



**PURSUANT** to Sections 28 and 30 of the Civil Aviation Act 1990

**I, STEVEN JOYCE**, Minister of Transport,

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This *20<sup>th</sup>* day of *September* 2010

by **STEVEN JOYCE**

A large, stylized handwritten signature in black ink, which appears to be 'S. Joyce', is written over the printed name 'STEVEN JOYCE' and extends downwards towards the title 'Minister of Transport'.

Minister of Transport

**Civil Aviation Rules**

**Part 12, Amendment 6**

**Accidents, Incidents, and Statistics**

*EDTO - Docket 0/CAR/1354*

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**Rule objective**

The objective of amendment 6 to Part 12 is to amend the rules for the notification of an incident to take into account the new rules for air operators conducting extended diversion time operations (EDTO) in accordance with Part 121.

Amendment 6 to Part 12 is associated with amendment 21 to Part 121.

**Extent of consultation**

In 2002 the CAA commenced a project to review the ETOPS requirements for aeroplanes operating under Parts 121 (large aeroplanes), 125 (medium aeroplanes), and 135 (small aeroplanes) and to incorporate the standards contained in AC121-1 into the rules. Shortly thereafter the Federal Aviation Administration (FAA) of the United States signalled its intention to review the FAR requirements for ETOPS and so the CAA project was held over until the FAA intentions became clearer.

In 2005 the Civil Aviation Safety Authority of Australia (CASA) decided to review the Australian requirements for ETOPS and so a joint working group was established between the New Zealand CAA and CASA to develop common standards where possible for EDTO. Representatives from the major airlines in both Australia and New Zealand were also included in the working group.

A Notice of Proposed Rulemaking, NPRM 08/01, containing the proposed changes to Part 121 and the other associated rule parts was issued for public consultation under Docket 0/CAR/1354 on 17 January 2008.

The publication of this NPRM was notified in the Gazette on 17 January 2008 and advertised in the daily newspapers in the five main provincial centres on 19 January 2008. 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 43 days was allowed for comment on the proposed rule.

## **Summary of submissions**

Six written submissions were received on the NPRM which included comments on 2 matters in the proposed changes to Part 12. These submissions and comments have been considered but were not accepted and as a result no changes were made to the proposed rules.

## **Additional consultation**

During the original development of the EDTO rules it was proposed to extend the threshold time for operating a twin turbine powered aeroplane away from an adequate aerodrome from 60 minutes flying time with one engine inoperative to 90 minutes. This 90 minute threshold time was developed in conjunction with the Australian Civil Aviation Safety Authority (CASA) to enable the older non-ETOPS approved aeroplanes to be operated on routes across the Great Australian Bight.

However in August 2009 it became apparent that under the proposed 90 minute threshold time an air operator could theoretically plan an oceanic route or a long trans-continental route as a non-EDTO and would not need to meet the additional dispatch requirements for EDTO regarding en-route alternate aerodrome meteorological conditions and services and facilities, and the additional fuel requirements for EDTO.

Following further consultation with CASA, non-supportive comments from the aircraft manufacturers, and in accordance with ICAO recommendations, the CAA decided that the EDTO threshold time should be retained at 60 minutes flying time, with one engine inoperative, from an adequate aerodrome.

A Notice of Proposed Rule Making Supplement, NPRM 08-01 Supplement, containing the proposed changes to Parts 1 and 121 to change the requirements back to a 60 minute EDTO threshold time plus some changes to the maintenance requirements in Part 121 for some older aeroplanes, and a change to Part 145 to clarify maintenance procedures for EDTO aeroplanes was issued for public consultation under Docket 0/CAR/1354 on 4 February 2010.

The publication of this NPRM Supplement was notified in the Gazette on 4 February 2010 and advertised in the daily newspapers in the five main provincial centres on 5 February 2010. The NPRM Supplement

was published on the CAA web site and mailed to the airline operators who were likely to have an interest in the proposal.

A period of 25 days was allowed for comment on the proposed changes to the rule.

### **Summary of additional submissions**

Six written submissions were received on the NPRM Supplement but the Supplement did not include any changes to Part 12.

However during the development of the final rule it was determined that a separate definition for an “EDTO incident” is not necessary because an EDTO incident is either an “aircraft incident” or a “defect incident” that involves specified occurrences with an EDTO aircraft. The requirement for notifying an EDTO incident within 72 hours has therefore been amended to require an aircraft operator to notify an aircraft incident or a defect incident within 72 hours, and an aircraft maintenance organisation to notify a defect incident within 72 hours, if the incident involves specified occurrences that are associated with an aircraft used for EDTO. The amendment simplifies the notification requirements for both the Authority and the industry.

The rule as amended was then referred to the Minister of Transport for signing.

### **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 and replacement of existing rules.

### **Effective date of rule**

Amendment 6 to Part 12 comes into force on 1 November 2010.

### **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 12 Amendments

### Subpart B — Notification, Investigation, and Reporting of Occurrences

*Rule 12.55 is revoked and replaced by the following new rule:*

#### **12.55 Notification of incident**

(a) A holder of a certificate issued under the Act and in accordance with the following Parts must notify the Authority as soon as practicable of any associated incident if the certificate holder is involved in the incident and the incident is a serious incident or is an immediate hazard to the safety of an aircraft operation:

- (1) Parts 119, 129 and 137— aircraft incident, or dangerous goods incident:
- (2) Part 172— airspace incident:
- (3) Parts 171 and 174 — facility malfunction incident:
- (4) Parts 19, 47, 119, 129, 137, 145, 146, and 148 — defect incident:
- (5) Parts 119, 129, 139, 140, 171, and 172 — security incident:
- (6) Part 139 — aerodrome incident:
- (7) Parts 139, 171, 173, 174, and 175 — promulgated information incident:
- (8) Parts 119, 129, and 109 — cargo security incident.

(b) A person who is involved in an incident that is a serious incident or an immediate hazard to the safety of an aircraft operation must notify the Authority of the incident as soon as practicable if the person—

- (1) operates, maintains, services, or does any other act in respect of an aircraft, aeronautical product, or aviation related service; and

- (2) is not employed by, or associated with, the holder of a certificate referred to in paragraph (a); or
  - (3) has responsibilities under Part 95.
- (c) A pilot-in-command of an aircraft that is involved in an airspace incident or a bird incident must notify the Authority of the incident as soon as practicable if the incident is a serious incident or an immediate hazard to the safety of an aircraft operation.
- (d) The notification of an incident required by paragraphs (a), (b), (c) and (e) must be conveyed by a means acceptable to the Authority and contain, where ascertainable, information in accordance with the following:
- (1) for an airspace incident, Appendix A(a):
  - (2) for a defect incident, Appendix A(b):
  - (3) for a facility malfunction incident, Appendix A(c):
  - (4) for an aircraft incident, Appendix A(d):
  - (5) for a security incident, Appendix A(e):
  - (6) for a promulgated information incident, Appendix A(f):
  - (7) for an aerodrome incident, Appendix A(g):
  - (8) for a cargo security incident, Appendix A(h):
  - (9) for a dangerous goods incident, bird incident, or any other incident, Appendix A(i).
- (e) In spite of paragraph (a), a holder of—
- (1) an air operator certificate issued under the Act and in accordance with Part 119 must notify the Authority of an aircraft incident or a defect incident within 72 hours of the incident occurring if the incident is associated with an aircraft that is performing or is used to perform an EDTO and the incident involves—

- (i) an in-flight shutdown of a propulsion system; or
  - (ii) a diversion or a turn back; or
  - (iii) an in flight, inadvertent fuel loss or unavailability of fuel or an un-correctable fuel imbalance; or
  - (iv) a malfunction of an EDTO significant system; or
  - (v) any other occurrence which affects the safety of an EDTO; and
- (2) an aircraft maintenance organisation certificate issued under the Act and in accordance with Part 145 must notify the Authority of a defect incident within 72 hours of the incident occurring if the incident is associated with an aircraft that is used to perform an EDTO and—
- (i) the incident involves a malfunction of an EDTO significant system; or
  - (ii) any other defect that could affect the safety of an aircraft performing an EDTO.

*Appendix A is revoked and replaced by the following new Appendix A:*

**Appendix A — Information Required for Initial Notification of Incidents**

- (a) **Airspace incident** – The following information is required for notification of an airspace incident under rule 12.55(d)(1):
- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) aircraft nationality, registration, radio call sign, flight number, and type:
  - (4) name of the aircraft operator:
  - (5) aircraft position and altitude:

- (6) name of the pilot-in-command:
  - (7) phase of flight:
  - (8) effect on flight:
  - (9) flight rules under which the aircraft was operating:
  - (10) aircraft point of departure and destination:
  - (11) location, type, and class of airspace, and the ATS unit involved:
  - (12) any other relevant information submitted by the pilot concerned.
- (b) **Defect incident** – The following information is required for notification of a defect incident under rule 12.55(d)(2):
- (1) date and time the incident was detected:
  - (2) brief description of events:
  - (3) aircraft nationality, registration, and type:
  - (4) name of the aircraft operator and owner:
  - (5) location of the aircraft, part, or equipment at the time of the incident:
  - (6) phase of flight:
  - (7) effect on flight:
  - (8) aircraft point of departure and destination:
  - (9) name of the manufacturer of the aircraft, part, or equipment, and where appropriate, the part number, its modification standard, and its location on the aircraft:
  - (10) description of the incident, its effects, and any other relevant information:

- (11) whether the person or organisation making the notification has instituted an investigation into the defect and expected time of completion:
  - (12) name, organisation, and contact details of the person notifying the incident.
- (c) **Facility malfunction incident** – The following information is required for notification of a facility malfunction incident under rule 12.55(d)(3):
- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) aircraft nationality, registration, radio call sign, flight number, and type:
  - (4) name of the aircraft operator:
  - (5) aircraft position and altitude:
  - (6) name of aerodrome and runway used:
  - (7) name of the pilot-in-command:
  - (8) phase of flight:
  - (9) effect on the flight:
  - (10) identification, type, name, frequency, and provider of the aeronautical telecommunication facility involved:
  - (11) whether the person or organisation making the notification has instituted an investigation into the incident and, if so, expected time of completion:
  - (12) name, organisation, and contact details of the person notifying the incident.
- (d) **Aircraft incident** – The following information is required for notification of an aircraft incident under rule 12.55(d)(4):

- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) aircraft nationality, registration, radio call sign, flight number, and type:
  - (4) name of the aircraft operator and owner:
  - (5) aircraft position and altitude:
  - (6) phase of flight:
  - (7) if applicable, name of aerodrome and runway used:
  - (8) effect on the flight:
  - (9) name of the pilot-in-command:
  - (10) type of operation being conducted:
  - (11) number of persons on board the aircraft:
  - (12) name, organisation, and contact details of the person notifying the incident.
- (e) **Security incident** – The following information is required for notification of a security incident under rule 12.55(d)(5):
- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) aircraft nationality, registration, radio call sign, flight number, and type:
  - (4) name of the aircraft operator and owner:
  - (5) aircraft position and altitude or place of incident:
  - (6) name of the aerodrome or aeronautical telecommunication facility if applicable:

- (7) name of the pilot-in-command:
  - (8) phase of flight:
  - (9) effect on the flight:
  - (10) type of operation being conducted:
  - (11) name, organisation, and contact details of the person notifying the incident.
- (f) **Promulgated information incident** – The following information is required for notification of a promulgated information incident under rule 12.55(d)(6):
- (1) date and time the incident was discovered:
  - (2) brief description of events:
  - (3) details to identify the publication, map, chart, or other means by which the information or aeronautical data was promulgated:
  - (4) details relating to the information or aeronautical data that gave rise to the incident:
  - (5) name, organisation, and contact details of the person notifying the incident.
- (g) **Aerodrome incident** – The following information is required for notification of an aerodrome incident under rule 12.55(d)(7):
- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) name of the aerodrome:
  - (4) description and the location of the reported defect or obstruction:

- (5) name, organisation, and contact details of the person notifying the incident.
- (h) **Cargo security incident** – the following information is required for notification of a cargo security incident under rule 12.55(d)(8):
- (1) date and time of the incident:
  - (2) brief description of the nature of the incident:
  - (3) details, if known, of where the incident may have occurred:
  - (4) name, organisation, and contact details of the person notifying the incident.
- (i) **Dangerous goods, bird, or other incident** – The following information is required for notification of a dangerous goods, bird, or any other incident under rule 12.55(d)(9):
- (1) date and time of the incident:
  - (2) brief description of events:
  - (3) name, organisation, and contact details of the person notifying the incident.

## Consultation Details

*(This statement does not form part of the rules contained in Part 12. It provides details of the consultation undertaken in making the rules.)*

A Notice of Proposed Rulemaking, NPRM 08/01 Extended Diversion Time Operations for large aeroplanes, containing the proposed rules was issued for public consultation under Docket 0/CAR/1354 on 17 January 2008.

Six responses to the NPRM were received.

A Supplementary Notice of Proposed Rule Making, NPRM 08-01 Supplement, was issued for public consultation under Docket 0/CAR/1354 on 8 February 2010 but it did not contain any proposed changes for Part 12.

The summary of the submissions for the NPRM and NPRM Supplement is attached to Amendment 21 to Part 121.