



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

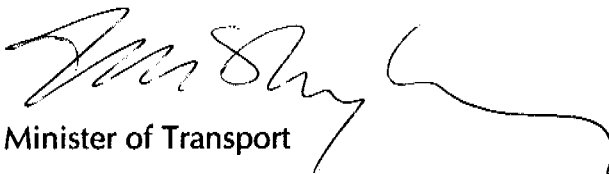
I, JENNIFER MARY SHIPLEY, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *20th* day of *February* 1997

by **JENNIFER MARY SHIPLEY**


Minister of Transport

Civil Aviation Rules

Part 106

Hang Gliders – Operating Rules

Docket Nr. 1063

Civil Aviation Rules
Part 106

Hang Gliders – Operating Rules

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 106 is to specify the additions, and exceptions, to Part 91 for the operation of hang gliders.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process. The Register was identified as the Regulatory Review Consultative Group.

A draft of Part 106 was developed by the rules rewrite team in consultation with members of the consultative group. An informal draft was published and distributed on 30 August 1994 and a period of informal consultation followed. This culminated in the issue of Notice of Proposed Rulemaking 95-1 under Docket 1063 on 29 March 1995.

The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 29 March 1995. The notice was mailed to members of the Regulatory Review Consultative Group and to other parties, including overseas Aviation Authorities and organisations, who were considered likely to have an interest in the proposal.

A period of 64 days was allowed for comment on the proposed rule.

The submissions and verbal comments were considered and where appropriate the proposed rules amended to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 106 comes into force on 1 April 1997.

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Subpart A – General

106.1 Applicability

This Part prescribes—

- (1) rules, additional to Part 91, for the operation of hang gliders; and
- (2) exceptions from Part 91, for the operation of hang gliders.

106.3 Definitions

In this Part—

Certificate, in relation to a personnel qualification required by this Part, means a certificate or rating issued by—

- (1) the holder of a delegation from the Director for that purpose; or
- (2) until 31 March 1999, the New Zealand Hang Gliding Association.

106.5 Pilot requirements

Each pilot of a hang glider shall—

- (1) be a bona fide member of a hang gliding organisation; and
- (2) hold an appropriate hang glider pilot certificate; and
- (3) comply with the privileges and limitations of their certificate and any applicable ratings; and
- (4) comply with the operational standards and procedures of the hang gliding organisation.

106.7 Aircraft airworthiness

The requirements of 91.101(a)(1) shall not apply to a person operating a hang glider.

106.9 Registration

(a) The requirements of 91.107 shall not apply to a person operating a hang glider.

(b) A pilot shall not operate a hang glider unless they are—

- (1) registered by a hang gliding organisation in accordance with the procedures authorised by their aviation recreation organisation certificate; and

- (2) identified, in accordance with the procedures authorised by the hang gliding organisation's aviation recreation organisation certificate, by—
- (i) a hang glider identification mark; or
 - (ii) a pilot identification number.

106.11 Aircraft documents

The requirements of 91.109 and 91.111 shall not apply to a person flying a hang glider.

106.13 Fuel requirements

The requirements of 91.305 shall not apply to a person flying a hang glider.

106.15 Aircraft equipment

- (a) The requirements of Part 91, Subpart F shall not apply to a person operating a hang glider.
- (b) Each person operating a hang glider shall be equipped with an altimeter that shows height above the ground to an accuracy of 100 feet.

106.17 Aircraft maintenance

- (a) The requirements of Part 91, Subpart G shall not apply to a person operating a hang glider.
- (b) Each person operating a hang glider shall ensure that the hang glider has a current warrant of fitness issued by a hang gliding organisation in accordance with the procedures authorised by their certificate.

106.19 Safety equipment

Each pilot and passenger of a hang glider shall wear a—

- (1) serviceable rigid protective helmet conforming to the standards of a hang gliding organisation; and
- (2) a harness of a type conforming to the standards of a hang gliding organisation.

Subpart B – Flight Rules

106.51 Right-of-way rules

- (a) Notwithstanding 91.229(b), a pilot of a hang glider soaring on a ridge, where the ridge is to the right of the hang glider, is not required to turn right when approaching another hang glider head on.

(b) Notwithstanding 91.229(d), a pilot of a hang glider overtaking another hang glider soaring on a ridge shall pass on the ridge side of the hang glider being overtaken.

106.53 Clearance below cloud

Notwithstanding 91.301(a)(2), a person shall fly a hang glider no closer than 500 feet below cloud up to a maximum altitude of 11 000 feet AMSL in—

- (1) Class G airspace; or
- (2) Class E airspace, except in transponder-mandatory airspace.

106.55 Minimum altitude

Notwithstanding 91.311(a)(3), a person may fly a hang glider below a height of 500 feet for ridge soaring, if such flight does not hazard persons or property on the ground.

106.57 Conditions for flight

A person shall not fly a hang glider at night.

106.59 Launch sites

Each pilot of a hang glider shall only launch the hang glider from a launch site authorised by a hang gliding organisation.

106.61 Cruising levels

The requirements of 91.313(a)(1) and 91.239(a) shall not apply to a person flying a hang glider.

106.63 Aerobatic flight

The requirements of 91.701(b) and (c) shall not apply to a person flying a hang glider.

106.65 Callsigns

Each pilot of a hang glider shall use their pilot identification number for all two-way radio communications with ATS.

CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 106. It provides details of the consultation undertaken in making the rules.)

Background to the Rules

In April 1988 the Swedavia-McGregor Report on civil aviation regulation in New Zealand was completed. Following the recommendations contained in that report, the Civil Aviation Authority (CAA) (formerly the Air Transport Division of the Ministry of Transport) commenced a complete review of all existing civil aviation legislation. The existing legislation that is still appropriate is being rewritten into the new *Rules* format. New legislation is being generated where necessary for the areas not presently covered.

Considerable research was carried out to determine the format for the new legislation. It was decided that the legislative framework should incorporate the advantages of the regulatory system of the Federal Aviation Administration (FAA) of the United States of America and the system being developed by the European Joint Aviation Authorities and published as Joint Aviation Requirements (JAR).

The new rules are structured in a manner similar to the Federal Aviation Regulations (FAR) of the FAA, and aim to achieve maximum harmonisation whilst allowing for national variations. Close co-operation is also being maintained with the Civil Aviation Safety Authority of Australia to ensure maximum harmonisation with their regulatory code.

New Zealand's revised legislation is published as Civil Aviation Rules (CAR) which is divided into Parts. Each Part contains a series of individual rules which relate to a particular aviation activity.

Accompanying most Parts will be at least one associated Advisory Circular (AC) which will expand, in an informative way, specific requirements of the Part and acceptable means of compliance. For instance an AC may contain examples of acceptable practices or procedures which would meet the requirements of a particular rule.

The CAR numbering system is based on the FAR system. As a general principle the subject matter of a rule Part will be the same or similar to the FAR although the title may differ to suit New Zealand terminology. Where a CAR Part does not readily equate with a FAR number code, a number has been selected that does not conflict with any existing FAR Part.

The objective of the new rules system is to strike a balance of responsibility between the State authority and those who provide services and exercise privileges in the civil aviation system. This balance must enable the State

authority to set standards for, and monitor performance of, aviation participants whilst providing the maximum flexibility for the participants to develop their own means of compliance.

Section 12 of the Civil Aviation Act 1990 requires participants in the aviation system to carry out their activities safely and in accordance with the relevant prescribed safety standards and practices. Section 28 of the Act allows the Minister to make ordinary rules.

Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on the proposed new rules, the Authority issued Notice of Proposed Rule Making 95-1 under Docket Number 1063 on 29 March 1995. This Notice proposed the introduction of Civil Aviation Rules Part 106 to provide a regulatory safety boundary for the operation of hang gliders.

Supplementary Information

All comments made on the Notice of Proposed Rule Making are available in the rules docket for examination by interested persons. A report summarising each substantive contact with the Civil Aviation Authority contact person concerning this rule making has been filed in the docket.

Availability of the Document

Any person may view a copy of these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

Summary of Comments on Docket Number 1063 NPRM

The New Zealand Hang Gliding and Paragliding Association Incorporated made submissions throughout the consultative process, and worked within the rules drafting process, culminating in an agreement on the final draft.

Civil Aviation Authority notes the contribution made by the NZHGPA in developing the agreed final draft of this Part 106.

Airways Corporation of New Zealand Limited said they had no comment to make.

Civil Aviation Authority notes this.

Auckland Hang Gliding & Paragliding Club said "it is hoped that through common understanding we may be able to evolve a regulatory structure which will be effective in eliminating, or at least reducing" "a few long-term problems".

Civil Aviation Authority agrees with this comment.

Auckland Hang Gliding & Paragliding Club made a full submission on gradings and surveys of take-off and landing sites, saying "It is highly preferred that site gradings/surveys, are mandatory on all T.O's, thereby providing a safety guide to all HG/PG pilots".

Civil Aviation Authority agrees and has drafted the final rule to require all take-offs to be from launch sites authorised by a hang gliding organisation.

Auckland Hang Gliding & Paragliding Club made a submission on improving some areas of instructors' knowledge.

Civil Aviation Authority response is that this matter will be addressed in the CAR Part containing hang-gliding training requirements.

Auckland Hang Gliding & Paragliding Club made a case for mandatory reporting of hang-glider accidents from ACC to TAIC, and subsequently to the NZHGPA.

Civil Aviation Authority notes this comment.

Auckland Hang Gliding & Paragliding Club made a full submission saying "We agree that NZHGPA should maintain the register of its member's gliders." However in respect of radio communications they said "we believe that pilot identification numbers (known as PIN's) would prove more reliable than aircraft numbers, although aircraft numbers are desired for the other reasons".

Civil Aviation Authority agrees and has drafted this rule as requested by the AHGPC and the NZHGPA.

Rural Aviation (1963) Ltd "have reviewed the proposed rule and can not see anything that appears contentious".

Civil Aviation Authority notes this comment.

List of Consultants

Airways Corporation of New Zealand Limited

Auckland Hang Gliding & Paragliding Club

The New Zealand Hang Gliding and Paragliding Association Incorporated

Rural Aviation (1963) Ltd

Regulatory activities

The following legislation will be affected by this rule Part commencement—

Civil Aviation Safety Order 18:

Regulation 19A of the Civil Aviation Regulations 1953.

Section 14(2) of the Civil Aviation Amendment Act 1991 (as amended by section 34 of 1996 No. 91) deems the Civil Aviation Regulations 1953 that are continued in force by section 8 of that Act to be revoked on the close of 31 March 1997.

Section 14(3) states that any order, notice, requirement, circular, or other publication continued in force by section 8 shall expire on the close of 31 March 1997.

Implementation

This Part becomes effective on 1 April 1997.

Conclusion

It is concluded from this consultation that the majority of those involved in hang gliding are in agreement with the proposed final rule.

The comments and background material used in developing the rules are held on the docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket file 1063.