



PURSUANT to Section 28 of the Civil Aviation Act 1990

I, Hon CRAIG FOSS, Associate Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This 12th day of Dec 2016

by Hon Craig Foss

Associate Minister of Transport

A handwritten signature in black ink, appearing to be 'C. Foss', is written over the printed name of the Associate Minister of Transport.

Civil Aviation Rules

Part 91, Amendment 27

General Operating and Flight Rules

Docket 16/CAR/1

Contents

Rule objective.....	3
Extent of consultation.....	3
Summary of submissions.....	3
Examination of submissions.....	3
Insertion of Amendments	3
Effective date of rule.....	4
Availability of rules.....	4
Part 91 General Operating and Flight Rules.....	5
91.105 Special category airworthiness certificates – operating limitations.....	5
91.111 Documents to be carried.....	8
91.229 Right-of-way rules.....	9
91.605 Maintenance programmes and schedules.....	11
Appendix B – Transitional arrangements [<i>Revoked</i>]	16

Rule objective

The objective of amendment 27 to Part 91 is to remove unnecessary references, update document references, revoke an expired transitional provision, clarify the aircraft ‘Right of Way’ 91.229 rule and update and correct rule 91.605.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 16-01, containing the proposed changes to Part 91 and other rules was issued for public consultation under Docket 16/CAR/1 on 2 June 2016.

The NPRM was published on the CAA website and emailed to subscribers of the automatic alert service provided by the CAA.

A period of 27 days was allowed for comment on the proposed rules.

Summary of submissions

Six written submissions and no oral comments were received on the NPRM. These submissions and comments have been considered and as a result a minor and non-controversial amendment is being made to rule 91.605 and two new definitions are being inserted in Part 1 to clarify the definition of “Instrument runway”. Two submissions were received in relation to the proposed amendments to Part 91. One supported the change in the “Right of Way” rule. The other supported the minor amendment to rule 91.605.

A summary of submissions for this NPRM is available on the CAA website.

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

This Part was amended by:

- removing an unnecessary reference in rule 91.105(e);

- updating the reference in relation to radio licences in rule 91.111(4)(i);
- revoking Appendix B; amending rule 91.605(e)(4)(i) to permit ELT testing and inspection in accordance with Part 43 Appendix F within the previous 12 months or aircraft manufacturer's 100 hour inspection or manufacturer's equivalent inspection, whichever is earlier;
- to correct rule 91.605(f); and to clarify which aircraft has right of way when landing and to align rule 91.229 with ICAO standards (Annex 2 to the Convention) in this respect. The effect of the amendment is that an aircraft in the final stages of an approach to landing or landing has right of way;
- to revoke Appendix B.

Effective date of rule

Amendment 27 to Part 91 comes into force on 10 March 2017

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 General Operating and Flight Rules

Replace rule 91.105 with the following rule:

91.105 Special category airworthiness certificates – operating limitations

(a) Except as provided in paragraph (b), a person must not operate an aircraft that has a *special category* airworthiness certificate for the carriage of a person or goods for hire or reward.

(b) Paragraph (a) does not apply to a person operating an aircraft that has a *special category* airworthiness certificate if the carriage of a person is for hire or reward and—

(1) the person being carried is the holder of a flight instructor rating issued by the Director under the Act and Part 61 and—

(i) subject to paragraphs (e), (f)(2)(i), (g)(1), and (j)(2)(i) as appropriate, is giving flight instruction in the aircraft; or

(ii) is giving conversion instruction for an aircraft type rating on the aircraft; or

(2) the person being carried is required to perform a function essential to the operation of the aircraft under paragraph (e); or

(3) the aircraft has a *special category – primary*, *special category – LSA*, or *special category – limited* airworthiness certificate and is operated under the authority of an adventure aviation operator certificate that has been issued by the Director under the Act and Part 115.

(c) Except if taking off or landing, a person must not operate an aircraft that has a *special category* airworthiness certificate over a congested area of a city or town unless the aircraft has been authorised to do so by the Director in writing.

(d) A person operating an aircraft that has a *special category* airworthiness certificate must inform each person carried in the aircraft

of the warning specified in the placard that is required by rule 21.205 to be installed in the aircraft.

(e) A person must not operate an aircraft that has a *special category*—***experimental*** airworthiness certificate for any purpose other than—

- (1) researching and developing new aircraft design concepts, new aircraft equipment, new aircraft installations, new aircraft operating techniques, or new uses for aircraft; or
- (2) showing that the aircraft complies with applicable airworthiness rules; or
- (3) performing a flight evaluation; or
- (4) giving conversion instruction for an aircraft type rating on the aircraft.

(f) A person operating an aircraft that has a *special category*—***exhibition*** airworthiness certificate—

- (1) must operate the aircraft in accordance with the operator statement required by rule 47.55(c) to accompany the certificate of registration for the aircraft; and
- (2) must not operate the aircraft for any of the following purposes:
 - (i) giving flight instruction to a person for the issue of a pilot licence or rating, except for conversion instruction for an aircraft type rating on the aircraft, unless approved by the Director:
 - (ii) performing an agricultural aircraft operation:
 - (iii) performing a helicopter external load operation under Part 133 unless the performance of an external load operation is approved by the Director for participation in an aviation event:

- (iv) the carriage of a person other than a person who is permitted to be carried in accordance with the operator statement required by rule 47.55(c) to accompany the certificate of registration for the aircraft, or who is carried under paragraph (2)(i).
- (g) A person must not operate an aircraft that has a *special category—amateur-built* airworthiness certificate for any of the following purposes:
- (1) giving flight instruction to a person for the issue of a pilot licence or rating, except for conversion instruction for an aircraft type rating on the aircraft, if the person is not the amateur constructor or owner of the aircraft;
 - (2) performing an agricultural aircraft operation;
 - (3) performing a helicopter external load operation under Part 133.
- (h) A person must not operate an aircraft that has a *special category—primary* airworthiness certificate for any of the following purposes:
- (1) performing an agricultural aircraft operation;
 - (2) performing a helicopter external load operation under Part 133.
- (i) A person must not operate an aircraft that has a *special category—LSA* airworthiness certificate to perform an agricultural aircraft operation.
- (j) A person operating an aircraft that has a *special category—limited* airworthiness certificate—
- (1) must operate the aircraft in accordance with the operator statement required by rule 47.55(c) to accompany the certificate of registration for the aircraft; and
 - (2) must not operate the aircraft for any of the following purposes:

- (i) giving flight instruction to a person for the issue of a pilot licence or rating, except for conversion instruction for an aircraft type rating on the aircraft, unless approved by the Director:
- (ii) performing an agricultural aircraft operation:
- (iii) performing a helicopter external load operation under Part 133:
- (iv) the carriage of more than the following number of persons:
 - (A) 10 persons for an aeroplane:
 - (B) 5 persons for a helicopter.

Replace rule 91.111 with the following rule

91.111 Documents to be carried

Except as provided in Parts 103, 104, and 106, a person must not operate an aircraft unless the following documents are carried in the aircraft:

- (1) except if rule 91.101(c) applies, the current airworthiness certificate or a certified copy of the current airworthiness certificate:
- (2) the aircraft flight manual or an equivalent document acceptable to the Director:
- (3) for New Zealand registered aircraft:
 - (i) the technical log required under rule 91.619, unless for aircraft operating under an air operator certificate from a fixed base an alternative means acceptable to the Director is used to inform the pilot of the maintenance status of the aircraft:
 - (ii) a completed form CAA 2173 Weight and Balance Data or equivalent:

- (iii) a completed form CAA 2129 Aircraft Radio Station Equipment Approval Levels:
- (4) for New Zealand registered aircraft operating outside of New Zealand:
 - (i) the General User Radio Licence for Aeronautical Purposes issued by the Ministry of Business, Innovation and Employment:
 - (ii) the current certificate of registration for the aircraft, or a certified copy of the certificate of registration:
 - (iii) evidence that each flight crew member holds an applicable and current flight crew member licence and medical certificate:
- (5) for foreign aircraft operating within New Zealand:
 - (i) the current certificate of registration for the aircraft, or a certified copy of the certificate of registration:
 - (ii) written evidence that the aircraft complies with the requirements of rule 91.803(a)(2) regarding aircraft noise level compliance, and rule 91.807(2) regarding engine emission compliance:
 - (iii) evidence that each flight crew member holds an applicable and current flight crew member licence and medical certificate:

Replace rule 91.229 with the following rule:

91.229 Right-of-way rules

- (a) A pilot of an aircraft—
 - (1) must, when weather conditions permit, regardless of whether the flight is performed under IFR or under VFR, maintain a visual lookout so as to see and avoid other aircraft; and

- (2) that has the right of way, must maintain heading and speed, but is not relieved from the responsibility of taking such action, including collision-avoidance manoeuvres based on resolution advisories provided by ACAS, that will best avert collision; and
 - (3) that is obliged to give way to another aircraft, must avoid passing over, under, or in front of the other aircraft, unless passing well clear of the aircraft, taking into account the effect of wake turbulence.
- (b) A pilot of an aircraft must, when approaching another aircraft head-on, or nearly so, alter heading to the right.
- (c) A pilot of an aircraft that is converging at approximately the same altitude with another aircraft that is to its right, must give way, except that the pilot operating—
- (1) a power-driven heavier-than-air aircraft must give way to airships, gliders, and balloons; and
 - (2) an airship must give way to gliders and balloons; and
 - (3) a glider must give way to balloons; and
 - (4) a power-driven aircraft must give way to aircraft that are towing other aircraft or objects; and
 - (5) all aircraft must give way to parachutes.
- (d) A pilot of an aircraft that is overtaking another aircraft must, if a turn is necessary to avoid that aircraft, alter heading to the right, until the overtaking aircraft is entirely past and clear of the other aircraft.
- (e) For the purpose of paragraph (d), an overtaking aircraft is an aircraft that approaches another from the rear on a line forming less than 70 degrees with the plane of symmetry of the latter.
- (f) A pilot of an aircraft in flight or on the surface must—
- (1) give way to any aircraft that is in the final stages of an approach to land or is landing; and

- (2) when the aircraft is one of 2 or more heavier-than-air aircraft approaching an aerodrome for the purpose of landing, give way to the aircraft at the lower altitude; and
 - (3) not take advantage of right-of-way under subparagraph (2) to pass in front of another aircraft, which is on final approach to land, or overtake that aircraft.
- (g) A pilot of an aircraft must not take off if there is an apparent risk of collision with another aircraft.
- (h) A pilot of an aircraft taxiing on the manoeuvring area of an aerodrome must—
- (1) give way to aircraft landing, taking off, or about to take off; and
 - (2) when 2 aircraft are approaching head on, or nearly so, stop or, where practicable, alter course to the right so as to keep well clear of the other aircraft; and
 - (3) when 2 aircraft are on a converging course, give way to other aircraft on the pilot's right; and
 - (4) when overtaking another aircraft, give way and keep well clear of the aircraft being overtaken.
- (i) A pilot of an aircraft must give way to any aircraft that is in distress.

Replace rule 91.605 with the following rule:

91.605 Maintenance programmes and schedules

- (a) Subject to paragraphs (b), (c), and (d), the operator of an aircraft must maintain the aircraft under—
- (1) a maintenance programme approved under Part 115; or
 - (2) a maintenance programme approved under Part 119; or

- (3) a maintenance programme approved under rule 91.607; or
 - (4) the manufacturer's maintenance schedule; or
 - (5) if the aircraft is powered by a piston engine and has a MCTOW of 2730 kg or less, a maintenance programme that is acceptable to the Director and includes at least the following:
 - (i) details of the responsibilities and standards for maintenance of the aircraft in accordance with the applicable rule requirements;
 - (ii) details of pre-flight checks;
 - (iii) details of scheduled maintenance checks and inspections.
- (b) The operator of an aircraft that is—
- (1) used for air operations under the authority of an air operator certificate issued by the Director under the Act and Part 119 must maintain the aircraft under the maintenance programme that is required by Part 119 for the issue of the air operator certificate; or
 - (2) used for adventure aviation operations under the authority of an adventure aviation operator certificate issued by the Director under the Act and Part 115 must maintain the aircraft under the maintenance programme that is required by Part 115 for the issue of the adventure aviation operator certificate; or
 - (3) issued with a special category airworthiness certificate must maintain the aircraft under a valid maintenance programme approved under rule 91.607 for the holder of the certificate of registration for the aircraft.
- (c) If the manufacturer's maintenance schedule referred to in subparagraph (a)(4) does not provide for an aircraft that operates for less than 100 hours of time in service per year, the operator must ensure that

the manufacturer's 100-hour inspection or an equivalent inspection is completed within the preceding 12 months.

(d) If the Director determines that a manufacturer's maintenance schedule referred to in subparagraph (a)(4) is deficient, the Director may require the operator to submit a maintenance programme for approval under rule 91.607.

(e) Except as provided in paragraph (f) and rule 91.611, the operator of an aircraft must not operate the aircraft unless—

- (1) every aircraft radio station that is required to be installed in the aircraft under Subpart F for operations under IFR has been tested and inspected under Part 43, Appendix B within the preceding 24 months; and
- (2) every static pressure system, altimeter instrument, or automatic pressure altitude reporting system that is required to be installed in the aircraft under Subpart F, or required for an SSR transponder installed in the aircraft, has been tested and inspected under Part 43, Appendix D—
 - (i) within the preceding 24 months; and
 - (ii) following any opening and closing of the static pressure system, except for the use of system drain and alternate static pressure valves, or where self-sealing disconnect coupling is provided; and
 - (iii) following installation of, or maintenance on, the automatic pressure altitude reporting system where data correspondence error could be introduced; and
- (3) every SSR transponder that is required to be installed in the aircraft under Subpart F has been tested and inspected, under Part 43, Appendix E within the preceding 24 months; and
- (4) every ELT that is required to be installed in the aircraft under Subpart F—
 - (i) has been tested and inspected under—

- (A) Appendix F of Part 43 within the previous 12 months or aircraft manufacturer's 100 hour inspection or a manufacturer's equivalent inspection, whichever is earlier, or
- (B) for an aircraft maintained under a maintenance programme required by rule 119.63, the scheduled intervals, which must not be more than 12 months, as described in the approved maintenance programme; and
 - (ii) has been tested in accordance with the manufacturer's instructions within the previous 24 months; and
 - (iii) has the battery replaced in accordance with the manufacturer's instructions, when the life of the battery, as established by the manufacturer, has expired; and
- (5) every compass that is required to be installed in the aircraft under Subpart F has been calibrated—
 - (i) within the preceding 24 months; and
 - (ii) following any out of phase event that may affect the calibration of the compass unless the aircraft manufacturer specifies otherwise; and
- (6) every first aid kit that is required to be installed in the aircraft under Subpart F has been inspected—
 - (i) within the preceding 12 months to ensure that appropriate quantities of items are included and time-expired items are replaced; and
 - (ii) after every reported use to ensure that appropriate quantities of items are included; and
- (7) every portable fire extinguisher that is required to be installed in the aircraft under Subpart F has been inspected for condition and tested in accordance with the

- manufacturer's instructions or other equivalent instructions acceptable to the Director within the preceding 12 months; and
- (8) all flotation equipment that is required to be installed in the aircraft under Subpart F has been inspected for condition and tested in accordance with the manufacturer's instructions or other equivalent instructions acceptable to the Director within the preceding 12 months; and
 - (9) the aircraft's empty weight and centre of gravity is re-established if—
 - (i) changes have been made to the aircraft that could affect the empty weight and centre of gravity; or
 - (ii) the operator has any reason to suspect that the information in the aircraft's flight manual is no longer accurate; and
 - (10) for a powered aircraft with a maximum certificated seating capacity of 4 or more seats, the aircraft has been weighed within the preceding 10 years.
- (f) The operator of an aircraft that is maintained under a maintenance programme referred to in subparagraphs (a)(1), (a)(2) or (a)(3) is not required to comply with any particular requirement in paragraph (e) if the maintenance programme for the aircraft includes a test, inspection, or other action that is equivalent to the particular requirement in paragraph (e).
- (g) The operator of an aircraft must—
- (1) identify in the maintenance logbook for the aircraft which maintenance option under paragraph (a) is to be used for the aircraft; and
 - (2) if the maintenance programme is one that is approved under Part 119 or approved under rule 91.607, identify in the maintenance programme the person who is responsible for

scheduling the maintenance that is required in the programme; and

- (3) if changing from the maintenance programme or option identified under subparagraph (g)(1) to another programme or option under paragraph (a), schedule the inspections required by the new programme or schedule, to provide for the continued airworthy condition of the aircraft; and
- (4) provide a copy of the applicable maintenance programme or schedule to the person who performs maintenance on the aircraft, and upon request to the Director.

(h) The tests and inspections required by subparagraphs (e)(1), (e)(2)(i), (e)(3), and the 12 month test and inspection requirement in subparagraph (e)(4)(i)(A) do not need to be performed if—

- (1) the aircraft has been inspected for the grant of an airworthiness certificate under section 9 of the Act and Part 21 within the preceding 12 months; and
- (2) the applicable equipment was installed in the aircraft when the inspection specified in subparagraph (h)(1) was performed.

Revoke Appendix B:

Appendix B [*Revoked*]