



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

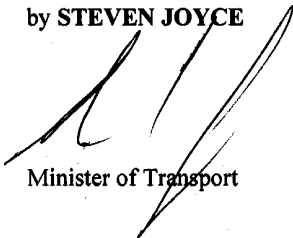
I, STEVEN JOYCE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *2nd* day of *November* 2009

by **STEVEN JOYCE**

A handwritten signature in black ink, appearing to be 'S. Joyce', is written over the printed name 'STEVEN JOYCE'. The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Minister of Transport

Civil Aviation Rules

Part 21, Amendment 8

Certification of Products and Parts

Special Category Aircraft - Docket 5/CAR/2

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Rule objective

The objective of amendment 8 to Part 21 is to expand the types of *special category* airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military, and other non-type certificated aircraft that are presently certificated as special category aircraft.

Amendment 8 to Part 21 is associated with the following amendments to other Parts:

- Amendment 41 to Part 1
- Amendment 7 to Part 43
- Amendment 3 to Part 47
- Amendment 3 to Part 66
- Amendment 20 to Part 91

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 07-03, containing the proposed changes to Part 21 and consequential changes to other rules, was issued for public consultation under Docket 5/CAR/2 on 26 October 2006.

The publication of this NPRM was notified in the Gazette on 26 October 2006 and advertised in the daily newspapers in the five main provincial centres on 26 October 2006. 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 41 days was allowed for comment on the proposed rule.

Summary of submissions

Seven written submissions were received on the NPRM. These submissions have been considered and as a result some minor changes were made to the proposed rules. Some editorial and drafting changes

have also been made to the rules to clarify the rule requirements and insert some transition provisions for existing aircraft.

The rule as amended 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 revocation of existing rules and replacement of new rules. A new Subpart has been created to capture all rules pertaining to Flight Permits.

Effective date of rule

Amendment 8 to Part 21 comes into force on 3 December 2009.

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 21 Amendments

Subpart H — Airworthiness Certificates

Rule 21.173 is revoked and replaced by the following new rule:

21.173 Certificate categories

The following airworthiness certificates for New Zealand registered aircraft are issued by the Director under section 9 of the Act in accordance with the applicable requirements of this Subpart:

- (1) *standard category:*
- (2) *restricted category:*
- (3) *special category — experimental:*
- (4) *special category — exhibition:*
- (5) *special category — amateur-built:*
- (6) *special category — primary:*
- (7) *special category — LSA:*
- (8) *special category — limited:*
- (9) *provisional category.*

Rule 21.175 is revoked and replaced by the following new rule:

21.175 Application for certificate

An applicant for the grant of an airworthiness certificate for an aircraft must complete the applicable form and submit it to the Director with a payment of the application fee prescribed by regulations made under the Act:

- (1) form CAA 24021/05 for *standard* or *restricted category*:
- (2) form CAA 24021/06 for *special category*:

- (3) form CAA 24021/14 for *provisional category*.

Rule 21.177 is revoked and replaced by the following new rule:

21.177 Special conditions for issue of certificate

(a) An airworthiness certificate for an aircraft may be issued in both the *standard category* and the *restricted category* if the Director is satisfied that—

- (1) the applicable certification requirements for each category under this Subpart are met when the aircraft is configured for the category; and
- (2) the aircraft can be converted from one configuration to the other by removing or adding equipment by simple mechanical means.

(b) Only a *restricted category* airworthiness certificate may be issued for an aircraft if the Director is satisfied that—

- (1) the aircraft is internally equipped for dispensing substances on an agricultural aircraft operation; and
- (2) the extent of the internal equipment makes the aircraft inappropriate for use in an air transport operation.

(c) An airworthiness certificate for an aircraft may only be issued in 1 of the *special categories* listed under rule 21.173 if the Director is satisfied that—

- (1) the applicable certification requirements under this Subpart are met in respect of the purposes for which the aircraft is to be operated; and
- (2) the aircraft is in a condition for safe operation.

(d) The Director may specify in an airworthiness certificate the purpose of the certificate and any associated conditions and limitations for the operation of the aircraft.

Rule 21.179 is revoked and replaced by the following new rule:

21.179 Duration of certificate

(a) The following airworthiness certificates for an aircraft remain in force if the maintenance on the aircraft is performed in accordance with the applicable requirements of Parts 91 and 43 unless the certificate has expired, or is suspended or revoked:

- (1) *standard category*;
- (2) *restricted category*;
- (3) *special category*.

(b) A *standard category* airworthiness certificate for an aircraft and a *restricted category* airworthiness certificate for an aircraft expire if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) the *type certificate* or the *type acceptance certificate*, as applicable, issued for the aircraft type, its engines, and propellers if applicable, ceases to remain in force; or
- (3) a new airworthiness certificate in the same category is issued for the aircraft.

(c) A *special category* airworthiness certificate for an aircraft expires if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) a new airworthiness certificate in the same category is issued for the aircraft.

(d) The holder of an airworthiness certificate that has expired under paragraphs (b) or (c) must surrender the certificate to the Director.

(e) The holder of a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate that has expired under paragraph (b)(2) may apply under rule 21.175 for the grant of an appropriate *special category* airworthiness certificate for the aircraft.

(f) A *provisional category* airworthiness certificate for an aircraft remains in force for the period specified in the certificate—

(1) if—

- (i) the maintenance on the aircraft is performed in accordance with the applicable requirements of Parts 91 and 43; and
- (ii) the aircraft remains a New Zealand registered aircraft; and
- (iii) the *provisional type certificate* issued under rule 21.145 for the aircraft type remains in force; and

(2) unless—

- (i) the *provisional category* airworthiness certificate is suspended or revoked; or
- (ii) a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate is issued for the aircraft.

Rule 21.181 is revoked and replaced by the following new rule:

21.181 Transfer of certificate

Despite rule 19.11, the holder of a New Zealand certificate of registration for an aircraft must transfer the following applicable airworthiness certificates with the aircraft if, in accordance with rule 47.57, the holder of the certificate of registration ceases to have lawful entitlement to possession of the aircraft:

- (1) *standard category*;
- (2) *restricted category*;
- (3) *special category*;
- (4) *provisional category*.

Certification Requirements

Rule 21.193 is revoked and replaced by the following new rule:

21.193 Special category—experimental certification requirements

An applicant for the grant of a *special category—experimental* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated, including—
 - (i) details of the proposed operation; and
 - (ii) the estimated duration or number of flights required for the operation; and
 - (iii) details of the areas over which the operation is to be conducted; and
- (2) sufficient data to identify the aircraft, including a three-view drawing of the aircraft, except for an aircraft converted from a previously certificated type without appreciable change in the external configuration; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any document relating to the operation of the aircraft as the Director may require; and
- (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
- (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or

- (ii) an approved identifiable paint scheme and markings;
and
- (7) evidence that the aircraft is identified by the means specified in Subpart Q; and
- (8) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (9) evidence that the placard requirements prescribed in rule 21.205 are met.

Rule 21.195 is revoked and replaced by the following new rule:

21.195 Special category—exhibition certification requirements

(a) An applicant for the grant of a *special category—exhibition* airworthiness certificate for an aircraft, must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
- (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or

- (ii) an approved identifiable paint scheme and markings; and
 - (7) evidence that the holder of the certificate of registration for the aircraft holds a valid operator statement for the aircraft in accordance with rule 47.55(c); and
 - (8) evidence that the aircraft is identified by the means specified in Subpart Q; and
 - (9) evidence that a flight evaluation has been completed and that the aircraft—
 - (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
 - (10) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
 - (11) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
 - (12) data from a flight evaluation concerning—
 - (i) any operational limitations for the aircraft; and
 - (ii) any airworthiness limitations for the aircraft; and
 - (13) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) A flight evaluation required by paragraph (a)(9) must be conducted—
- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
 - (2) by a test pilot approved for the purpose under rule 19.405.

(c) An applicant for the grant of a *special category–exhibition* airworthiness certificate for an aircraft that has a *special category–experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(4) to (a)(6), (a)(8), (a)(9), (a)(11), and (a)(12) unless requested by the Director, if—

- (1) the information provided under paragraph (a)(2) includes the registration marks for the aircraft; and
- (2) the maintenance programme required under rule 91.605(b)(2) includes the details required under rule 91.607(d) and (e).

Rule 21.197 is revoked and replaced by the following new rule:

21.197 Special category—amateur-built certification requirements

(a) An applicant for the grant of a *special category—amateur-built* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that—
 - (i) the amateur constructor has built the major portion of the aircraft for their own education or recreation; or
 - (ii) the aircraft is a light sport aircraft designated by the manufacturer as an experimental – light sport aircraft; and

- (6) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
 - (7) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
 - (8) evidence that the aircraft is identified by the means specified in Subpart Q; and
 - (9) evidence that a flight evaluation has been completed and that the aircraft—
 - (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
 - (10) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
 - (11) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
 - (12) data from a flight evaluation concerning—
 - (i) any operational limitations for the aircraft; and
 - (ii) any airworthiness limitations for the aircraft; and
 - (13) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) A flight evaluation required by paragraph (a)(12) must be conducted—

- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
- (2) by a test pilot approved for the purpose under rule 19.405.

(c) An applicant for the grant of a *special category—amateur-built* airworthiness certificate for an aircraft that has, or is deemed to have under Appendix A paragraph (g), a *special category—experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(4) to (a)(12) unless requested by the Director if the information provided under paragraph (a)(2) includes the registration marks for the aircraft.

The following new rule is inserted after rule 21.197.

21.199 Special category—primary certification requirements

An applicant for the grant of a *special category—primary* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance and repair manuals, parts manual, and any other documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that every modification and repair to the aircraft conforms to a design change approved in accordance with Subpart C; and
- (6) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and

- (7) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (8) evidence that the aircraft, its engines, propellers, and propeller hubs and blades are identified by the means specified in Subpart Q; and
- (9) evidence that a maintenance programme for the aircraft has been approved under rule 91.607; and
- (10) evidence that continuing airworthiness data relating to the aircraft and installed components is available from sources acceptable to the Director; and
- (11) evidence that the aircraft has, within 60 days prior to the application for the airworthiness certificate, undergone a 100-hour, or equivalent inspection in accordance with the manufacturer’s maintenance schedule, or an equivalent inspection acceptable to the Director; and
- (12) for an imported aircraft—
 - (i) evidence that the aircraft had been certificated as a primary category aircraft in accordance with FAR 21.24, or an equivalent certification acceptable to the Director, by the relevant authority for airworthiness in the country of export; and
 - (ii) evidence that the aircraft conforms to the requirements and airworthiness design standards for a primary category aircraft prescribed in FAR 21.24, or the requirements and airworthiness design standards for the equivalent certification accepted by the Director under paragraph (i); and

- (13) for a New Zealand manufactured aircraft—
 - (i) evidence that the aircraft was manufactured under the authority of an aircraft manufacturing organisation certificate issued in accordance with Part 148; and
 - (ii) evidence that the aircraft conforms with the requirements and airworthiness design standards for a primary category aircraft prescribed in FAR 21.24, or conforms with an equivalent airworthiness design standard acceptable to the Director; and
- (14) evidence that the placard requirements prescribed in rule 21.205 are met.

The following new rule is inserted after new rule 21.199

21.201 Special category—LSA certification requirements

- (a) An applicant for the grant of a *special category—LSA* airworthiness certificate for an aircraft must provide the Director with—
- (1) a statement specifying the purpose for which the aircraft is to be operated; and
 - (2) sufficient data to identify the aircraft make and model; and
 - (3) any other information that the Director may request relating to the application; and
 - (4) flight manuals, the manufacturer’s maintenance manual and inspection procedures, and any other documents relating to the operation of the aircraft as the Director may require; and
 - (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
 - (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—

- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (7) evidence that the aircraft is identified by the means specified in Subpart Q; and
- (8) evidence that a flight evaluation has been completed and that the aircraft—
 - (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
- (9) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (10) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
- (11) for an imported aircraft—
 - (i) evidence that the aircraft has been issued with, or is eligible for the issue of, a special airworthiness certificate in the light sport category in accordance with the requirements specified in FAR 21.190 or an equivalent standard acceptable to the Director; and
 - (ii) the aircraft manufacturer's signed statement of compliance for the aircraft, or a certified copy of the manufacturer's signed statement, that meets the requirements of paragraph (b); and.
- (12) for a New Zealand manufactured aircraft—
 - (i) evidence that the aircraft was manufactured under the authority of an aircraft manufacturing

organisation certificate issued in accordance with Part 148; and

- (ii) the aircraft manufacturer's signed statement of compliance for the aircraft, or a certified copy of the manufacturer's signed statement, that meets the requirements of paragraph (b); and

- (13) evidence that the placard requirements prescribed in rule 21.205 are met.

(b) A manufacturer's statement of compliance required under paragraphs (a)(11) and (12) must include at least the following information:

- (1) details specifying the aircraft's make and model, serial number and date of manufacture:
- (2) technical details to show that the aircraft can be defined as a light sport aircraft:
- (3) the identification of the consensus standard that is applicable to the design and manufacture of the aircraft:
- (4) a statement certifying that—
 - (i) the manufacturer has a quality assurance system that meets the requirements of the consensus standard identified under paragraph (b)(3); and
 - (ii) the manufacturer's design data for the aircraft conforms with the consensus standard identified under paragraph (b)(3); and
 - (iii) based on the quality assurance system required under paragraph (b)(4)(i), the aircraft conforms with the manufacturer's design data for the aircraft and with the consensus standard identified under paragraph (b)(3); and
 - (iv) in accordance with a production acceptance test procedure established by the manufacturer in

accordance with the consensus standard identified under paragraph (b)(3)—

- (A) the manufacturer has ground-tested and flight-tested the aircraft; and
 - (B) the manufacturer is satisfied that the aircraft's performance during ground and flight testing meets the design requirements; and
 - (C) the aircraft is in a condition for safe operation; and
- (v) the manufacturer has a procedure to monitor the continuing airworthiness of the aircraft and to issue safety directives or requirements that comply with the consensus standard identified under paragraph (b)(3) to correct any unsafe condition.

(c) A light sport aircraft that is built from a kitset and a light sport aircraft that is designated by the manufacturer as an experimental - light sport aircraft is not eligible for the issue of a *special category—LSA* airworthiness certificate.

The following new rule is inserted after new rule 21.201

21.203 Special category—limited certification requirements

(a) An applicant for the grant of a *special category—limited* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) evidence that the aircraft type was produced in a series and factory built in a controlled design environment; and
- (4) evidence that the aircraft type has been previously accepted for civil or military operations; and

- (5) evidence that the aircraft—
 - (i) is essentially unmodified from the original type design and operational configuration; or
 - (ii) has been extensively restored without significant variation to the original type design and operational configuration; or
 - (iii) essentially conforms with the original design standards and operational configuration in spite of having significant changes made which are subject to an appropriate design approval or are acceptable to the Director; and
- (6) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
- (7) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (8) flight manual limitation data including the following:
 - (i) speed parameters:
 - (ii) weight and loading information:
 - (iii) engine operating parameters:
 - (iv) fuel and oil specifications:
 - (v) fuel consumption data:
 - (vi) total usable fuel quantities:
 - (vii) eligibility for flight in known icing conditions:
 - (viii) critical and prohibited manoeuvres:
 - (ix) emergency procedures:
 - (x) maximum number of occupants:

- (xi) minimum flight crew members if more than one flight crew member is required:
 - (xii) recommended take-off and landing distances:
 - (xiii) if applicable, single engine climb performance; and
- (9) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (10) evidence that the holder of the certificate of registration for the aircraft holds a valid operator statement for the aircraft in accordance with rule 47.55(c); and
- (11) evidence that the aircraft has undergone an inspection, equivalent to an annual or 100-hour inspection in accordance with the manufacturer's or a military maintenance schedule, or an equivalent inspection acceptable to the Director, within the 60 day period before the application for the airworthiness certificate was submitted to the Director; and
- (12) evidence that the aircraft has completed—
- (i) a flight evaluation to establish that the aircraft is controllable throughout its range of speeds and throughout all the normal operating manoeuvres if documented evidence of the aircraft's safety, integrity and reliability record is not available; or
 - (ii) a flight evaluation to establish known operating limitations or confirm changes to those limitations as a result of modification; or
 - (iii) a combination of paragraphs (i) and (ii); and

- (13) evidence that the aircraft is in a condition for safe operation; and
 - (14) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) The flight manual limitation data required by paragraph (a)(8) must originate from—
- (1) the manufacturer's data or military operating manuals acceptable to the Director; or
 - (2) data accepted by a foreign civil airworthiness authority; or
 - (3) data generated from a flight evaluation conducted under a *special category—experimental* airworthiness certificate issued for the aircraft; or
 - (4) a combination of paragraphs (1), (2), and (3).
- (c) A flight evaluation required by paragraphs (a)(12), and (b)(3) must be conducted—
- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
 - (2) by a test pilot approved for the purpose under rule 19.405.
- (d) An applicant for the grant of a *special category—limited* airworthiness certificate for an aircraft that has a *special category—experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(6), (a)(9), (a)(11), and (a)(12) unless requested by the Director, if—
- (1) the information provided under paragraph (a)(2) includes the registration marks for the aircraft; and
 - (2) the maintenance programme required under rule 91.605(b)(2) includes the details required under rule 91.607(d) and (e).

The following new rule is inserted after new rule 21.203

21.205 Placard for special category aircraft

An aircraft that is issued with a *special category* airworthiness certificate must have a legible placard with the following wording, or other similar wording acceptable to the Director, installed in the aircraft and in clear view of each passenger—

“Warning

This is a *Special Category* — (*Subcategory*) aircraft and does not meet the New Zealand Civil Aviation airworthiness standards for a standard category aircraft to carry passengers on an air transport operation.

Passengers fly in this aircraft at their own risk.”

The heading Subparts I and J – Reserved is revoked and the following new Subpart I is inserted

Subpart I — Special Flight Permits

21.251 Applicability

This Subpart prescribes rules governing the issue of a special flight permit for an aircraft.

21.253 Special flight permit categories

The following special flight permits for an aircraft are granted by the Director under section 9 of the Act in accordance with the applicable requirements of this Subpart:

- (1) *special flight permit:*
- (2) *special flight permit—continuing authorisation.*

21.255 Application for special flight permit

An applicant for the grant of a special flight permit must complete 1 of the following forms as appropriate and submit it to the Director with a payment of the application fee prescribed by regulations made under the Act—

- (1) form CAA 24021/07 for a *special flight permit*;
- (2) form CAA 24021/15 for a *special flight permit—continuing authorisation*.

21.257 Conditions for issue of special flight permit

(a) The Director may issue a *special flight permit* for an aircraft if the Director is satisfied that—

- (1) the applicable certification requirements under this Subpart are met; and
- (2) in spite of any failure of the aircraft to meet applicable airworthiness and maintenance requirements prescribed in this Part or any other civil aviation rule, the level of safety is adequate for any of the following purposes:
 - (i) flying the aircraft to a base where maintenance is to be performed, or to a point of storage;
 - (ii) flight testing of a new aircraft by the holder of a manufacturing organisation certificate issued in accordance with Part 148;
 - (iii) evacuating the aircraft from an area of impending danger.

(b) The Director may issue a *special flight permit—continuing authorisation* for an aircraft type if the Director is satisfied that the applicable certification requirements under this Subpart are met and the level of safety is adequate for the purposes for which an aircraft is to be operated.

(c) The Director may specify in a special flight permit the purpose of the permit and any associated conditions and limitations for the operation of the aircraft.

21.259 Duration of special flight permit

(a) A *special flight permit* for an aircraft remains in force for the period specified in the permit if the aircraft remains a New Zealand registered aircraft, unless the permit is suspended or revoked by the Director.

(b) A *special flight permit—continuing authorisation* for an aircraft type remains in force for the period specified in the permit unless the permit is suspended or revoked by the Director.

Special Flight Permit Requirements

21.261 Application for special flight permit

An applicant for the grant of a *special flight permit* for an aircraft must provide the Director with—

- (1) details of—
 - (i) the purpose of the flight; and
 - (ii) the proposed itinerary; and
 - (iii) the crew members required to operate the aircraft and its equipment; and
 - (iv) any non-compliance with any applicable airworthiness or maintenance requirement; and
 - (v) any restriction that may be necessary for the safe operation of the aircraft; and
- (2) any other information the Director may require; and
- (3) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and an approved form of aircraft marking; and

- (4) evidence that the aircraft is identified by a means specified in Subpart Q.

21.263 Application for special flight permit—continuing authorisation

An applicant for the grant of a *special flight permit—continuing authorisation* for an aircraft type must provide the Director with—

- (1) a statement to confirm that the operation of any aircraft under the special flight permit is for the purpose of flight testing under a manufacturing organisation certificate issued in accordance with Part 148; and
- (2) details of the aircraft type; and
- (3) details of the manufacturing organisation’s procedures for ensuring that each flight test is carried out safely; and
- (4) any other information the Director may require.

The following new heading, Subpart J — Reserved, is inserted after rule 21.263

Subpart J — Reserved

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

Appendix A

Transitional Arrangements

- (a) A certificate of type approval that was issued for a standard category aircraft under regulation 163 of the Civil Aviation Regulations 1953 before 1 July 1995, and is in force on 3 December 2009 is deemed to be a standard category type certificate for the purpose of this Part.
- (b) A certificate of type approval that was issued for an agricultural or restricted category aircraft under regulation 163 of the Civil Aviation Regulations 1953 before 1 July 1995, and is in force on 3 December 2009 is deemed to be a restricted category type certificate for the purpose of this Part.

(c) If approved by the Director, aircraft of a type and model issued with a certificate of airworthiness under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 is deemed to have a type acceptance certificate in the same category for the purpose of this Part.

(d) If approved by the Director, an engine type and model, and a propeller type and model that is fitted to a New Zealand registered aircraft that—

- (1) has a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate that was issued before 1 March 2007 and is valid on 3 December 2009; or
- (2) is deemed to have a *standard category* airworthiness certificate under paragraph (e), or a *restricted category* airworthiness certificate under paragraph (f) and the deemed certificate is valid on 3 December 2009—

is deemed to have a type acceptance certificate for the purpose of this Part.

(e) A standard category certificate of airworthiness for an aircraft that was issued under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a *standard category* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the certificate of airworthiness.

(f) An agricultural or restricted category certificate of airworthiness for an aircraft that was issued under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a *restricted category* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the certificate of airworthiness.

(g) A permit to fly that was issued for an Amateur-built aircraft under regulation 161A of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a special category—*experimental* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the permit to fly.

Consultation Details

(This statement does not form part of the rules contained in Part 21. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 07-03 Special Category Aircraft, containing the proposed rules for Part 21 and other consequential rule amendments was issued for public consultation under Docket 5/CAR/2 on 26 October 2006.

A period of 41 days was allowed for comment on the proposed rule. A total of seven responses to the NPRM were received.

The purpose of NPRM 07-03 was to:

- Establish appropriate subcategories for special category airworthiness certificates.
- Amend Part 1 to include definitions and abbreviations used in the operating rules that are not currently included in Part 1.
- Amend Part 21 to mandate the change establishing subcategories to the special category airworthiness certificate.
- Amend Part 43 to reflect changes to maintenance requirements for aircraft certificated in the special category.
- Amend Part 66 to enable the holder of a certificate of maintenance approval to certify a release to service on aircraft with a special category airworthiness certificate.
- Amend Part 91 to incorporate the operating limitations for special category aircraft, VFR fuel requirements.
- Amend Part 91 to address ejection seats and explosive devices fitted to aircraft.
- Amend Part 91 to address maintenance programme requirements for special category aircraft.

- Amend Part 91 to introduce a Review of Airworthiness with conditions for special category aircraft.

A copy of the NPRM was sent to:

The Part 21 PWG industry group

Ministry of Transport.

The NPRM was also published on the CAA website.

Submissions were received from a helicopter operator, aviation organisations, a regulatory authority, an engineering organisation and individuals. A total of seven submissions were received. Of these, 5 submissions were from organisations, and 2 from individuals.

The submissions generally fell into four areas:

- Objections to the proposal to limit special category helicopters from being used for helicopter external load operations under Part 133 and for agricultural aircraft operations under Part 137.
- Comments on risk management.
- Comments on Transition costs.
- Comments on Special category certification requirements.

Summary of Submissions and CAA Responses

Limitation on Special category aircraft operating on Part 133 or Part 137 operations

Four submissions were received objecting to the proposal that certain special category aircraft would be prevented from carrying out Part 133 or Part 137 operations. The submissions were focused on the prohibition of helicopters.

One submitter commented on the NPRM proposal to prohibit the use of ex-military helicopters for helicopter external load operations under Part 133 and for agricultural aircraft operations under Part 137. The submitter makes the point that if the flight manual, operational limitations, and component history is available and understood by an

operator and an appropriate maintenance regime be established (preferably with OEM or other organisation able to provide qualified technical engineering data and support) that such operations could and should be permitted.

One submitter commented that instead of a blanket ban on Part 133 and Part 137 operations, the proposed use of an ex-military helicopter for these types of operation should be considered on its merits.

One submitter commented that the reasons outlined in the NPRM for prohibiting the use of ex-military helicopters for any operation under Part 133 or Part 137 appear to be based on airworthiness factors. The submitter commented that a blanket ban with no provision to approach the Director for approval did not seem to follow the general intent of the rule change. The submitter also commented “that any operation of an aircraft outside what is deemed to be acceptable to the CAA is not supported and CAA should consider the opportunity for operators to seek approval from the Director for Part 133 and Part 137 operations on a case-by-case basis”.

One submitter was disappointed to see what they considered to be an arbitrary imposition of the operating limitations relating to operations under Part 133 and Part 137.

CAA Response

In March 2006 the Director issued a prohibition notice to prohibit the operation or use of New Zealand registered aircraft issued with a Special Category Airworthiness Certificate on external load operations.

The proposed rules reflect the intent of the Director’s prohibition notice.

The CAA view is that Special Category aircraft are, by definition, not type certificated and, therefore, have not been shown to meet a comprehensive code of airworthiness as mandated by ICAO for the issue of an airworthiness certificate. Therefore, as in most other countries, operation of such aircraft in the Special Category or similar is a privilege. The CAA view is that the only legitimate purpose for Special category aircraft is for recreational use (other than the special case framework proposed under Part 115). Under rule 91.105 Special category aircraft have never been allowed to be used for the carriage of

persons or goods for hire or reward operations, and this was even more clearly spelled out in the previous Regulations. The CAA is not aware of any other recognised country which allows special category aircraft to be used for hire or reward operations (outside the specialised type of operation envisioned by Part 115).

Management of risk

Three submissions were received regarding the management of risk.

One submitter commented that there should be provision for a risk analysis to be carried out to allow an operator to present his or her aircraft's specifications and limitations together with the intended maintenance schedule.

One submitter suggested that if an aircraft is properly maintained and operated, this in itself will help to mitigate risk.

One submitter comments that the mitigation of risk, paralleling Part 135 and allowing fixed-wing aircraft to carry 10 people including the pilot is supported however, the figure for 5 persons for helicopters, instead of 10 persons as for fixed-wing, is curious. The submitter questions the decision for this lower figure and suggests that it might be better to use some form of individual risk assessment based on submissions from the operator.

CAA Response

In conjunction with the Proposed Part 115 Adventure Aviation Rule, substantial work has been done on determining the risk profile of Vintage and Ex-Military (includes Helicopters) aircraft over a 10 year period. The results of this exercise indicate that the risk and social cost of accidents is higher than previously thought. CAA has therefore elected to take a cautious approach when applying risk to Special Category Vintage and Ex-Military aircraft.

Regarding the figure of five people in a helicopter, CAA believes that helicopters with more than 5 seats bring the aircraft into a higher level of complexity. For private operations in a Special Category Helicopter the helicopter would be limited to types such as the Kiowa, Scout, Gazelle and Cayuse. For projected Part 115 Adventure Aviation operations the 2+2+1 seat configuration would seem the most practical.

Compliance Costs

One submitter commented that the NPRM makes reference to the costs associated with the administration of transferring certificates. The submitter questions whether any assessment has been made on the costs associated with the assessment and approval of maintenance programmes and the impact that would have on industry operators seeking to transfer certificates. The submitter also questions whether the CAA will have the necessary resources to complete the transfer actions within the nominated transitional period.

CAA Comment

CAA has considered the resources required for transferring certificates and costs will be held to a minimum and subject to the normal hourly charge. As all Special Category aircraft are currently required to have individual maintenance programmes approved by the Director under Part 91, compliance costs related to maintenance programmes will be mainly limited to those aircraft entering the Special category operations.

Special category certification

One submitter questioned whether the drafters of the rule had considered its applicability to aircraft formerly type certificated to civil airworthiness standards, but where the TC has subsequently been withdrawn and is no longer recognised as a valid type for standard or restricted category by a foreign airworthiness authority. The submitter queried whether such an aircraft would be eligible for a special category certificate e.g. ‘limited certification’ as they were probably manufactured in a controlled manufacturing environment.

CAA Comment

Any aircraft that is no longer eligible for Standard or Restricted Categories is eligible for the Special category. Each aircraft will then be assessed individually as to which subcategory it will be eligible for, and can be in the Limited Category if it meets the certification requirements for the Limited category.

Definitions and Abbreviations

The FAA Light Sport Aircraft Rule mentions accepting industry consensus standards. The proposed rule states that only aircraft meeting ASTM airworthiness standards would be accepted. The FAA commented that this statement could be limiting for the CAA as the FAA may elect to accept another standard developed by a different consensus standards organisation in the future.

CAA Comment

CAA agrees with the comment and will amend the proposed rule.

Aircraft Markings 21.193(a)(6), 21.195(a)(6), 21.197(a)(7), 21.199(a)(6), 21.201(e), and 21.203(b)(9)

Two submitters commented on proposed aircraft marking rules for Special category aircraft.

One submitter comments that aircraft markings should adhere to Part 47 to avoid confusion.

One submitter queried why special category aircraft should be eligible to be marked with Police marks and suggested that consideration should be given to removing this as a marking option especially for all special categories but at least 21.203 – limited category.

CAA Comment:

The comments have been considered against the existing Rule Part 47 and it is considered that the current rule is robust enough. The proposed rules will be amended accordingly.

Primary and LSA certification requirements Part 21.199/21.201

One submitter commented that in both of these proposed rules relating to the importation and certification of aircraft to these standards, consideration should be given to a process similar to the ‘Type Acceptance’ process as per Part 21 Subpart B as these aircraft have, in fact, met identified and recognised airworthiness standards. The commenter considered that irrespective of the categorisation of the operating airworthiness certificate in a special category, it may be useful for CAA to consider a type acceptance process for the first of type and to publish those types certified to ease the future importation requirements for additional imported types. The submitter also

recommended that the Primary and LSA standards should be placed into Appendix C.

CAA Comment:

Special category aircraft under the new rule will be subject to a process similar to type acceptance of type certified aircraft. However this will be an internal process and does not need to be documented in the Rule.

Transitional Arrangements, Appendix A

One submitter expressed concern that CAA may not have the resources to be able to meet the tasks in Appendix A over a 12 month transitional period. A longer period is suggested. It is presumed that the overall intent is to place all aircraft (and any future aircraft) into one of the new subcategories.

CAA Comment

CAA believes it has the resources to carry out the tasks in Appendix A over a 12 month period from when the rule amendment comes into force. The Rule is clearly intended to transition all existing Special Category aircraft to the new rule. Unfortunately the Rule change does not affect those legacy aircraft which are still in the Restricted Category. However, with the new Limited subcategory, there will be an incentive to change over as they may now be eligible for Part 115 operations. With regard to the proposed dates of eligibility and compliance in paragraphs (h) and (i) of Appendix A, the proposed rule transition dates in the NPRM will be revised to provide a 12 month compliance period from the date these rule amendments come into force.

Aircraft markings Part 21.195(a)(6) and similar occurrences

One submitter suggested that the use of the digit '1' be replaced by the word 'one'.

CAA Comment:

Legal drafting requirements require the use of figures rather than words in some circumstances.

Special Category Limited – Certification Requirements Part 21.203(b)(1)

Three submitters commented on the proposed certification requirements.

One Submitter comments that the use of terms ‘factory’ and ‘controlled design environment’ may cause problematic interpretations. The submitter commented that it may be prudent to investigate other terminology associated with what is intended here regarding a properly designed, manufactured, and controlled product accepted for military service.

The submitter considered that it may be difficult to establish eligibility because some examples may not have been produced in great numbers, nor in a proper quality controlled environment.

One submitter suggests that the CAA may have to consider publishing clear guidance material on this “*Limited*” subcategory and the assessment procedures. The submitter considered that it will probably be the most contentious and difficult to assess area and will potentially be the category that operators will seek to use for hire or reward activities.

One submitter comments that rule 21.203(b)(5) requires the applicant to ensure continuing airworthiness data relative to the aircraft and installed components is available from a source acceptable to the Director. The submitter asks “what is continuing airworthiness data relative to the aircraft and what are sources acceptable to the Director?” As an example, the submitter comments that the Nanchang CJ-6a is unsupported by the manufacturer in terms of ongoing information, AD’s etc. The submitter considers that that this matter of continuing airworthiness data needs more definition before the proposal is completely acceptable.

CAA Comment:

The CAA must be satisfied that it is aware of any limitations and mandatory maintenance actions applicable to an aircraft type before it can be permitted to fly in New Zealand. This does not necessarily mean direct manufacturer support, but does mean the availability of operating and maintenance documentation and possibly some overseas history. More detailed guidance will need to be provided in Advisory Circulars. The CAA is open to industry input for more specific wording which may

more clearly identify the underlying issues of defining the origins of a limited subcategory aircraft. CAA will consider any input received and determine if it would be more appropriate for inclusion in the rule.

Sport Aircraft Association of New Zealand Inc.

The organisation submitted that the proposed rules are acceptable without change and considered that:

- the revised ‘Special Categories’ will more suitably define the present general mix of applicable aircraft types, origins, and end user/operator requirements:
- the proposed application of the ‘Experimental Category’ is a much more applicable procedure for the use of this term:
- the improved level of compatibility with other countries regulatory definitions should assist when aircraft are relocated overseas and into New Zealand.

CAA Comment:

The CAA notes the Sport Aircraft Association’s support for the proposed rules.

Maintenance required under Part 145 – Rule 43.54

One submitter commented on their support for the proposed amendment in new paragraph (c) to rule 43.54 regarding maintenance required under Part 145.

CAA Comment:

Noted.

Maintenance Records Part 43.307

One submitter commented on their support for the proposed new rule 43.307 regarding maintenance records for replacement parts or components fitted to special category aircraft.

CAA Comment:

Noted.

Release to Service – pressurised and turbine powered aircraft Part 43.309(a)

One submitter believes that, regarding the certification of pressurised aircraft, if an engineer is rated on the aircraft he/she should be able to release it to service. A review of the word between paragraphs (2) and (3) should read ‘or’, not ‘and’.

CAA Comment:

CAA does not agree with the comment. The requirement of this rule is that a person must firstly have a rating on a pressurised standard category aircraft AND then either a rating or a Certificate of Maintenance Approval on a special category aircraft.

Minimum instruments and equipment Part 91.509(e)

One submitter commented that it is unclear why special category aircraft (which have certain hire or reward privileges and carry passengers and are subject to approved maintenance programmes) should be exempted from the requirement to have a time-in-service recorder. The submitter considers that these aircraft are subject to the same potential abuse of maintenance recording which gave rise to the requirement in rule 91.509(b) for specified aircraft to be fitted with time-in-service recorders, and that failure to conduct proper maintenance leading to an aircraft failure has no less significant consequences. The submitter considers that the exception should be deleted.

CAA Comment:

CAA does not agree. It appears that the submitter has misread the proposed rule. The rule only exempts Experimental and Amateur-built aircraft from the requirement and neither of which will be eligible for hire or reward operations.

Special Category airworthiness certificates – operating limitations Part 91.105

One submitter commented that “if the rule provides for some types of special category aircraft to be used for flight training with the Director’s approval, then a similar provision should be made for the Director to approve, on a case-by-case basis, the use of special category helicopters for operations under Parts 133 and 137.”

CAA Comment:

Refer to the previous comment on Special category Operating Limitations regarding Part 133 and Part 137 operations.

Part 91 Appendix A.3

That as Appendix 3 is proposed to be revised as a consequential amendment to add paragraph (b), applicable to ejection seats, ANZES D.E. would like to point out that paragraph (a) of Part 91 A.3 is deficient in that it does not include TSO C127 as an acceptable specification for seats. This specification incorporates the majority of airworthiness standards required to meet FAR 25.562, as required for more recently type certificated Part 25 aircraft. It is proposed that Part 91 A.3 is revised to include TSO C127. In addition, with the recent introduction of EASA, and hence ETSO's, it is proposed that ETSO-C39 and ETSO-C127 be included in Part 91 A.3.

CAA Comment:

The CAA has already accepted seats meeting ETSO-C39 as part of the Air New Zealand 747 upgrade STC. There is currently provision for the CAA to accept alternative specifications under rule 91.503(a). If Air New Zealand were to apply for the recognition of alternative seat standards, this would be assessed by CAA. If accepted, a formal letter of acceptance would be issued, and this would be automatically passed to the Rules Unit to be added at the next appropriate rule amendment. Such an assessment, and therefore Air New Zealand's comment, is outside the scope of this current Part 21 Rule Project.

Appendix A List of Submitters

Air New Zealand Engineering Services
Aviation Industry Association
Federal Aviation Administration
J E McIntyre
J Remacha
Rural Aviation (1963) Ltd
Sport Aircraft Association of New Zealand Inc.