



**WELLINGTON NEW ZEALAND**

**PURSUANT** to Section 28 of the Civil Aviation Act 1990

**I, HARRY JAMES DUYNHOVEN**, Associate Minister of Transport,

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This *5<sup>th</sup>* day of *July* 2004

by **HARRY JAMES DUYNHOVEN**

Associate Minister of Transport

**Civil Aviation Rules**

**Part 91, Amendment 12**

**General Operating and Flight Rules**

*Docket 98/CAR/1304*

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### Consultation Details

**Rule objective**

The objective of amendment 12 to Part 91 is to raise the transition layer for airspace within the New Zealand Flight Information Region by changing the transition altitude from 11 000 feet to 13 000 feet and changing the transition level from flight level 130 to flight level 150.

**Extent of consultation**

A Notice of Proposed Rule Making 99-5 was issued for public comment in September 1999. As a result of comments received to this NPRM, and the need to harmonise airspace terminology with Australia, extend the Director's power to designate transponder mandatory airspace to provide for the more effective use of ACAS, and address consequential amendments to other Parts, a new NPRM 01-04 was issued in October 2003.

Considerable public and industry consultation on various issues had already taken place prior to and during the development of this new NPRM. This consultation included:

- The public consultation that took place on the original NPRM 99-5 issued in 1999, and the consequential meetings and discussions with Gliding New Zealand and Airways Corporation
- The airspace terminology harmonisation discussions that took place with the Civil Aviation Safety Authority Australia over the period December 2000 to July 2001
- Discussions on transponder mandatory airspace during the Part 121 and Part 125 Airborne Collision Avoidance System rules development projects during 2001 and 2002
- The extensive consultation that took place with various aviation user groups and industry representatives during 2001/02 in association with the Airspace Review conducted by the CAA Aeronautical Services Unit.

A Notice of Proposed Rulemaking, NPRM 04-01, containing the proposed re-issue of Part 71 and the revocation of Part 73 together with the consequential amendments to Parts 1, 77, 91, 101, 105, and 172 as

well as the proposal to raise the transition layer for New Zealand airspace was issued for public consultation under Docket 98/CAR/1304 on 16 October 2003.

The publication of this NPRM was notified in the Gazette on 16 October 2003 and advertised in the daily newspapers in the five main provincial centres on 18 October 2003. 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 30 days was allowed for comment on the proposed rule.

### **Summary of comments**

Fourteen written submissions were received on the NPRM. One submission related to the proposal to raise the transition altitude and transition level. This submission did not object to the proposed changes but asked that the effective date of these changes be delayed until after the other changes proposed by NPRM 04-01. As a result no change was made to these proposed amendments to Part 91, except that the effective date for the change to the transition layer has been delayed until 25 November 2004.

The rules were then referred to Parliament's Regulations Review Committee before being signed by the Associate Minister of Transport.

### **Examination of comments**

Comments 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 the existing rules and the insertion of the new rules.

### **Effective date of rule**

Amendment 12 to Part 91 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 91 Amendments

### Subpart C — General Flight Rules

*Rule 91.239 is revoked and the following new rule inserted:*

#### **91.239 Altimeter settings**

(a) A pilot of an aircraft must maintain the cruising altitude or flight level of the aircraft by reference to an altimeter that is set in accordance with the following:

- (1) when operating at or above flight level 150, set altimeter to 1013.2 hPa:
- (2) when operating at or below 13 000 feet, set altimeter to the appropriate area QNH zone setting or aerodrome QNH altimeter setting:
- (3) when operating between 13 000 feet and flight level 150, set altimeter to the appropriate area QNH zone setting as advised by an ATC unit.

(b) A pilot of an aircraft that is ascending or descending must set the altimeter in accordance with the following:

- (1) when ascending above 13 000 feet, set altimeter to 1013.2 hPa:
- (2) when descending through flight level 150, set altimeter to the appropriate area QNH zone setting or aerodrome QNH altimeter setting.

### Subpart D — Visual Flight Rules

*Rule 91.313 is revoked and the following new rule inserted:*

#### **91.313 VFR cruising altitude and flight level**

(a) A pilot-in-command of an aircraft operating within the New Zealand FIR under VFR in level cruising flight at more than 3000 feet AMSL or 1000 feet AGL (whichever is the higher) must, unless

otherwise authorised by an ATC unit, maintain the following altitudes or flight levels:

- (1) when operating at or below 13 000 feet AMSL and—
    - (i) on a magnetic track of 270° clockwise to 089°, any odd thousand foot altitude AMSL plus 500 feet; or
    - (ii) on a magnetic track of 090° clockwise to 269°, any even thousand foot altitude AMSL plus 500 feet:
  - (2) when operating at or above flight level 150, up to and including flight level 275 and—
    - (i) on a magnetic track of 270° clockwise to 089°, any odd flight level plus 500 feet beginning at and including flight level 155; or
    - (ii) on a magnetic track of 090° clockwise to 269°, any even flight level plus 500 feet beginning at and including flight level 165.
- (b) A pilot-in-command of an aircraft operating within the New Zealand FIR under VFR must not maintain level cruising flight—
- (1) at any level between 13 000 feet AMSL and flight level 150 unless otherwise authorised by an ATC unit for flights in controlled airspace; and
  - (2) at any flight level below flight level 160 when an area QNH zone setting is 980 hPa or less.

## Subpart E — Instrument Flight Rules

*Rule 91.425 is revoked and the following new rule inserted:*

### **91.425 IFR cruising altitude or flight level**

(a) A pilot-in-command of an aircraft within the New Zealand FIR operating under IFR in level cruising flight must, unless otherwise authorised by an ATC unit for flights in controlled airspace, maintain the following altitude or flight levels:

- (1) when operating at or below 13 000 feet AMSL and—
    - (i) on a magnetic track of 270° clockwise to 089°, any odd thousand foot altitude AMSL; or
    - (ii) on a magnetic track of 090° clockwise to 269°, any even thousand foot altitude AMSL:
  - (2) when operating at or above flight level 150 up to and including flight level 410 and—
    - (i) on a magnetic track of 270° clockwise to 089°, any odd flight level beginning at and including flight level 150; or
    - (ii) on a magnetic track of 090° clockwise to 269°, any even flight level beginning at and including flight level 160:
  - (3) when operating above flight level 410 and—
    - (i) on a magnetic track of 270° clockwise to 089°, any odd flight level, at 4000 foot intervals beginning at and including flight level 450; or
    - (ii) on a magnetic track of 090° clockwise to 269°, any odd flight level at 4000 foot intervals beginning at and including flight level 430.
- (b) Except as provided in paragraph (c), a pilot-in-command of an aircraft within the New Zealand FIR operating under IFR must not maintain level cruising flight—
- (1) at any level between 13 000 feet AMSL and flight level 150, unless authorised to do so by an ATC unit for flights in controlled airspace; and
  - (2) at any flight level below flight level 160 when the area QNH zone setting is 980 hPa or less; and



- (3) below flight level 160 when operating in IMC within a 20 nm radius encompassing Mount Cook centred on S 43.36.00.0, E 170.09.00.0.

(c) A pilot-in-command of an aircraft within the New Zealand FIR operating under IFR outside controlled airspace may maintain level cruising flight between 13 000 feet AMSL and flight level 150 if the pilot-in-command—

- (1) is unable to operate the aircraft in level cruising flight at or below 13 000 feet AMSL or at or above flight level 150; and
- (2) has established that there is no conflict with other aircraft at the altitude to be flown; and
- (3) has given to the relevant ATS unit prior notification of the altitude to be flown.

## Consultation Details

(This statement does not form part of the rules contained in Part 91. It provides details of the consultation undertaken in making the rules.)

The consultation details relating to amendment 12 to Part 91 are contained in the consultation details of the re-issue of Part 71. The comments and all the background material used in developing the rules are held on the docket and are available to the public. Persons wishing to view the docket should call at the Civil Aviation Authority and ask for docket 98/CAR/1304.