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## **Summary of Public Submissions Received on**

### **Consultation on Civil Aviation Authority Notice of Requirement – Definition of a Crew Member**

March 2026

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## Purpose

The purpose of the consultation on Civil Aviation Authority Notice of Requirement – Definition of a Crew Member was to define additional crew member functions under Civil Aviation Rule (CAR) Part 91. The aim was to clarify which onboard roles may be treated as additional crew members, in what circumstances and under what conditions for Part 91 operations.

## Background

In 2025, the definition of crew member in CAR Part 1 was amended to include a new category: additional crew member.

What constitutes a crew member is a longstanding and complex issue. It is necessary to clearly define who is a crew member and who is a passenger. Once aircraft carry passengers and/or cargo for hire and reward, the flight becomes an air operation and likely will need a certificate (usually an Air Operator's Certificate or AOC) to operate – see part 119. If an aircraft is carrying crew only it is an operation under Part 91 and does not require an AOC.

In 2004, “crew member” was narrowly defined in Part 1 to only include those directly operating the aircraft. This included pilots, flight crew, cabin crew, trainees, instructors and examiners. It did not include roles that were necessary for the purpose of the flight such as a horse groom or camera operators. They were considered passengers. This meant that an aircraft carrying pilots and cabin crew did not require an AOC, but an aircraft carrying a pilot and a horse groom did.

In the 2025 amendment, the Civil Aviation Authority of New Zealand (CAA) changed the definition of crew member in Part 1 to include additional crew members and added rules 91.227D, E and F to Part 91. Rule 91.227E states that the Director determines the “specified functions” of an additional crew member in a Notice.

After the amendments to Part 1 and Part 91 were made, we started developing a Notice under 91.227E to determine the specified functions of an additional crew member.

As part of Notice development, we sought technical and legal input from CAA Subject Matter Experts (SMEs) and CAA Legal. We also held a short workshop with a small group of industry stakeholders before we published the Notice for consultation.

The draft Notice was published on the CAA website for public consultation from 19 December 2025 to 9 February 2026.

## Next steps

While aspects of the proposed Notice were broadly supported, the CAA acknowledges that several critical elements require further consideration. We will therefore pause work on progressing the Notice at this stage and revisit the policy at a later date, ensuring more extensive engagement with industry and further public consultation.

## Key themes

CAA received 24 submissions on the crew member Notice from individuals and aviation sector organisations. Generally, submitters supported the Notice's intent to clarify the definition of additional crew members but recommended improvements or changes to the approach outlined

in the Notice. Most submitters felt the list of roles could quickly become outdated and difficult to administer.

The six key themes were:

1. Preference for a principle-based definition of additional crew member
2. Concerns about drafting style and the consultation process
3. Including other additional crew member roles in the Notice
4. Concern about the misuse of the crew member definition to sidestep AOC requirements
5. The effect of the crew member Notice on AOCs and AOC holders
6. Treatment of search and rescue (SAR) and medical roles.

A high-level summary of the key themes and CAA's response is below.

### **1. Preference for a principle-based definition of additional crew member**

#### **Submissions:**

Six submissions advocated for replacing the detailed list of functions with an overarching principle that, if someone is essential to the flight and meets the conditions in Subpart A, they are a crew member and are authorised by the operator.

The submitters felt that the list of functions and specific training requirements were too prescriptive and overly complicated. In their view, this would make the Notice under 91.227E difficult to interpret. Amendments would be needed to define new, specific functions as aviation evolves and that may complicate things further.

#### **CAA Response:**

CAA is prepared to reconsider how we might incorporate an overarching principle into the definition of crew member. After similar feedback from the workshop, we worked on creating an overarching principle within the Notice. However, the empowering rule requires the Notice to specify additional crew members' functions as well as the circumstances and conditions for how those functions are carried out. See 91.227E:

- (a) After complying with rule 91.227F, the Director may determine the following in a notice –
  - (1) the specified functions necessary for the purpose of an operation; and
  - (2) the circumstances and conditions under which those specified functions are to be carried out.

Using a phrase such as "someone essential to the purpose of the flight" may not be enough to satisfy a "specified function" and could introduce undesired inconsistency between the rule and the Notice.

We do acknowledge strong support in the submissions and from workshop participants for an overarching principles-based approach and the argument that this aligns better with our organisational intent to take a more flexible, future-proofed approach to regulation.

## 2. Concerns about drafting style and the consultation process

### Submissions:

Several submitters, particularly stakeholders from the workshop, raised concerns about:

- Process and design concerns
- Style of the drafting
- How workshop feedback was considered

Workshop participants were opposed to both the list-based approach and the empowering rule.

The submissions from the same stakeholders restated these concerns and expressed dissatisfaction at CAA's apparent disregard of their earlier feedback.

Two submissions voiced concern about the drafting style of the Notice. One submitter requested that we should reconsider the feedback given and take a pause with developing the rest of the Notice.

### CAA response:

CAA acknowledges the frustration of the workshop participants and understand how they felt their feedback did not get appropriate consideration. We appreciated their comments, enthusiasm, and expertise on the definition of additional crew member.

During the policy and planning stage for the Notice, we tested several different approaches to writing the Notice. As noted above, internal discussions revealed significant challenges to incorporating an overarching principle into the Notice, which led us to the list-based approach.

The list-based approach was chosen as the most consistent with the rule, which restricted what feedback from the workshop could be incorporated.

We did incorporate the general conditions in the Notice that went out for consultation and will be used in further Notice development.

To respond to the style of Notice drafting, one submitter stated that notices are not supposed to be as prescriptive and as detailed as in the crew member Notice. While this is certainly true of secondary legislation such as rules, this is not the case with Notices. Notices are intended to support responsiveness and adaptability, being more readily and rapidly amended than rules. Notices are intended to contain specific detail, for example technical standards or training conditions. See <https://www.aviation.govt.nz/rules/caa-notices/>.

## 3. Including other additional crew member roles in the Notice

### Submissions:

Most submitters requested that we add to, or more clearly define roles in, Subpart B of the Notice if the list-based approach remained.

The most requested roles submitters would like to see added to the Notice were:

- Camera operators
- LiDAR sensor operators

- Survey operators
- Mission equipment operators.

Submitters argued these roles are mission-critical and have been historically ambiguous under the rules. Submitters identified that adding these roles to Subpart B would be a pivotal opportunity to resolve the issue.

Some submitters also supported the inclusion of:

- Agricultural loadmasters
- Agricultural ground crew
- Lance operators
- Spotters/observers.

However, other submitters argued these roles belong in Part 137 and must have a certificate to operate.

**CAA Response:**

If we use the list-based approach in the Notice, we will consider how to add additional roles to Subpart B, particularly camera operators, LiDAR sensor operators, survey operators and mission equipment operators. We agree that the Notice is a critical opportunity to resolve ambiguity created by the rules.

Regarding agricultural roles, a number of them require a certificate under Part 137. There are some agricultural roles that do not require a certificate, such as a wand operator, and they may be appropriate to add to Subpart B in the future.

**4. Concern about the misuse of the crew member definition to sidestep AOC requirements**

**Submissions:**

Several submitters warned that the Notice could enable operators to reclassify passengers as crew and run commercial operations under Part 91 instead of Part 135. They cited aerial photography flights, powerline patrols and some agricultural support roles as examples where this could occur.

An AOC requires air operators to have robust safety management systems and structured training and competency requirements. It also means they have organisational and regulatory oversight as appropriate.

Submitters suggested that CAA cross-reference rule parts and/or produce guidance stating that use of additional crewmembers under Part 91 does not change the underlying classification of the operation. Others suggested also increasing oversight of operators with additional crew members.

**CAA response:**

The additional crew member definition was written to allow operators with crew-only operations to operate under Part 91 and without an AOC. It was intended to reduce an undue regulatory burden on operators with crew members who were being defined as passengers.

As the operator ultimately determines who is crew and who is not, we acknowledge submitters' concerns that this could be an issue. We will carefully draft the Notice so that it is clear it applies to Part 91 operators. We can also explore producing guidance on the additional crew member definition so the intent is communicated clearly.

**5. The effect of the crew member Notice on AOCs and AOC holders**

**Submissions:**

One particularly strong theme was concern about the Notice's interaction and/or impact on AOCs and AOC holders.

Above, we discussed the concerns of submitters about operators using the crew member definition to evade AOC requirements. Some submitters also expressed concern about an apparent overlap between the crew member definition and AOC requirements.

One submitter expressed concern that an unintended consequence of defining specific functions could reduce the current flexibility for AOC holders to designate essential personnel as crew. They wanted to see specific language that the Notice is not intended to narrow or undermine existing crew member flexibilities for certified operators.

**CAA response:**

CAA agrees that we do not want the new crew member definition to negatively impact AOC operations. The intent of the crew member Notice is only to define additional crew members for Part 91 operations that do not require an AOC.

Rule 91.227D states that Part 91 operations can only carry additional crew members specified in the Notice if the operator does not have an AOC. CAA is aware that operators with AOCs run Part 91 operations on occasion.

Analysis of submissions on the Notice revealed broader confusion about AOCs and the operations they apply to. Outside of the crew member Notice process, CAA will look to update guidance on who needs an AOC and who does not.

**6. Treatment of search and rescue and medical roles**

**Submissions:**

Submitters also discussed the inclusion of search and rescue (SAR) and medical roles in Subpart B.

While some submitters supported the explicit recognition of these roles and called for minimum competency and recurrent training regimes, others argued that SAR operations are inherently high-risk and should be confined to AOC operations. Three submitters argued that SAR and medical roles should be treated cautiously and separately.

Submissions from aeromedical operators raised concerns about imposing aviation-style competency and recency requirements on medical staff. These include conflicts with clinical governance, statutory registration, and employment arrangements overseen by Health NZ and

professional bodies. These submissions asserted that it is impractical to include these roles in the Notice, given the ad-hoc and case-specific deployment of some clinical specialists.

They note that aeromedical services are already contractually required to operate under an AOC, so the Notice would have limited application to clinical staff except in rare scenarios.

**CAA response:**

CAA appreciated the feedback from submitters and their expertise on medical and SAR roles.

We agree that medical roles at least should be treated separately and will consider not including them in the Notice. If aeromedical operations are required to have an AOC, their crew members are not appropriate to include in the Notice, as their roles are not being performed under Part 91.

The CAA will also consider treating SAR roles separately. This is a more complex area, as some SAR operations may fit under Part 91. We also recognise the views of submitters that SAR roles need explicit recognition.

In the submissions and development of the crew member Notice, CAA recognised some wider aviation regulatory challenges with SAR that have been flagged for consideration separately to the crew member Notice.