



PURSUANT to Sections 28 and 30 of the Civil Aviation Act 1990, and having had regard to the matters specified in section 33 of the Act,

I, GERRY BROWNLEE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *30* day of *February* 2014

by **GERRY BROWNLEE**

Minister of Transport

A large, handwritten signature in black ink, appearing to read 'Gerry Brownlee', is written over the printed name and extends upwards into the date line.

Civil Aviation Rules

Part 108, Amendment 10

Air Operator Security Programme

Docket 13/CAR/1

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Rule objective

The objective of amendment 10 to Part 108 is to provide for consistent use of terms in Part 108 by removing “flight deck” and replacing with “flight crew compartment”, to make editorial corrections, and to revoke rule 108.65(e) as it has expired.

Amendment 10 to Part 108 is constituent to NPRM 13-02 which contains amendments to the following Parts:

Part 1	Part 106
Part 19	Part 108
Part 43	Part 121
Part 65	Part 141
Part 66	Part 145
Part 77	Part 146
Part 91	Part 172
Part 93	Part 175
Part 101	

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 13-02, containing the proposed changes to Part 108 and changes to other rules was issued for public consultation under Docket 13/CAR/1 on 30 May 2013.

The publication of this NPRM was notified in the Gazette, and was published on the CAA web site, on 30 May 2013.

A period of 30 days was allowed for comments on the proposed rule.

Summary of submissions

A total of 4 written submissions were received on NPRM 13-02 (2 submissions related to Part 1, one related to Part 66, and one related to Part 103). No changes were made to Part 108 as a result of consultation.

A detailed summary of the submission and the resulting CAA comments are provided in the “Consultation Details” section of this document.

The rule was then referred to the Minister of Transport for signing.

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.

Description of Amendments

The amendments to this Part are reflected by the revocation and replacement of rules 108.53 and 108.65.

Effective date of rule

Amendment 10 to Part 108 comes into force on 01 April 2014.

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 108 Air Operator Security Programme

Rule 108.53 is revoked and replaced by the following rule:

108.53 Security requirements — domestic

(a) An air operator security programme for a domestic regular air transport passenger service must have security procedures for flights within New Zealand to safeguard passengers, crew, ground personnel, aircraft, and facilities, against an act of unlawful interference.

(b) The security procedures required in paragraph (a) must set out the means by which—

- (1) the requirements of rule 91.9 are complied with in relation to the carriage of firearms on board an aircraft; and
- (2) danger to the air operator's passengers, crew, and ground personnel is minimised if a hijacking, bomb threat, or any other threat of unlawful interference occurs; and
- (3) access to the air operator's unattended aircraft is controlled at all times to prevent unlawful interference with the aircraft; and
- (4) access to a security area or security enhanced area of a security designated aerodrome and to an operational area at any other aerodrome within New Zealand that is through the air operator's facilities or through any other access used by the air operator for passengers, personnel, baggage, cargo, freight or aircraft supplies is controlled; and
- (5) appropriate security controls are applied to baggage, cargo, courier, and mail, aircraft supplies, stores, and air operator's supplies intended for carriage on the air operator's aircraft; and
- (6) the safe conduct of a flight is achieved and the pilot-in-command notified, if 1 or more persons on board the aircraft are required to travel on the aircraft because they are in lawful custody, or are subject to other judicial or

administrative proceedings, whether or not they are required to be escorted; and

- (7) the air operator and the pilot-in-command are to assess the risk and decide whether a passenger's baggage that is on board an aircraft is to be carried on the flight if the passenger has failed to board the aircraft; and
 - (8) before boarding an air operator's aircraft, every passenger, crew member, and the carryon baggage of the passengers and crew members is screened in accordance with rule 108.63 if the Minister or the Director requires screening in order to prevent a weapon, explosive, or other dangerous device, article or substance that may be used to commit an act of unlawful interference being taken onto the air operator's aircraft; and
 - (9) before being loaded onto an air operator's aircraft, all baggage that is not carryon baggage is screened in accordance with rule 108.63 if the Minister or the Director requires screening in order to prevent a weapon, explosive, or other dangerous device, article or substance that may be used to commit an act of unlawful interference being loaded onto the air operator's aircraft; and
 - (10) temporary security measures will be implemented to upgrade the security of the air operator's services if the Director finds or suspects an increased level of security risk to a person on an aircraft, or to an aircraft or an aerodrome and requires the additional security measures for a domestic operation; and
 - (11) an unauthorised person is prevented from entering the flight crew compartment of the air operator's aircraft during flight.
- (c) The procedures required by paragraph (b)(6) must include procedures for ensuring that in relation to the carriage of a person in lawful custody on a regular air transport passenger service—
- (1) the person is escorted; and

- (2) the escort confirms that the person is not carrying any item that may be used as a weapon; and
- (3) the escort is equipped with adequate devices for restraining the person; and
- (4) the pilot-in-command and senior flight attendant are notified of the location of, and the security arrangements for, the person; and
- (5) alcoholic beverages are not served to the person or the person's escort; and
- (6) metal utensils are not provided for the person's use; and
- (7) the person is not seated in a seat or seat row next to an emergency exit; and
- (8) the person is seated appropriately to ensure safe conduct of the flight is achieved; and
- (9) not more than 1 person in custody is carried on an aircraft with a certificated passenger seating capacity of 29 seats or less and no more than 1 additional person in custody is carried for each additional 25 seats of certificated passenger seating capacity.

Rule 108.65 is revoked and replaced by the following rule:

108.65 Air security programme required

- (a) A holder of an Australian AOC with ANZA privileges must establish and implement an air operator security programme that meets the relevant requirements of this Part.
- (b) The security programme required by paragraph (a) must—
 - (1) identify the person or persons in New Zealand who are responsible for compliance with this Part; and
 - (2) specify the responsibilities of the person or persons referred to in paragraph (1), including the matters for which that

person or persons would deal directly with the Director on behalf of the AOC holder.

- (c) A holder of an Australian AOC with ANZA privileges must—
- (1) ensure that the holder's security programme is amended so as to remain a current description of the holder's operations within New Zealand; and
 - (2) ensure that each amendment made to the holder's security programme meets the applicable requirements of this Part and complies with the amendment procedures contained in the holder's security programme.
- (d) A holder of an Australian AOC with ANZA privileges must notify the Director in writing within 7 days of a change to any of the following:
- (1) the AOC holder's security programme;
 - (2) the person or persons referred to in paragraph (b);
 - (3) the responsibilities of the person or persons referred to in paragraph (b).

Consultation Details

(This statement does not form part of the rules contained in Part 108. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 13-02 Omnibus 2013, containing the proposed rule amendments for Part 108, and other proposed rule amendments in various Parts, was issued for public consultation under Docket 13/CAR/1 on 30 May 2013.

A period of 30 days was allowed for comment on the proposed rule. A total of 4 responses to the NPRM were received; none related to Part 108.

The purpose of NPRM 13-02 was to make minor editorial and minor technical amendments to various Parts of the Civil Aviation Rules (CAR). The proposed amendments included the correction of spelling and grammatical errors, the updating of various rules in accordance with current International Civil Aviation Organization (ICAO) standards, definitions and abbreviations, and the revocation of specific transitional arrangements that have expired.