

WELLINGTON NEW ZEALAND

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 *12th* day of *October* 2004

by **HARRY JAMES DUYNHOVEN**

Minister for Transport Safety

A handwritten signature in black ink, appearing to read 'Harry James Duynhoven', written over a large, stylized, abstract graphic element that resembles a stylized 'H' or a similar symbol.

Civil Aviation Rules

Part 1, Amendment 27

Definitions and Abbreviations

Docket 2/CAR/5

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Rule objective

The objective of Amendment 27 to Part 1 is to amend various definitions relating to crew members and aircraft weight as a consequence of the amendments to Parts 121, 125, and 135 regarding passenger, crew member, and baggage weights.

Extent of consultation

In May 1999 petition 99/PET/27-*Goods, passengers and baggage weights* was published in the Civil Aviation Rules Register Information Leaflet (CARRIL) for public comment. The petition called for an amendment to the Civil Aviation Rules because the adult standard passenger weight of 77 kg, established in 1958, that was prescribed in the rules needed to be updated to a more appropriate figure of 82 kg. A second petition 99/PET/6 also requested an amendment to the rules to allow standard weights to be used for crew members and for checked baggage to provide greater flexibility for the operator.

In December 1999 NFO Research carried out a survey of passenger weights on behalf of the CAA. The survey established the adult mean passenger weight with carry-on baggage should be 85 kg.

In August 2001 a CAA/Industry Technical Study Group (TSG) was established to develop a rule amendment proposal.

The TSG was split into two sub-groups, one concentrating on the issues relating to Parts 121 and 125 for large and medium size aeroplanes, and the second dealing with Part 135 for helicopters and small aeroplanes. These sub-groups met twice each, in September and November 2001, with matters arising from the meetings being developed through comprehensive email debate. The Part 121/125 TSG met in Wellington, and the Part 135 TSG met in Timaru and Tekapo to reduce the cost for industry participation.

A Notice of Proposed Rule Making (NPRM 02-05) was published for public comment in April 2002 and contained the proposed rule amendments to Parts 121, 125, 135 and 1. This NPRM was issued under Docket 2/CAR/5, and advertised in the daily newspapers in the five main provincial centres on 13th April 2002 and in the Gazette on 11th April 2002. A period of 40 days was allowed for submissions on the proposed rules. Following a request from 2 parties the time for making

submissions was extended by another 2 weeks. Twelve written submissions were received on the NPRM however none of the comments related to the proposed amendments to the definitions.

The Environmental Risk Management Authority was not consulted on the proposed amendments as the amendments do not contain any issues that are relevant to the Authority.

The Office of the Human Rights Commission was consulted to determine whether the proposed rules might conflict with the human rights legislation. The Commissioner noted that a discrimination issue could arise if individual passengers needed to be weighed but if all passengers on a flight needed to be weighed then there should not be an issue.

The CAA considered the submissions on the NPRM and developed a draft final rule that was forwarded to TSG members on 23 August 2002 for comment.

Copies of the draft final rule were also sent on 23 September 2002 to those individuals and organisations who responded to the NPRM for their comment.

In October 2002, the Aviation Industry Association (AIA) wrote to the CAA expressing concerns about the content of the draft final rule. The CAA met with representatives from the AIA on 29 November 2002 to discuss the AIA concerns. Agreement was reached on some technical changes including the removal of prescribed standard weights from Part 135.

In February 2003 the CAA published NPRM Supplement 02-05 that detailed the agreed changes to the rule proposal and requested comment from the wider aviation community.

Two responses were received to the NPRM Supplement, these came from NZALPA and AIA.

Further discussions with NZALPA and AIA resulted in a further simplification of the proposed rules including the removal of the proposed matrix of standard passenger weights from rule Parts 121 and 125. NZALPA questioned the ability of operators to develop the

necessary procedures to warrant the use of standard or exposition weights and CAA's ability to effectively monitor the implementation of the procedures.

The AIA did not accept that the mean passenger weight derived from the 1999 survey of passenger weights was the appropriate weight to specify in the rule amendments. It was agreed, in consultation with other TSG members, that the results of a new survey of passenger weights would be appropriate to incorporate into the final rule amendment for Parts 121 and 125.

Following further consultation with industry on a terms of reference for a passenger survey, the CAA engaged NFO New Zealand to conduct a comprehensive survey of passenger weights for operations conducted under Parts 121, 125, and 135. The survey for the Part 121 and 125 operations was completed in November 2003 and the Part 135 survey was completed in March 2004.

Following the development of the final rules for Parts 121, 125, and 135 the CAA was able to review the need for the various proposed definitions. The rewording of rules in Parts 121, 125, and 135 removed the need for definitions relating to standard passenger, crew member, and baggage weights.

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 definitions in this Part are reflected by the introduction of new definitions, and the amendment of existing definitions.

Effective date of rule

Amendment 27 to Part 1 comes into force on 25 November 2004.

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 1 Definitions and Abbreviations

1.1 General definitions

The definition of Crew member is revoked and the following new definition inserted:

Crew member means a person carried by an aircraft who is —

- (1) assigned by the operator —
 - (i) as a flight crew member or flight attendant to perform a duty associated with the operation of the flight; or
 - (ii) to perform a duty associated with the operation of the aircraft during flight time; or
- (2) carried for the sole purpose of —
 - (i) undergoing or giving instruction in the control and navigation of the aircraft; or
 - (ii) undergoing instruction as a flight engineer or flight attendant; or
- (3) authorised by the Director to exercise a function associated with the operation of the aircraft during flight time; or
- (4) a flight examiner.

The definition of Empty weight is revoked and the following new definition inserted:

Empty weight means the empty weight of an aircraft, including—

- (1) the airframe, engines, propellers, and rotors of the aircraft; and
- (2) any fixed equipment on the aircraft; and
- (3) any fixed ballast on the aircraft; and
- (4) any unusable fuel on the aircraft; and

- (5) full operating fluids required for the normal operation of the aircraft's systems, except potable water, lavatory precharge water, and water intended for injection into the engines of the aircraft; and
- (6) items specified in the weight and balance section of the flight manual or flight manual and supplement.

The definition of Flight attendant is revoked and the following new definition inserted:

Flight attendant means an appropriately trained person assigned by the operator to be responsible to the pilot-in-command for passenger safety on an aircraft.

The definition of Flight crew member is revoked and the following new definition inserted:

Flight crew member means an appropriately qualified person assigned by the operator for duty in an aircraft during flight time as a pilot or flight engineer.

The definition of Flight time is revoked and the following new definition inserted:

Flight time means the total time from the moment an aircraft first moves for the purpose of flight until the moment it comes to rest at the end of the flight including all associated push back, taxiing and subsequent holding time.

Consultation Details

(This statement does not form part of the rules contained in Part 1. It provides details of the consultation undertaken in making the rule.)

Comments arising from the NPRM

Amendment 27 to Part 1 is consequential to the amendments proposed to Parts 121, 125, and 135 regarding passenger, crew member, and baggage weights. The rule amendments were developed under docket 2/CAR/5 and published as NPRM 02-05.

Twelve written submissions were received on the NPRM but none of these commented on the proposed amendments to Part 1.

Changes to Part 1

During the development of the draft final rules for this project the rule requirements in Parts 121, 125, and 135 were redrafted and as a result the proposed additional definitions for exposition checked baggage weight, exposition crew member weight, exposition passenger weight and standard passenger weight were no longer required. These have been deleted from the final amendments to Part 1.

During the development of the draft final rule the proposed amendment to the definition of **empty weight** has been changed slightly to remove unnecessary words regarding the full operating fluids. This change was agreed with the TSG working on General Airworthiness NPRM 1/CAR/1357.

The full consultation details relating to docket 2/CAR/5 and this amendment 27 to Part 1 are contained in the consultation details associated with amendment 11 to Part 121.

The comments and all background material used in developing the rules are held on the docket and are available for public inspection. Persons wishing to view the docket should call at Aviation House, 10 Hutt Road, Petone and ask for docket 2/CAR/5.