



**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 101, Amendment 1**

**Gyrogliders and Parasails; and Unmanned Balloons,  
Kites, Rockets, and Model Aircraft – Operating Rules**

*Docket 98/CAR/1304*

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## **Rule objective**

The objective of amendment 1 to Part 101 is to:

- amend various rules as a consequence of the re-issue of Part 71 and the revocation of Part 73
- amend 101.205 to allow flexibility to operate a model aircraft above 400 feet at uncontrolled aerodromes.

The consequential amendments arising from the re-issue of Part 71 and the revocation of Part 73 include:

- changing the references to Part 73 to read Part 71
- deleting the reference to conditional areas
- changing the references to military operational areas to read military operating areas.

## **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 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. Two written submission was received in relation to Part 101.

One submission appreciated the amendment regarding operation of model aircraft above 400 feet at uncontrolled aerodromes, and sought clarification in respect to 101.207(2)(iv) regarding the provision of the number and type details of model aircraft required for the NOTAM.

The other submission asked how the NOTAM Office will know what model aircraft associations have been approved, and that to be consistent with other rules the wording of 101.205(2) should read ‘an authorisation from the applicable ATC unit’.

These submissions and comments have been considered and as a result the requirements in 101.207(2)(iv) have been deleted, and 101.205(2) has been amended as suggested.

The rules as amended 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 existing rules and the insertion of new rules.

### **Effective date of rule**

Amendment 1 to Part 101 comes into force on 5 August 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 101 Amendments

*Rule 101.7 is revoked and the following new rule inserted:*

### **101.7 Restricted, military operating, and danger areas**

(a) A person must not operate a moored balloon, kite, free balloon, rocket, model aircraft, gyroglider, or parasail within a restricted area designated under Part 71 unless the person has approval to do so from the administering authority responsible for the restricted area.

(b) A person must not operate a moored balloon, kite, free balloon, rocket, model aircraft, gyroglider, or parasail within a military operating area designated under Part 71 unless the person has approval to do so from the administering authority responsible for the military operating area.

(c) A person must not operate a gyroglider or parasail within a danger area designated under Part 71 unless the person has established that the activity associated with the danger area will not affect the safety of the gyroglider or parasail.

*Rule 101.9 is revoked and the following new rule inserted:*

### **101.9 Low flying zones**

A person must not operate a moored balloon, kite, free balloon, rocket, model aircraft, gyroglider, or parasail within a low flying zone designated under Part 71.

## Subpart B — Moored Balloons and Kites

*Rule 101.57 is revoked and the following new rule inserted:*

### **101.57 Airspace**

(a) Except for a shielded operation, each person operating a moored balloon or kite at a height of more than 400 feet AGL must—

- (1) operate in a danger area designated for that purpose under Part 71; or

- (2) operate in accordance with the restrictions specified in paragraph (b).
- (b) Each person operating a moored balloon or kite at a height of more than 400 feet AGL outside of a danger area must ensure that—
- (1) the balloon or kite remains more than 4 km from any aerodrome boundary; and
  - (2) the balloon or kite remains within Class G airspace; and
  - (3) the weight of the kite does not exceed 15 kg; and
  - (4) the balloon or kite remains at least 400 feet vertically below cloud; and
  - (5) the horizontal visibility is not less than 4 km; and
  - (6) they provide the following information to the New Zealand NOTAM office at least 24 hours before the operation:
    - (i) their name, address and telephone numbers:
    - (ii) the date, time and duration of the operation:
    - (iii) a brief description of the moored balloon or kite, including size and predominant colour:
    - (iv) the weight of the moored balloon or kite:
    - (v) the height to which the moored balloon or kite will be operated.

## **Subpart E — Model Aircraft**

*Rule 101.205 is revoked and the following new rule inserted:*

### **101.205 Aerodromes**

- (a) With the exception of a control line model aircraft, a person must not operate a model aircraft on or within 4 km of—
- (1) an uncontrolled aerodrome, unless—

- (i) the operation is undertaken in accordance with an agreement with the aerodrome operator; and
  - (ii) in the case of a free flight model aircraft, the aircraft is launched downwind of an active runway; and
  - (iii) in the case of a radio controlled model aircraft, the aircraft is not operated at a height of more than 400 feet AGL, unless the operator has been approved by the Director to operate above 400 feet AGL, and each pilot has an observer in attendance while the model aircraft is active in the air; and
- (2) a controlled aerodrome, unless it is operated in accordance with an authorisation from the relevant ATC unit; and
- (3) any aerodrome, unless—
- (i) the person is the holder of, or is under the direct supervision of the holder of, a pilot qualification issued by a model aircraft association approved by the Director; or
  - (ii) the person is under the direct supervision of a person appointed to give instruction in the operation of radio controlled model aircraft by a model aircraft association approved by the Director.
- (b) A person must not operate a model aircraft—
- (1) on or over any active movement area of an aerodrome; or
  - (2) on or over any active runway strip area.

***Rule 101.207 is revoked and the following new rule inserted:***

**101.207 Airspace**

A person operating a radio controlled model aircraft more than 4 km from an aerodrome boundary and above 400 feet AGL must ensure that the operation remains clear of Class C, D, or E airspace and must—



- (1) operate in a danger area designated for that purpose under Part 71; or
- (2) ensure that, at least 24 hours before the operation, a person authorised by a model aircraft association approved by the Director gives to the New Zealand NOTAM Office the following information:
  - (i) the name, address, and telephone number of the model aircraft operator:
  - (ii) the location of the proposed operation:
  - (iii) the date and time and duration of the proposed operation:
  - (iv) the maximum height AGL proposed for model aircraft operation.

## **Consultation Details**

(This statement does not form part of the rules contained in Part 101. It provides details of the consultation undertaken in making the rules.)

The consultation details relating to amendment 1 to Part 101 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.