



---

# **Summary of Public Submissions Received on NPRM Part 61 — Private Pilot Licence Medical Review**

*18 December 2020*

## Table of Contents

<b>General</b> .....	<b>1</b>
<b>Summary of Submissions</b> .....	<b>1</b>
General comments on issues raised.....	3
Passenger numbers.....	5
Aircraft size.....	5
Multi engine aircraft.....	6
Altitude and pressurised aircraft.....	7
Controlled aerodromes and airspace.....	8
Flying over congested areas of towns and cities.....	9
Aerobatics.....	9
Banner and drogue towing.....	11
Sling load operations.....	12
Agricultural operations.....	12
Night flying.....	13
Glider towing and parachute operations.....	14
Instrument flight rules (IFR) flying.....	14
Perform air operations.....	17
Fly for hire or reward.....	18
Fly for remuneration.....	18
Flying outside New Zealand.....	19
Gliders	19
Other change from the NPRM.....	20
Additional item for inclusion in the final rule.....	20

## General

A Notice of Proposed Rule Making (NPRM) 19/CAR/1 was published on the CAA website for public consultation on 19 December 2019, with a submission close-off date of 3 February 2020. The purpose of NPRM 19/CAR/1 was to adopt a standard of medical certification for New Zealand private pilots that:

- requires a standard of medical fitness that is commensurate to the risk posed by private pilots; and
- is associated with costs that are commensurate to the risk posed by the sector.

Based on overseas practice, public consultation and analysis, the CAA proposed that the medical standard for a commercial driver licence, that is applicable for a class 2, 3, 4 or 5 with passenger endorsement<sup>1</sup>, apply in respect of certain privileges for a private pilot licence (PPL) as specified in the proposed rules. The same standard currently applies to a recreational pilot licence (RPL). The CAA also proposed that the RPL category be revoked.

A copy of the NPRM was sent to:

- The Ministry of Transport;
- The Aviation Community Advisory Group (ACAG); and
- Internal CAA stakeholders.

The NPRM was notified to the industry by automatic email alerts.

## Summary of Submissions

A total of 405 submissions were received. Of these, 12 submissions were from organisations, and 393 from individuals.

Submitters indicated their support for or against the proposal under one of the four categories below:

- The proposal is acceptable but would be improved if changes are made – 79 or 19.55% of the total submissions;
- The proposal is not acceptable but would be acceptable if changes are made – 255 or 63.12%
- The proposal is acceptable without change – 50 or 12.37%
- The proposal is not acceptable under any circumstances – 20 or 4.95%.

---

<sup>1</sup> A medical certificate for a commercial driver licence is issued in accordance with section 44(1) of the Land Transport (Driver Licensing) Rule 1999.

The majority of the submissions were in support of the submission made by the New Zealand Aviation Federation (NZAF).

A very small number of submitters were concerned about relying on the commercial land transport medical certificate. One submitter, a General Practitioner (GP), raised concerns about the rigour of the land transport medical certification system. Examples were cited where people had been issued a DL9 certificate where they did not meet the medical standards. One submitter commented that through their experience as a GP they did not believe that the depth of GP knowledge around DL9 commercial classes is where it needs to be to have confidence to allow someone with a commercial DL9 class to fly 5 passengers or fly sky-diving planes. They thought it should be retained as an Aviation Medical Examiner medical clearance.

**General comments on issues raised**

We appreciated the thoughtful feedback provided by submitters both on the initial policy proposal and the recent NPRM. In particular, we wish to acknowledge the constructive submission on the NPRM from the New Zealand Aviation Federation and the subsequent meetings we had with representatives from the Federation to discuss their submission in more detail.

As a result, we have changed our position on a number of restrictions where we have agreed with the sector that the safety risks can be appropriately managed through other mechanisms such as training and ongoing competency checks.

From a medical risk assessment point of view, the land transport medical certificate does have benefits. We assume it will generally be completed by a person's GP who should have a good knowledge of the applicant's medical history, as opposed to an AME who may not necessarily know that history in detail. Medical conditions such as migraines, fainting, kidney stones, HIV infection, depression etc should generally be known by the GP. If well conducted the land transport medical assessment gives a reasonable level of confidence of flight safety.

However, there are differences with the land transport medical assessment approach, which does introduce risk into the aviation system. The completion of a Class 1 or Class 2 by an Aviation Medical Examiner (AME) brings a greater awareness of the impact of certain conditions and medications from an aviation risk perspective, as opposed to the GP who may not even be aware that the person is applying for a certificate for aviation purposes. Pilots are examined by AMEs who are trained to understand the impacts of medical events within the aviation environment. An assessment by a GP or medical practitioner would not be expected to know that certain conditions could be exacerbated at altitude or that certain medications may negatively impact a person at altitude.

A full examination is not required for the land transport medical certificate—the certificate can be based mostly on the applicant's medical history. The standard of medical fitness, while comprehensive, is not as high as the Class 2 aviation standard. The CAA will have no medical regulatory oversight of a PPL pilot operating under a land transport medical certificate. With this comes some risk. For example, a GP may not be aware that medication that is suitable to be used for driving, we would not accept for flying.

When we recommend to the Minister of Transport to make a rule we need to have regard to the level of risk existing to aviation safety. Our consideration of risk goes beyond the risk to the pilot. We need to carefully consider the risks to passengers, other air users and property. Our tolerance for risk will in some cases be different to the sector, and in this case has been reflected in the privileges and restrictions we believe are appropriate for the new licence.

We acknowledge that the proposed restrictions around IFR flying and exercising an aerobatic rating are not supported by most submitters. However given the potential for catastrophic consequences in the event of an accident, we believe a precautionary approach is needed to provide appropriate protection to third parties and property. More detailed comments are provided on these two topics further on in the document.

Some submitters thought that we should simply align our rules with what has been adopted in other jurisdictions, in particular the United States of America. From a risk perspective we do not agree with this approach. Airspace in New Zealand is significantly different compared with the United States and Europe for example, which have extensive air traffic service radar, advisory services and much broader ground-based navigational aid infrastructure that provide significant risk mitigations compared to New Zealand. In addition, the diverse operating environment and changeable weather can make flying in New Zealand more complex compared with other countries.

We acknowledge that discussions internationally around the appropriate medical standards for recreational pilots are ongoing and that ICAO may make recommendations in due course.

In order to assess the effectiveness of the proposed rule changes and advances internationally, we are committed to undertaking a formal review in 2-3 years' time.

### **Rule development process**

Some submitters were concerned that the rule making process had not followed the Government's Expectations for Good Regulatory Practice. Specifically that we should have used industry expertise to co-design a rule leading up to the development of the final NPRM for public consultation.

The Government's Expectations for Good Regulatory Practice are set out in this document <https://www.treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

In essence, the government expects that regulatory agencies, both in the public service and the wider state sector, will have regard to and give appropriate effect to, these good regulation principles and regulatory stewardship responsibilities, within the bounds of their agency resources and mandates.

It appears from the Federation's submission that they do not think we have provided appropriate opportunities to participate directly in the regulatory design process. We will be working with the Federation to understand their expectation of the regulatory design process. As part of the rule making process, we have provided the sector with opportunities to comment; firstly through the policy development phase and secondly through the NPRM process. In both instances, we took on board sector views and the policy and final rule proposal has changed as a result of sector feedback. We have also had several meetings with sector representatives to work through concerns, and as a result we have proposed changes to the final rule. We believe this constitutes the sector participating directly in the regulatory design process.

That is not to say that improvements can't be made in the way we engage with the sector around policy development and rule making. We will look to find ways where we can better seek input from the sector in the policy development and rule making process.

## Passenger numbers

<b>Proposal in the NPRM</b>	Carry up to five passengers; unless performing an aerobatic manoeuvre in which case no passengers can be carried.
<b>Comments from submitters</b>	There was general agreement with the proposal to limit the number of passengers to a maximum of five. A small number of submitters felt that they should be able to carry a passenger if doing an aerobatic manoeuvre.
<b>CAA response</b>	Aerobatics are considered a high-risk activity due to the physical strain aerobatic manoeuvres place on the body, which increase the risk of medical complications arising during flight. The restriction on taking passengers when undertaking an aerobatic manoeuvre is to ensure that risks to third parties (in this case passengers) are minimised.  No changes proposed from the NPRM.
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to carry up to 5 passengers.  Passengers must not be carried when performing an aerobatic manoeuvre.

## Aircraft size

<b>Proposal in the NPRM</b>	Fly in a single engine aircraft with a maximum certificated take-off weight (MCTOW) of up to 2,730kg.
<b>Comments from submitters</b>	Submitters were generally supportive of this proposal.
<b>CAA response</b>	No changes proposed from the NPRM.
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to fly an aircraft up to a maximum weight of 2,730kg.

**Multi engine aircraft**

<b>Proposal in the NPRM</b>	Prohibited from flying a multi-engine aircraft.
<b>Comments from submitters</b>	<p>Some submitters commented that there is no medical evidence that flying multi-engine aircraft requires better medical conditions than any other aircraft. They consider that flying a multi-engine aircraft does not increase or decrease risk levels.</p> <p>Whether single or multi-engine, different aircraft will have different intricacies and characteristics, and the risk associated with these should be mitigated by training, minimum flight time requirements and the biennial flight review required to fly the aircraft.</p>
<b>CAA response</b>	<p>Our concerns around flying multi-engine aircraft relate to the complexity and speed associated with these aircraft which would likely have an adverse impact on the ability of a pilot to recover control of the aircraft in the case of a medical event. Medical fitness is relevant to the overall ability of the pilot to handle a high-performance aircraft. In addition, an aircraft travelling at greater speeds has increased kinetic energy and impact in the event of a crash. These factors increase the severity of consequences.</p> <p>We have carefully considered the points raised through the NPRM process, in particular that the additional risks that arise from operating in a multi-engine aircraft are sufficiently mitigated via training and competency tests.</p> <p>We support a change to the position presented in the NPRM but with the addition of a maximum aircraft weight of 2,730kg.</p>
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to fly a multi-engine aircraft up to a maximum weight of 2,730kg.

**Altitude and pressurised aircraft**

<b>Proposal in the NPRM</b>	Prohibited from flying at altitude in a pressurised aircraft.
<b>Comments from submitters</b>	Some submitters noted that pressurisation adds no complexity to the pilot workload as it is an automated system with alarms, and monitoring is part of the system. There are several modes of aircraft that have exactly the same complexity as each other with the exception that one will be pressurised and the other not. They believe the risk should be rated as low.
<b>CAA response</b>	<p>Flying at high altitudes may increase the risk of hypoxia and poses additional risks to persons with anaemia, heart conditions or lung conditions. The use of pressurised aircraft adds another layer of complexity thereby increasing the pilot's workload. However, we acknowledge that pressurisation provides protection against hypoxia. We also acknowledge that there are advantages of flying at high altitudes which are more likely to be in controlled airspace with flights being monitored by air traffic control, and safe separation distances applied between aircraft.</p> <p>After further consideration we accept the arguments provided by submitters and agree that flying at altitude in pressurised aircraft should be allowed but not exceeding 25,000 feet above mean sea level.</p>
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to fly in a pressurised aircraft up to a maximum altitude of 25,000 feet above mean sea level.

## Controlled aerodromes and airspace

<b>Proposal in the NPRM</b>	Pilots flying on the land transport commercial driver licence medical certificate who wish to fly into a controlled aerodrome, can only do so where they have a radio and are able to remain in radio contact with air traffic services at all times.
<b>Comments from submitters</b>	<p>NZAF and the submitters who supported the NZAF submission disagreed with the statement in the NPRM that flying in controlled airspace may be associated with increased levels for risk due to the complex nature of the activity.</p> <p>They note that to fly into a controlled aerodrome or controlled airspace a radio is required, and if not operational a special approval must be obtained. In addition to the radio, an aircraft must have a transponder and from December 2021 that will include an ADS-B system. The comment in the NPRM that having an operating radio removes the need for a Colour Vision Test or an operational signal light test needs to be proven. They note that it could be argued that demonstrated ability at the initial issue of a PPL and at the biennial flight review could be more important than a CVD test.</p>
<b>CAA response</b>	<p>We stand by the statement in the NPRM that flying in controlled airspace may be associated with increased levels of risk due to the complex nature of the activity, and the system in which the pilot is flying (i.e. with many other aircraft engaged in different types of operations).</p> <p>The commercial land transport medical assessment does not include a colour vision test. The need for a radio obviates the need for a colour vision test as the pilot will always be in contact with air traffic control. Pilots who have previously held a Class 1 or Class 2 medical have been checked for a colour vision deficiency and therefore it seems reasonable that this does not apply to them.</p>
<b>Proposal for final rule</b>	Pilots flying on the land transport commercial driver licence medical certificate who wish to fly into a controlled aerodrome, can only do so where they have a radio and are able to remain in radio contact with air traffic services at all times, unless they have passed a colour vision deficiency test as part of a Class 1 or 2 medical previously issued.

### Flying over congested areas of towns and cities

<b>Proposal in the NPRM</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to fly over congested areas of cities and towns.
<b>Comments from submitters</b>	Submitters generally agreed with this proposal.
<b>CAA response</b>	No changes proposed from the NPRM.
<b>Proposal in final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to fly over congested areas of cities and towns.

### Aerobatics

<b>Proposal in the NPRM</b>	<p>Allow aerobatic manoeuvres to be performed above 3,000 feet but no passengers are allowed to be carried.</p> <p>Prohibited from exercising aerobatic ratings even if the pilot holds such a rating.</p>
<b>Comments from submitters</b>	<p>Submitters generally accepted that aerobatics place more physical strain on the body and aerobatic manoeuvres subject pilots and passengers to gravitational effects. They believe that these effects are unlikely to increase the probability of issues such as gastrointestinal illness, hypoxia (loss of oxygen) or renal calculi. They believe that it may increase the probability of some medical events such as cardiovascular events, headaches, and vestibular effects/disorientation. Submitters do not consider aerobatics to increase the severity of consequences of a medical event.</p> <p>Submitters felt that no evidence was presented in the NPRM that demonstrates that the class 2 medical assessment would mitigate those risks more than a commercial driver licence medical assessment. The sector noted that the current class 2 medical certificate does not appear to include any special or different medical standards for pilots who practice or intend to practice aerobatics.</p> <p>Aerobatics should be allowed in order to encourage pilots to obtain and maintain an aerobatic rating and improve aircraft handling skills. Instructors can help assess the risk to individuals by observing capability during training—or at least to permit the exercise of the privileges of an aerobatic rating only to the extent of solo flight between 3,000 and 1,500 ft. The reason for change is to allow pilots holding an aerobatic rating to practice for and compete in aerobatic</p>

	<p>competition, requiring flight in the designated aerobatic box from 1,500' to 3,500'.</p> <p>Aerobatic competitions are completed solo, however lower category competitions may carry a safety pilot. Aerobatic boxes are designed to be away from the judges and any crowd line, and sequences are designed to be well within the limitations of the aircraft intended to be used. The considerations for solo aerobatic flight in terms of operating area, covered in the HASELL check, also ensure that solo aerobatic flight is conducted in areas where the risk is more or less solely on the pilot, and risk to external persons and property is already minimised.</p>
<b>CAA response</b>	<p>Rule 91.701 contains several restrictions on aerobatic manoeuvres. This includes restrictions over congested areas of cities and towns, over open-air assemblies of persons, in controlled airspace and minimum heights.</p> <p>The aerobatic rating was introduced for the purpose of display/competition aerobatics below 3,000 feet above ground level. An aerobatic rating allows a pilot to conduct aerobatic manoeuvres within limitations such as:</p> <ul style="list-style-type: none"> <li>• the pilot can operate below 3000 feet but not less than 1500 feet</li> <li>• the pilot can operate below 1500 provided they do not perform an aerobatic flight below the height authorised in their aerobatic rating and if participating in an aviation event.</li> </ul> <p>There are 29 private pilots who hold a current medical and an aerobatic rating. There are 2,013 fixed wing PPL licence holders with active medicals.</p> <p>Aerobatics are considered a high-risk activity due to the physical strain aerobatic manoeuvres place on the body, which also increases the risk of medical complications arising during the flight. A number of conditions are susceptible to the effects of high 'G' manoeuvres.</p> <p>The increased risk of medical incapacitation due to the stress of operating (inverted) below 3,000 feet above ground level, means it is not appropriate for the alternative medical standard. The land transport commercial driver licence medical certificate does not give any risk assurance that an individual is free of conditions that would be susceptible to the effects of high 'G' manoeuvres. An example of why the reduced medical level is not acceptable relates to blood pressure. In the aviation medical manual, it states that Alpha-blockers should be avoided by pilots doing aerobatics. A GP issuing a land transport commercial driver licence medical certificate would not know this, nor would they be required to consider this. They would potentially issue a medical certificate that would allow someone to undertake aerobatics where the aeromedical risk is unacceptable.</p>

	<p>Adopting the restrictions will ensure that the risk to third parties (i.e. persons on the ground) is minimised.</p> <p>A PPL holder who wants to take part in competitive aerobatics would continue to have the option of gaining a Class 2 medical certificate issued under the Civil Aviation Act.</p>
<b>Proposal for final rule</b>	<p>Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to perform aerobatics but only above 3000 feet above ground level. The following restrictions are proposed:</p> <ul style="list-style-type: none"> <li>• pilots must not carry passengers during aerobatic manoeuvres</li> <li>• pilots will not be able to obtain an aerobatic rating or exercise the privileges of an aerobatic rating.</li> </ul> <p>A PPL pilot would require at least a current class 2 medical to exercise the privileges of an aerobatic rating.</p>

### Banner and drogue towing

<b>Proposal in the NPRM</b>	Prohibited from performing banner and drogue towing operations.
<b>Comments from submitters</b>	Submitters felt that pilot competency via training and flight experience is the most relevant consideration.
<b>CAA response</b>	Having considered submitter feedback we agree that competency and training are relevant factors. We consider that the operations could be allowed but not below 500 feet above ground level. We consider this restriction appropriate as any operation below 500 feet would increase safety risks and stress levels due to the close proximity to the ground.
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to perform banner and drogue towing operations but not below 500 feet above ground level.

### Sling load operations

<b>Proposal in the NPRM</b>	Allow sling load operations to be performed.
<b>Comments from submitters</b>	Submitters accepted the proposed privilege.
<b>CAA response</b>	<p>Sling load operations are regulated under Parts 133 and 135. A helicopter sling load operation is defined under Part 133 as:</p> <p><i>Helicopter sling load operation means the external carriage, lowering, or picking up, of a load, cargo, or passengers by a helicopter by means of a bucket, net, harness, sling, or stretcher, suspended beneath the helicopter.</i></p> <p>Part 133 allows sling load operations to be performed where the pilot holds a current PPL (helicopter) and has completed the sling load flight training required by Part 61.153.</p> <p>Proposal in the NPRM remains unchanged.</p>
<b>Proposal for final rule</b>	Allow PPL pilots flying on the land transport commercial driver licence medical certificate to perform sling load operations.

### Agricultural operations

<b>Proposal in the NPRM</b>	Prohibit agricultural aircraft operations.
<b>Comments from submitters</b>	Some submitters felt that pilots on the land transport medical certificate should be allowed to perform private agricultural operations as these are not commercial, nor hire or reward operations. It was felt that existing restrictions in Civil Aviation Rules provide enough sanctions already.
<b>CAA response</b>	<p>Agricultural operations are a significant contributor to occurrences in New Zealand aviation sector. Due to the higher risks associated with agricultural flying and the catastrophic consequence if a medical event were to cause an accident, we feel that the safety risks do not justify reducing the medical requirements for agricultural operations.</p> <p>Proposal in the NPRM remains unchanged.</p>
<b>Proposal for final rule</b>	Prohibit PPL pilots flying on the land transport commercial driver licence medical certificate from undertaking agricultural operations.

## Night flying

<b>Proposal in the NPRM</b>	Prohibit night flying.
<b>Comments from submitters</b>	<p>Most submitters disagreed with the CAA view on this prohibition noting that night flying privileges are issued based on competence and experience.</p> <p>On the proposed 25 nm limit – the sector contends that distance has no limiting factor as some of the most difficult topography in New Zealand falls within the 25 nm range, such as 25 nm north of Whanganui. In addition, distance is not a relevant consideration for a pilot who can fly IFR.</p> <p>Night flying is a low volume recreational activity among PPL pilots.</p>
<b>CAA response</b>	<p>Night flying is considered to be more challenging than daytime flying mainly due to the significant decrease in visibility and the difficulties associated with conducting a forced landing.</p> <p>In terms of medical issues associated with vision and night flying, we note that the land transport medical standard does take into account the ability of the applicant to see at night. The third-party risk associated with medical incapacitation, even at night, is likely to be similar to the third party risk during day time flying. However, landing at night in low visibility is likely to be more challenging in the event of medical incapacitation.</p> <p>On balance, it is recommended that night flying be allowed but only within 25 nm of a lit aerodrome. The proposed limit seems reasonable, considering the low number of pilots who would engage in night flying as recreation, and carrying a maximum of 5 passengers. It also takes into account the flight time required to return to the lit aerodrome at average cruise speeds in the event of a medical emergency or weather problems. It also adds a small but safe margin to complete a delayed flight that would otherwise impinge on a legal landing by end of civil twilight.</p>
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to perform night flying but only within 25 nautical miles of a lit aerodrome.

### Glider towing and parachute operations

<b>Proposal in the NPRM</b>	<p>Allow glider towing operations to be performed.</p> <p>Allow parachute drop operations to be performed but not above 10,000 feet AMSL.</p>
<b>Comments from submitters</b>	<p>Some submitters felt that parachute drop operations above 10,000 feet do not involve greater risk of a medical event. Some also felt that there was some inconsistency with the proposal as it allows for parachute drop operations while disallowing towing or multi-engine activities. They believe that the ability to perform these types of operations are skills or competency based which is best demonstrated through meeting the currency requirements.</p>
<b>CAA response</b>	<p>Parachute drop operations above 10,000 feet AMSL are considered to be technically more complex as they involve the use of oxygen and rapid climb and descent.</p> <p>Proposal in the NPRM remains unchanged.</p>
<b>Proposal for final rule</b>	<p>Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to perform a parachute drop operation but not exceeding 10,000 feet AMSL.</p>

### Instrument flight rules (IFR) flying

<b>Proposal in the NPRM</b>	<p>Prohibit ability to fly IFR on a PPL with a land transport commercial driver licence medical certificate.</p>
<b>Comments from submitters</b>	<p><u>No link between medical event occurring and flying IFR</u></p> <p>The NZAF commissioned risk analysis which concluded that there was no link between the probability of a medical event occurring and flying IFR. They note that the NPRM states that risks associated with vestibular influence and disorientation are significant risks when flying IFR. They believe that if a pilot is properly trained to fly on instruments (which is IFR) they should in fact be less likely to suffer from these medical events.</p> <p>Pilots are well trained (40 hrs without visual references, and not to rely on the view from cockpit to fly aircraft, relies on instruments, plus annual flight test).</p> <p>Training for PPL enables pilots to have the same skill level as a CPL pilot with instrument rating.</p>

	<p>PPL pilots do not need (as suggested in the NPRM) a higher standard of eyesight and reaction time other than that shown at the initial and annual flight tests.</p> <p><u>Hearing test:</u></p> <p>The land transport commercial driver licence medical assessment for a passenger endorsement is the same test that is performed for a FAA medical, to perform IFR flying. If the medical examiner is not satisfied with the applicant's initial test, then the applicant is required to do a more structured audiometric testing. An applicant's hearing is aided by high spec headphones with individual volume control for each ear, so the applicant has the best technology available to understand instructions from air traffic control. Any apparent hearing deficiency would be apparent at the annual check.</p> <p>Submitters claim that the land transport commercial driver licence medical assessment is not inferior (as implied by the CAA) to the Class 2 medical standard provided under the Civil Aviation Act (the Act). It is simply a different assessment as it is administered by a different government agency.</p> <p><u>Higher stress level:</u></p> <p>Submitters disagreed with the CAA view that flying IFR increases stress level. Flying IFR in controlled airspace is less stressful than flying VFR in uncontrolled airspace, as a pilot is well trained to fly using instruments, and flight is monitored by air traffic control (ATC).</p> <p><u>Safety risks with flying close to commercial aircraft:</u></p> <p>Submitters disagreed with CAA view that flying close to commercial aircraft in controlled airspace increases risks to safety, for the following reasons:</p> <ul style="list-style-type: none"> <li>• pilots are IFR-rated;</li> <li>• basic training is same for pilots;</li> <li>• training includes flying in controlled environment;</li> <li>• safe separation (distance of 5 nm between aircraft) applied by ATC.</li> </ul>
<p><b>CAA response</b></p>	<p>We acknowledge that in certain situations IFR flying can be less stressful however, we are concerned about situations where things may go wrong and there is a need to respond quickly, and risks to safety need to be minimised. For example, we note the conditions presented in the NZAF submissions of vestibular influence and disorientation. While good training does decrease the chance of suffering disorientation, if there is a medical event or underlying condition affecting the vestibular system, then the likelihood of an adverse consequence is higher when flying IFR.</p> <p>IFR flying can be challenging because of the need to interpret and anticipate the instrument readings while recognising or ignoring the</p>

	<p>conflicting messages sent to the brain by our earthbound orientated senses. For example, flight in cloud can be dangerous because when we are deprived of visual references, the body's other senses may provide conflicting information to the brain. Without the benefit of visual references to resolve these conflicts, loss of aeroplane control can occur very quickly, usually within a minute.</p> <p>To mitigate safety risks pilots need a high standard of hearing, eyesight and reaction times, along with the additional training.</p> <p>We acknowledge that the land transport medical assessment includes a hearing test, however, the hearing test is the voice hearing test that is spoken from behind. From a medical view, a Class 1 audiogram assessment for hearing is currently required whilst the land transport medical assessment only has an observation done by the General Practitioner (GP).</p> <p>In addition, the GP is only assessing whether the hearing will impact their ability to control a motor vehicle; not assessing the ability to receive and understand radio communication. Moreover, the contention that noise attenuation and better headphones improve a pilot's hearing is not supported as the level of deafness is not affected by use of these items.</p> <p>Therefore, the commercial land transport medical assessment is considered to be not of the same standard as a class 1 hearing test required for a medical assessment under the Civil Aviation Act.</p> <p>In addition, the commercial land transport medical assessment is unlikely to pick up medical conditions such as migraines which tend to come on progressively. In a VFR situation the pilot can land relatively quickly, whereas in an IFR flight the pilot may not be able to. This should be compared with for example a truck driver (who holds the same commercial land transport medical certificate) who can stop at the roadside relatively quickly.</p> <p>IFR flying adds an additional layer of complexity to flying especially in the New Zealand context which has some of the most difficult terrain to fly over and much of the airspace is uncontrolled. Compare this with the USA and Europe which have extensive air traffic service radar control, advisory services, and much broader ground-based navigational aid infrastructure that provides significant risk mitigation compared to the New Zealand environment.</p> <p>A pilot flying IFR in controlled airspace must follow specific procedures. In the event of a medical emergency a pilot flying IFR will need to follow these procedures to land safely. Depending on the nature of the medical event and where it has occurred, it could easily take up to 20 minutes to land. This provides more time for a medical event to worsen, increasing the probability that the pilot</p>
--	---

	<p>will become less able to handle the aircraft and therefore increases the severity of the consequence. This is compared with a pilot operating VFR where a landing can usually occur within minutes of a medical event.</p> <p>While IFR pilots are well trained and medical events are rare, should one occur this adds to the severity of consequence thereby heightening the overall risk rating. The ability to control the aircraft is reduced if the pilot is even mildly incapacitated by a medical event. A pilot's competency will reduce this risk, but in our view, does not reduce it to an acceptable level. This is especially the case should an event occur in controlled airspace, where the risk to third parties in the air and on the ground is heightened.</p> <p>In line with the position in the NPRM, we do not support the ability to fly under instrument flight rules on a land transport commercial driver licence medical certificate. This acknowledges the need to take a precautionary approach when considering the significant consequences associated with medical incapacitation in flight. This is in line with Australia's approach that only allows VFR under 10,000ft.</p>
<b>Proposal for final rule</b>	Prohibit a PPL pilot flying on the land transport commercial driver licence medical certificate from flying IFR.

### Perform air operations

<b>Proposal in the NPRM</b>	Prohibit ability to perform air operations on a PPL with a land transport commercial driver licence medical certificate.
<b>Comments from submitters</b>	Submitters accepted this proposal.
<b>CAA response</b>	<p>This restriction is consistent with the ICAO standard which requires a pilot to hold at least a current class 1 medical certificate issued under the Act.</p> <p>Proposal in the NPRM remains unchanged.</p>
<b>Proposal for final rule</b>	Prohibit a PPL pilot flying on the land transport commercial driver licence medical certificate from performing air operations.

**Fly for hire or reward**

<b>Proposal in the NPRM</b>	Prohibit ability to fly for hire or reward on a PPL with a land transport commercial driver licence medical certificate.
<b>Comments from submitters</b>	Submitters accepted this proposal.
<b>CAA response</b>	This restriction is consistent with the ICAO standard which requires a pilot to hold at least a current class 1 medical certificate issued under the Act.  Proposal in the NPRM remains unchanged.
<b>Proposal for final rule</b>	Prohibit a PPL pilot flying on the land transport commercial driver licence medical certificate from flying for hire or reward.

**Fly for remuneration**

<b>Proposal in the NPRM</b>	Prohibit ability to fly for remuneration on a PPL with a land transport commercial driver licence medical certificate.
<b>Comments from submitters</b>	Submitters accepted this proposal.
<b>CAA response</b>	This restriction is consistent with the ICAO standard which requires a pilot to hold at least a current class 1 medical certificate issued under the Act.  Proposal in the NPRM remains unchanged.
<b>Proposal for final rule</b>	Prohibit a PPL pilot flying on the land transport commercial driver licence medical certificate from flying for remuneration.

## Flying outside New Zealand

<b>Proposal in the NPRM</b>	Prohibit flying outside New Zealand on a PPL with a land transport commercial driver licence medical certificate.
<b>Comments from submitters</b>	Given that countries such as the USA, UK and Australia now allow for some of the PPL privileges to be exercised on medical standards similar to the commercial driver licence medical certificate, some submitters felt that it should be possible to use our PPL in those countries. Whether or not New Zealand PPL's can operate internationally on the commercial driver licence medical certificate should be the decision of the foreign country. There should not be a blanket restriction in New Zealand – or at least New Zealand should sync up an initiative with Australia and the Pacific Islands.
<b>CAA response</b>	We have considered the submissions and agree with the points raised.
<b>Proposal for final rule</b>	Allow a PPL pilot flying on the land transport commercial driver licence medical certificate to operate in a foreign country if the host country allows the pilot to do so. This would be subject to any restrictions imposed by the host country.

## Gliders

A small number of submitters felt that the PPL(G) should also be obtainable with a commercial land transport medical certificate.

After reviewing earlier documentation on the PPL medical issue, it does not appear that changes to the gliding PPL medical requirements have been considered and therefore it was intended that the status quo should prevail.

GNZ members typically do not fly on a PPL. A PPL is required when members fly in other jurisdictions, in which case an ICAO compliant PPL is generally needed in order for the pilot to be recognised via the validation process.

We note from the submission from Gliding New Zealand Incorporated that several other jurisdictions do not require a Class 2 medical.

Given no policy work has been done on this issue, we do not support changes to the rule that would mean we are not aligned with ICAO Standards and Recommended Practices. Nor do we support delaying this rule project to undertake such analysis. We propose that this be considered in the review proposed for 2-3 years' time. Alternatively, the Gliding community could raise an Issue Assessment and the CAA would undertake policy work on this issue.<sup>2</sup>

---

<sup>2</sup> Anyone can raise an issue using this form <https://www.aviation.govt.nz/assets/forms/24011-01.pdf>

**Other change from the NPRM**

The proposal in the NPRM that recognised a land transport medical certificate to be a medical certificate under the Civil Aviation Act 1990 (the Act) has been removed as this would mean that all of Part 2A of the Act would apply, and this may be disproportionate to the risk. This is replaced with a provision that generally requires a PPL holder on a commercial land transport medical certificate to stop exercising the privileges of the licence if the person is not well. The person may only resume exercising the privileges of the licence if a medical practitioner confirms that the person is fit to do so.

**Additional item for inclusion in the final rule**

When Part 61 was re-issued as Amendment 11 on 15 April 2016, the provision that the demonstration of competency required by CAR 61.701(a)(11) and (b)(3) can be conducted under an organisation holding the Director's delegation was overlooked.

As a result, the applicant of an agricultural rating was prevented by the provision of CAR 61.701(c) to conduct the demonstration of competency under an organisation holding the Director's delegation to carry out flight tests. In practice this meant that Aspeq Limited was unable to exercise their delegation relating to agricultural examining.

A General Exemption was granted to correct this error and remains in place.

An issue assessment was raised to consider a rule amendment to permanently rectify the amendment.

In the past, it has been the practice to 'tidy up' rules, especially for some things that were not considered in the NPRM but should or could have been included. We consider this proposed amendment to be a tidying up exercise.

We only considered the inclusion of this amendment following NPRM consultation on the rule, therefore the proposed amendment to rectify the problem was not included in the NPRM, so was not consulted on by industry.

However, given the affected rule (61.701) is to be amended in the PPL medical rule project, and the amendment is to rectify an error in drafting, it would be more efficient to rectify the error through this rules project.

Legal advice is that including this amendment in the final rules package does not raise any concerns and is in fact entirely appropriate. This is because the original intent was that it should have been earlier included in rule 61.701, when the agricultural examiner provision was introduced but was inadvertently left out.

The rule amendment will mean that the status quo is still preserved. That is, we will be incorporating what is currently in the General Exemption (18/EXE/13) into the rules, without having to keep extending 18/EXE/13. The industry is not adversely affected by the rule change; especially with no extra costs being incurred.

It is proposed to amend Part 61.701 to allow for conducting the demonstration of competency by an organisation that employs, contracts or engages a person who holds a delegation from the Director to conduct such assessments.