) dedicated training and assessment facilities.

(b) Except as provided in paragraph (h), an applicant for an aerodrome control service, or an aerodrome flight information service, must establish procedures to ensure that any aerodrome control tower or aerodrome flight information office, including any temporary tower or office, listed in the applicant's exposition, is—

- (1) constructed and situated to provide—
  - (i) the maximum practicable visibility of aerodrome traffic; and
  - (ii) protection from glare and reflection; and
  - (iii) protection from noise; and
- (2) safeguarded from any development that would affect the requirements of paragraph (b)(1); and

- (3) at solo watch locations, provided with—
  - (i) toilet facilities that ensure the minimum possible interruption to, or degradation of, air traffic services; and
  - (ii) storage and preparation facilities for food and drink in the visual control room; and
- (4) provided with equipment for two-way voice communication with—
  - (i) any aircraft, in or adjacent to airspace for which the applicant has responsibility; and
  - (ii) any aircraft, vehicle, and person, on, or adjacent to, the manoeuvring area; and
- (5) provided with the following minimum equipment:
  - (i) a display system or systems designed to show the disposition of current and pending aerodrome traffic together with ancillary information for individual aircraft:
  - (ii) a power supply:
  - (iii) appropriate and current maps and charts:
  - (iv) binoculars:
  - (v) clocks:
  - (vi) log keeping system:
  - (vii) outside temperature indicator:
  - (viii) QNH display:
  - (ix) signal lamp with green, red, and white functions:
  - (x) telephone communications:

- (xi) status monitors for approach and landing aids and any road or rail signalling equipment affecting the use of a runway:
  - (xii) visibility and cloud height checkpoints:
  - (xiii) voice and, if applicable, data recording equipment:
  - (xiv) wind direction and wind speed display:
  - (xv) an audible emergency alerting system:
  - (xvi) an AFTN terminal or, if provided for in an ATS letter of agreement, an alternative means of reception and transmission of information normally conveyed by AFTN:
  - (xvii) if applicable, airfield lighting controls panel; and
- (6) provided with 2 independent sources of the current altimeter setting, at least 1 of which must be an aneroid barometer or barometric altimeter situated in the visual control room.
- (c) The applicant must establish procedures to ensure that an area control centre, a flight information centre, and an approach control office is—
- (1) provided with equipment enabling—
    - (i) to the fullest extent practical, two-way voice communication; and
    - (ii) if applicable, data communication—with any aircraft in, or adjacent to, airspace for which the applicant has responsibility; and
  - (2) provided with the following minimum equipment:
    - (i) a display system or systems designed to show the disposition of current and pending flights together with ancillary information for individual aircraft:

- (ii) a power supply:
  - (iii) appropriate and current maps and charts:
  - (iv) clocks:
  - (v) log keeping system:
  - (vi) status monitors as appropriate for navigation, approach, and landing aids:
  - (vii) telephone communications:
  - (viii) voice recording equipment and, if applicable, data recording equipment:
  - (ix) an AFTN terminal:
  - (x) for an approach control operating position, an ILS/MLS status monitor at the approach control or approach control radar operating position for the aerodrome concerned:
  - (xi) for an approach control operating position responsible for aircraft on final approach, or aircraft landing or taking-off, a wind direction and wind speed display fed from the same source as the corresponding equipment in the aerodrome control tower.
- (d) The applicant must establish procedures to ensure that the aeronautical telecommunications equipment required by paragraphs (b) and (c) are operated in accordance with the requirements of Part 171.
- (e) The applicant must establish procedures to ensure that any visual display unit used by an air traffic service is positioned with due regard to the relative importance of the information displayed and ease of use by the staff concerned.
- (f) The equipment required by paragraphs (b)(4) and (5), and (c)(1) and (2), must have a level of reliability, availability, and redundancy, that minimises the possibility of failure, non-availability, or significant degradation of performance.

(g) The applicant must establish procedures to ensure that the status monitors required by paragraph (b)(5)(xi) and paragraphs (c)(2)(vi) and (x) are fitted with—

- (1) an aural signal to indicate a change of status; and
- (2) a visual indication of the current status.

(h) A temporary aerodrome control tower and a temporary aerodrome flight information office are not required to be provided with the equipment required under paragraphs (b)(5)(xi), (xvi) and (xvii) if it is impracticable to do so and other appropriate measures are taken, as the case may be, to—

- (1) provide the person providing the air traffic service from the temporary tower or office with the information that would be available from the equipment required under paragraphs (b)(5)(xi) and (xvi); and
- (2) control the airfield lighting if applicable.

***Rule 172.69 is revoked and the following new rule is substituted:***

**172.69 Notification of facility status**

(a) An applicant for the grant of an air traffic service certificate must establish procedures to notify the users of its air traffic services of relevant operational information and of any changes in the operational status of each facility or service listed in the applicant's exposition.

(b) The applicant must ensure that procedures established under paragraph (a) require—

- (1) operational information for each of the applicant's air traffic services to be forwarded to the holder of the aeronautical information service certificate issued in accordance with Part 175 for the AIP service; and
- (2) the users of the applicant's air traffic services to be notified without delay of any change in operational status of a facility or service that may affect the safety of air navigation, and, except if the change is temporary in nature, information

concerning any change in operational status is forwarded to the holder of the aeronautical information service certificate for the NOTAM service.

***Rule 172.83 is revoked and the following new rule is substituted:***

### **172.83 Priorities**

(a) An applicant for the grant of an air traffic service certificate in respect of an air traffic control service must establish procedures to ensure that, providing safety is not jeopardised, ATC units apply the following priorities:

- (1) an aircraft known or believed to be in a state of emergency or impaired operation has priority over other aircraft:
- (2) an aircraft landing, or in the final stages of an approach to land, has priority over a departing aircraft:
- (3) an aircraft landing or taking off has priority over a taxiing aircraft.

(b) The applicant must establish procedures to ensure that, where practical, following a request from a pilot, an aircraft involved in, or positioning for, the following activities is granted priority:

- (1) ambulance or mercy mission:
- (2) search and rescue:
- (3) civil defence or police emergency:
- (4) carriage of head-of-State, head-of-government, or equivalent dignitary.

(c) The applicant must establish procedures to ensure that an aircraft at a cruising level generally has priority over other aircraft requesting that level, except that, within the Auckland Oceanic FIR—

- (1) an aircraft may be given priority for a cruising level in accordance with procedures published in Document 7030, or an ATS letter of agreement; and

- (2) an aircraft occupying a cruising level may be reassigned another level to maintain separation.
- (d) An applicant for an air traffic service certificate in respect of an area control service may establish procedures regarding priorities to be applied in airspace designated as RNP airspace under Part 71.
- (e) Subject to the requirements of paragraphs (a) and (b), an applicant may put in place schemes for the determination of priorities for arriving and departing flights, provided that consultation with interested parties is undertaken prior to implementing the scheme.
- (f) The applicant must establish procedures to ensure that, if priorities are established under paragraphs (d) or (e), relevant information including details regarding the handling of complaints, is published in the AIPNZ.
- (g) The applicant must establish procedures to ensure that, providing safety is not jeopardised, due regard is given to those priorities determined in conjunction with the aerodrome operator for—
- (1) aircraft arriving and departing the aerodrome; and
  - (2) other operations in a control zone associated with the aerodrome.
- (h) The applicant must establish procedures to ensure that, except when applying priority in accordance with other provisions of this rule, priority for arriving and departing flights is allocated on a first-come first-served basis.
- (i) The applicant must establish procedures to ensure that the provision of an ATC service takes precedence—
- (1) over the provision of a flight information service whenever the situation so requires; and
  - (2) over the performance of any other non-ATS tasks.

***Rule 172.125 is revoked and the following new rule is substituted:***

**172.125 Organisation exposition**

(a) An applicant for the grant of an air traffic service certificate must provide the Director with an exposition containing—

- (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 and any other applicable Part; and
  - (ii) are required to be complied with by its personnel at all times; and
- (2) the titles and names of the senior person or persons required by rule 172.51(a)(1) and (2); and
- (3) the duties and responsibilities of the senior person or persons specified in paragraph (a)(2), including matters for which they have responsibility to deal directly with the Director on behalf of the organisation; and
- (4) an organisation chart showing lines of responsibility of the senior persons specified in paragraph (a)(2), and extending to each location listed under paragraph (a)(5)(i); and
- (5) in the case of an organisation providing air traffic services from more than 1 ATS unit, a table listing—
  - (i) locations of ATS units; and
  - (ii) the aerodrome or airspace being serviced; and
  - (iii) the services provided; and
- (6) details of the applicant's staffing structure for each ATS unit; and

- (7) details of procedures required by rule 172.51(b) regarding the, competency, qualifications, maintenance of current operating practice, and fitness of personnel; and
- (8) details of procedures required by rule 172.53 regarding the training and assessment of ATS personnel, and regarding the qualifications of ATS training personnel; and
- (9) *[Reserved]*
- (10) a description of the display systems to be used in meeting the requirements of rules 172.57(b)(5)(i) and 172.57(c)(2)(i); and
- (11) the information required by rule 172.59 regarding hours of service, the establishment of an air traffic service, and any transitional arrangements; and
- (12) procedures regarding shift administration required by rule 172.61; and
- (13) details of the procedures required by rule 172.63 regarding the control of documentation; and
- (14) the contingency plan required by rule 172.65; and
- (15) details of the systems and procedures required by rule 172.67 regarding co-ordination requirements; and
- (16) details of the procedures required by rule 172.69 regarding the notification of facility status; and
- (17) details of the systems and procedures required by rule 172.71 regarding general information requirements; and
- (18) details of the systems and procedures required by rule 172.73 regarding meteorological information and reporting; and
- (19) details of systems and procedures required by rule 172.75 regarding the provision of area control and approach control services; and

- (20) details of systems and procedures required by rule 172.77 regarding the provision of aerodrome control service; and
- (21) details of systems and procedures required by rule 172.79 regarding the separation of controlled flights and active special use airspace; and
- (22) details of the procedures required by rule 172.81 regarding responsibility for control; and
- (23) details of the procedures required by rule 172.83 regarding the application of priorities; and
- (24) details of the procedures required by rule 172.85 regarding flow control; and
- (25) details of the procedures required by rule 172.87 regarding ATC clearances; and
- (26) details of the procedures required by rule 172.89 regarding the allocation of cruising levels; and
- (27) details of the procedures required by rule 172.91 regarding deviations from an ATC clearance; and
- (28) details of systems and procedures required by rule 172.93 regarding the provision of flight information service; and
- (29) details of systems and procedures required by rule 172.95 regarding the provision of aerodrome flight information service; and
- (30) details of systems and procedures required by rule 172.97 regarding the provision of alerting service; and
- (31) details of the procedures required by rule 172.99 regarding the processing of flight plans; and
- (32) details of the procedures required by rule 172.101 regarding time; and

- (33) details of altimeter setting procedures required by rule 172.103; and
  - (34) details of the radio and telephone procedures required by rule 172.105; and
  - (35) details of the procedures required by rule 172.107 regarding the provision of radar services; and
  - (36) details of the procedures required by rule 172.109 regarding aircraft emergencies and irregular operation; and
  - (37) details required by rule 172.111 regarding procedures following a serious incident or accident; and
  - (38) details of the procedures required by rule 172.113 regarding incidents; and
  - (39) details of systems and procedures required by rule 172.115 regarding the gathering and management of records; and
  - (40) details of the procedures required by rule 172.117 regarding the keeping of logbooks and position logs; and
  - (41) details of the programme required by rule 172.119 regarding security arrangements; and
  - (42) details of the procedures required by rule 172.121 regarding disruptions to service; and
  - (43) details of the systems, procedures, and programmes required by rule 172.123 regarding internal quality assurance; and
  - (44) procedures to control, amend and distribute the exposition.
- (b) The applicant's exposition must be acceptable to the Director.

## **Subpart C — Operating Requirements**

*Rule 172.161 is revoked and the following new rule is substituted:*

**172.161 Changes to certificate holder's organisation**

(a) A holder of an air traffic service certificate must ensure that the holder's exposition is amended so as to remain a current description of the holder's organisation and services.

(b) The holder of an air traffic service certificate must ensure that any amendment made to the holder's exposition—

- (1) meets the applicable requirements of this Part; and
- (2) complies with the amendment procedures contained in the holder's exposition.

(c) The holder of an air traffic service certificate must provide the Director with a copy of each amendment to the holder's exposition as soon as practicable after its incorporation into the exposition, except that, for the holder's operational manual or manuals, the holder must forward to the Director—

- (1) a copy of each amendment, at least 15 working days in advance of the effective date; and
- (2) an amendment of an urgent or immediate nature, without delay, and no later than the date on which it is effective.

(d) If the holder of an air traffic service certificate proposes to make a change to any of the following, prior notification to and acceptance by the Director is required—

- (1) the Chief Executive; or
- (2) the listed senior persons; or
- (3) any aspect of air traffic management that may have an adverse impact on air traffic services provided by a State responsible for adjacent airspace.

(e) The Director may specify conditions under which the holder of an air traffic service certificate may operate during or following any of the changes specified in paragraph (d).

- (f) The holder of an air traffic service certificate must comply with any condition specified under paragraph (e).
- (g) If any of the changes referred to in this rule require an amendment to the certificate, the holder of the air traffic service certificate must forward the certificate to the Director as soon as practicable.
- (h) The holder of an air traffic service certificate must make amendments to the holder's exposition as the Director considers necessary in the interests of aviation safety.

## Subpart E — Separation criteria and minima

*Rule 172.265 is revoked and the following new rule is substituted:*

### **172.265 Reduced radar separation**

The Director may, in accordance with paragraph 8.7.4.2 of Document 4444, approve a reduction of the standard 5 nm minimum radar separation prescribed in paragraph 8.7.4.1 of Document 4444.

*Rule 72.295 is revoked and the following new rule is substituted:*

### **172.295 Christchurch International Airport grass runway operations**

At Christchurch International Airport, for an operation on grass runway 02/20 in accordance with the procedures published for that runway in Part 93, procedures required by rule 172.77(a)(4) for the provision of runway separation are not required if—

- (1) take-off and landing clearances are issued; and
- (2) the aerodrome operator concurs with the non-provision of runway separation.

*[Until the relevant procedures are published in Part 93, procedures approved by the Director, and published in the AIPNZ Christchurch Aerodrome charts, must apply]*

## Consultation Details

(This statement does not form part of the rules contained in Part 172. 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 172.

**Airways Corporation** submitted the following:

**172.57(b)(5)(vi).** Airways submit that the requirement for a logbook under this rule should be amended to log to enable use of an electronic log.

*CAA comment: The CAA agree that this rule needs to take into account an electronic log. The CAA has amended “logbook” to “a log keeping system” in the final rule development.*

**172.57(b)(5)(xv).** Airways submit the requirement for an audible alerting alarm under this rule should be deleted because in isolation such an alarm is of no use and may be a distraction.

*CAA comment: The CAA disagrees because the alerting alarm refers to an alarm able to be audible to aerodrome emergency services personnel not ATS staff. The CAA has amended amend this requirement for clarity to “audible emergency alerting system” in the final rule development. The CAA is working with the Airways Corporation New Zealand on an Advisory Circular to clarify the requirements of this rule and this will be published in due course.*

**172.57(b)(5)(xvi).** Airways submit reference to an ATS letter of agreement under this rule is unnecessarily prescriptive. Airways suggest the rule be amended to “An AFTN terminal or, by agreement with the AFTN provider an alternative method of reception and transmission”.

*CAA comment: The CAA disagree as Part 172 defines **ATS Letter of Agreement** as meaning a document formalising matters of operational*

*significance between ATS units. It is important in the interest of safety that the provision of AFTN is done in a formal matter and is documented to ensure all parties are aware of their responsibilities.*

**172.57(b), (c), and (h).** Airways submit these rules should be expanded to include temporary facilities. There are a number of locations where a decommissioned tower building could be commissioned temporarily for a special event.

**CAA comment:** CAA agree and “mobile” is replaced with “temporary” in the final rule development.

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.