



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 *28th* day of *March* 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, abstract graphic element that resembles a wing or a checkmark.

Civil Aviation Rules

Part 1, Amendment 28

Definitions and Abbreviations

Docket 4/CAR/1

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Rule objective

The objective of amendment 28 to Part 1 is to insert a definition of “general direction” and to introduce abbreviations relating to medical examiners and accredited medical conclusions, which are consequential amendments arising from the re-issue of Part 67.

Extent of consultation

On 11 December 2002, the Ministry of Transport, with the Civil Aviation Authority providing technical and medical advice, presented a draft Notice of Proposed Rulemaking (NPRM) for a new Part 67 with consequential amendments to Part 1 to the aviation medical consultation group.

The aviation medical consultation group is composed of representatives of the following: Aviation Industry Association of New Zealand, Aviation Medical Society of Australia and New Zealand, Combined New Zealand Aviation Medicine Forum, New Zealand Air Line Pilots’ Association, Royal New Zealand Aero Club Inc, Aircraft Owners’ and Pilots’ Association (New Zealand) Inc, Sport Aviation Corporation Ltd, Sport Aircraft Association of New Zealand, New Zealand Warbirds Association Inc, Airways Corporation of New Zealand, Air New Zealand Limited, and the Guild of Air Pilots and Air Navigators.

The aviation medical consultation group reconvened on 14 February 2003 to provide feedback to the Ministry of Transport on the draft NPRM. Comments and issues raised at that meeting were addressed in a memorandum to the group on 9 July 2003 and in the subsequent NPRM.

On 10 July 2003, the NPRM was released for public consultation. The publication of this NPRM was notified in the *Gazette* and advertised in the daily newspapers of the five main provincial centres on 10 July 2003. The NPRM was published on the Ministry of Transport website and distributed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 74 days was provided for comment on the proposed rule, with submissions closing on 22 September 2003. The Ministry received 20 written submissions on the NPRM.

On 9 August 2004, a re-drafted NPRM was released for public consultation, taking into account the submissions made in response to the first NPRM.

The publication of this NPRM was notified in the *Gazette* on 12 August 2004 and advertised in the daily newspapers of the five main provincial centres on 9 August 2004. The NPRM was published on the Ministry of Transport website and distributed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 60 days was provided for comment on the proposed rule, with submissions closing on 8 October 2004. The Ministry received 14 written submissions on the second NPRM.

The Ministry of Transport summarised the submissions received on both NPRMs and prepared responses to these.

On 28 January 2005, a revised draft of the rule was forwarded to the aviation medical consultation group for its information. On 11 March 2005, the Ministry met with members of the group, who reiterated some of the concerns raised in their submissions in relation to the re-issue of Part 67.

Summary of submissions

Three written submissions were received on the Part 1 amendments proposed by the first NPRM. A summary of the submissions received and responses by the Ministry of Transport is contained in the consultation details attached to these rules.

No written submissions were received in relation to the Part 1 amendments proposed by the second NPRM. Subsequently, however, some minor drafting changes were made. A summary of these changes is contained in the consultation details attached to these rules.

The rule was then referred to Parliament's Regulations Review Committee before being signed by the Minister of Transport.

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 insertion of a new definition and new abbreviations.

Effective date of rule

Amendment 28 to Part 1 comes into force on 1 May 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 1 Amendments

1.1 General definitions

The following new definition is inserted before the definition of geographical co-ordinates:

General direction in relation to Part 67 means a general direction issued by the Director under section 27G of the Act.

1.3 Abbreviations

The following new abbreviation is inserted before the abbreviation AMSL:

AMC means an accredited medical conclusion, as defined in section 27A of the Act.

The following new abbreviations are inserted before the abbreviation MEL:

ME1 means a medical examiner who holds a Medical Examiner 1 Certificate issued under the Act.

ME2 means a medical examiner who holds a Medical Examiner 2 Certificate issued under the Act.

Consultation Details

(These statements do not form part of the rules contained in Part 1. They provide details of the consultation undertaken in making the rules).

Summary of submissions on the NPRM

Amendment 28 of Part 1 is consequential to the proposed re-issue of Part 67 concerning aviation medical certification. Three written submissions were received on the amendments proposed to Part 1 by the first NPRM

1. *Definition – medical assessment report and medical certificate*

One **submitter** suggested that the medical certificate comprise 2 parts–

- one part that looks like the medical certificate and records information required by the operator; and
- a second part that looks like the medical assessment form and records information for the purposes of the applicant, future medical examiners and the CAA, but not the operator.

MOT comment: To create a certificate in 2 parts would undermine the clear intent of the Act, especially in relation to section 27B(2) certificates, which must be endorsed with any conditions, restrictions and endorsements necessary for the safe performance of duties. These must, therefore, be disclosed to the operator.

2. *Definition – psychoactive substances*

One **submitter** suggested that “coffee” be replaced in this definition with “caffeine”.

MOT comment: The definition, which excludes “coffee”, comes straight from Annex 1 of the Chicago Convention.

3. *Definition – unsafe behaviour*

One **submitter** suggests that “overt acts” be replaced in this definition with “overt act”.

MOT comment: The concept of “unsafe behaviour” was a part of the general approach to describing the medical standards in the first NPRM that, in light of submissions received, did not carry over to the second NPRM. Accordingly, the definition of “unsafe behaviour” has been deleted.

Changes to Part 1

During the development of the second NPRM for this project, the proposed definitions in Part 1 of **licence holder**, **medical assessment report**, **medical manual**, and **psychoactive substances** were moved to the definitions section of Part 67 because those terms relate more particularly to that Part and are not used in other Parts of the Civil Aviation Rules.

In addition, the proposed definition of **medical certificate** was deleted as the term is already defined in the Act.

During the development of the draft final rules for this project, the implied obligation on the Director to issue a **medical assessment report** was made express in a separate provision in Part 67 and the definition now simply cross-refers to the report issued by the Director under that provision (rule 67.59).

In addition, it became clear that minor drafting changes should be made to clarify that the reference to **general direction** refers to a direction issued by the Director under section 27G of the Act and to omit the proposed abbreviation **SME** as it is not used in Part 67.

Accordingly, the definition of **general direction** has been added and the abbreviations **AMC**, **ME1**, and **ME2** have been retained in the final amendments to Part 1. The rest of the definitions and abbreviations have been deleted.

The comments and all the background material used in developing the rules are available to the public. Persons wishing to view the comments and background material should call at Aviation House, 10 Hutt Road, Petone.