



PURSUANT to Sections 28, 29, and 30 of the Civil Aviation Act 1990

I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *22nd* day of *November* 2006

by **HARRY JAMES DUYNHOVEN**

A handwritten signature in black ink, appearing to read 'Harry James Duynhoven'. The signature is stylized and includes a large, sweeping flourish at the end.

Minister for Transport Safety

Civil Aviation Rules

Part 135, Amendment 15

Air Operations - Helicopters and Small Aeroplanes

Docket 1/CAR/1357

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Rule objective

The objective of amendment 15 to Part 135 is to amend and update the rules to clarify the aircraft operator's options for maintenance and the operator's responsibilities for the airworthiness of the operator's aircraft, to upgrade the seating and restraint requirements for pilot seats in aeroplanes, to delete maintenance requirements that are applicable to a certificated maintenance organisation rather than to the aircraft operator, and to enhance the requirements relating to the maintenance review and annual review of airworthiness for aircraft.

Amendment 15 to Part 135 is associated with the following amendments to other Parts:

- Amendment 6 to Part 103
- Amendment 7 to Part 119
- Amendment 5 to Part 104
- Amendment 15 to Part 121
- Amendment 11 to Part 125
- Amendment 4 to Part 137

Extent of consultation

In 1999 the Civil Aviation Industry Rules Advisory Group (CIRAG) Executive established a Technical Study Group (TSG) to participate in a rule making project to amend and update various rules relating to the airworthiness and maintenance requirements for aircraft. A number of the issues to be addressed arose from an investigation carried out by the CAA in 1997 into the concerns about maintenance standards and practices for aircraft less than 5,700 kg maximum certified take-off weight (MCTOW). Other issues to be addressed arose from various petitions for amendments to be made to airworthiness and maintenance rules.

The TSG was made up of representatives from general aviation (fixed wing operators), aircraft maintenance organisations, helicopter operators, and the Aircraft Owners and Pilots Association. The TSG met

4 times and concluded its work in early 2002. The CAA continued to refine the draft rule proposals during 2002 and 2003 and released the draft rules to a representative industry group for comment before they were published for public consultation.

A Notice of Proposed Rulemaking, NPRM 05-06, containing the proposed rule amendments to Parts 119, 103, 104, 121, 125, 135, and 137 was issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

Two other associated Notices of Proposed Rulemaking, NPRM 05-04 dealing with amendments to Parts 1, 43, 91, and 145, and NPRM 05-05 dealing with amendments to Parts 21, 26, 39, 146, and 148, were also issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

The publication of these NPRMs was notified in the Gazette on 5 May 2005 and advertised in the daily newspapers in the 5 main provincial centres on 7 May 2005. The NPRMs were 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 46 days was initially allowed for comment on the proposed amendments to the rules and this was extended upon industry request for a further 10 days.

New Zealand Transport Strategy

The development of the NPRM and the proposed rule changes took into account the objectives of the New Zealand Transport Strategy (NZTS) and the provisions of the Civil Aviation Amendment Act (No 2) 2004.

Amendment 15 to Part 135 has been assessed as follows against the NZTS:

Assisting Economic Development— the rule amendment is unlikely to affect economic development:

Assisting safety and personal security— The rule amendment contributes to aviation safety by clarifying the air operator's responsibilities for the maintenance of the operator's aircraft, and

enhancing the requirements relating to seating restraints for pilot seats in aeroplanes the requirements relating to annual review of airworthiness:

Improving access and mobility—the rule amendment is unlikely to affect access and mobility issues:

Protecting and promoting public health— the rule amendment is unlikely to affect public health:

Ensuring environmental sustainability—the rule amendments are unlikely to affect environmental sustainability.

Summary of submissions

Eighty written submissions were received on the 3 NPRMs. These submissions and comments have been considered but none related to the proposed changes to Part 135.

However as a consequence of a submission that was made to associated NPRM 04-05 and the changes made in rule 43.51(c) and rule 145.60 regarding authorisation of persons to perform maintenance specified in A.1 of Appendix A of Part 43, the proposed rule 135.402(c)(e) is deleted.

Some editorial changes have also been made to the final rules to clarify the requirements.

The rule as amended was then referred to Parliament's Regulations Review Committee before being signed by the Minister for Transport Safety.

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

The amendments to the rules in this Part are reflected by the revocation of some existing rules and replacing them with new rules, and the revocation of some other existing rules.

Effective date of rule

Amendment 15 to Part 135 comes into force on 1 March 2007.

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 135 - Amendments

Subpart F — Instruments and Equipment

Rule 135.355 is revoked and replaced by the following new rule:

135.355 Seating and restraints

A holder of an air operator certificate must ensure that every aircraft that is operated under the authority of the certificate is equipped with a shoulder harness or single diagonal shoulder belt for each flight crew member seat.

Subpart G — Maintenance

Rule 135.402 is revoked and replaced by the following new rule:

135.402 Option for maintenance

(a) Subject to paragraph (b), a holder of an air operator certificate must identify in the maintenance programme applicable to each aircraft that is operated under the authority of the certificate, whether the aircraft is subject to—

- (1) an annual review of airworthiness in accordance with rule 91.615; or
- (2) a maintenance review in accordance with rule 135.415.

(b) A holder of a general aviation air operator certificate whose organisational management system does not include the requirements of rule 119.124(c) must ensure that each aircraft that is operated under the authority of the certificate is subject to an annual review of airworthiness in accordance with rule 91.615.

(c) A holder of an air operator certificate must ensure that the maintenance on an aircraft that is subject to a maintenance review, as identified under paragraph (a)(2), is performed by—

- (1) a maintenance organisation certificated under Part 145; or
- (2) for maintenance that is performed in another State that is party to a technical arrangement, a maintenance organisation that is certificated or appropriately authorised by the State to

perform maintenance on the aircraft type in accordance with the conditions specified in the technical arrangement.

(d) A holder of an air operator certificate must ensure that the maintenance on a helicopter that has a MCTOW of more than 5700kg or a maximum certificated passenger seating configuration, excluding any required crew member seat, of 10 seats or more that is operated under the authority of the certificate is performed by—

- (1) a maintenance organisation certificated under Part 145; or
- (2) for maintenance that is performed in another State that is party to a technical arrangement, a maintenance organisation that is certificated or appropriately authorised by the State to perform maintenance on the aircraft type in accordance with the conditions specified in the technical arrangement.

Rule 135.403 is revoked and replaced by the following new rule:

135.403 Responsibility for airworthiness

(a) A holder of an air operator certificate is responsible for the airworthiness of—

- (1) every aircraft that is operated under the authority of the certificate; and
- (2) any equipment installed in or attached to the aircraft.

(b) A holder of an air operator certificate must ensure that every aircraft that is operated under the authority of the certificate is maintained in accordance with the maintenance programme required under rule 119.63 or rule 119.111.

Rule 135.405 is revoked and replaced by the following new rule:

135.405 Condition monitored maintenance programmes

The holder of an air operator certificate who utilises condition monitoring as part of a maintenance programme for an aircraft must provide the Director, each month, with a maintenance reliability report that contains details of—

- (1) aircraft utilisation; and
- (2) pilot reports regarding aircraft airworthiness; and
- (3) aircraft mechanical delays and cancellations; and
- (4) unscheduled engine shutdowns; and
- (5) unscheduled engine removals; and
- (6) unscheduled component removals; and
- (7) confirmed component failures; and
- (8) incidents regarding aircraft airworthiness; and
- (9) MEL usage.

Rule 135.407 is revoked and the rule number is reserved:

135.407 Reserved

Rule 135.409 is revoked and the rule number is reserved:

135.409 Reserved

Rule 135.411 is revoked and the rule number is reserved:

135.411 Reserved

Rule 135.413 is revoked and the rule number is reserved:

135.413 Reserved

Rule 135.415 is revoked and replaced by the following new rule:

135.415 Maintenance review

(a) A holder of an air operator certificate who, under rule 135.402(a), has identified in the appropriate maintenance programme that an aircraft is to be subject to a maintenance review must ensure that—

- (1) the aircraft is not operated under the authority of the certificate unless a maintenance review of the aircraft has been carried within the previous 12 months; and

- (2) each maintenance review that is carried out is certified in accordance with paragraph (d).

(b) Except as provided in paragraph (c), the holder of an air operator certificate must ensure that a maintenance review of an aircraft is not certified as having been carried out unless —

- (1) the aircraft conforms to its type certificate data sheet or equivalent type data that is acceptable to the Director; and
- (2) for an aircraft that is required by rule 91.509(b) to be fitted with a time-in-service recorder,—
 - (i) the time-in-service recorder reading is recorded in the appropriate maintenance logbook; and
 - (ii) the aircraft's total time-in-service recorded in the technical log is compared with the time-in-service recorder reading; and
 - (iii) any discrepancy between the time-in-service figures referred to in paragraph (b)(2)(ii) is reported in accordance with rule 43.155(a)(4); and
- (3) since the last maintenance review—
 - (i) every modification and repair has been correctly recorded and conform to the applicable technical data listed in Appendix D of Part 21; and
 - (ii) due maintenance specified in the applicable maintenance programme for the aircraft has been completed within the time periods specified; and
 - (iii) every applicable airworthiness directive has been complied with in accordance with Part 39; and
 - (iv) every defect recorded in the technical log has been rectified or properly deferred in accordance with the procedures in the certificate holder's exposition; and

- (v) every applicable certification for release-to-service has been made in accordance with Subpart C of Part 43.
- (c) A holder of an airline air operator certificate may certify a maintenance review of an aircraft on the basis of continuing compliance with an internal quality assurance programme acceptable to the Director if—
- (1) the programme samples every requirement of paragraph (b) during the review period; and
 - (2) the maintenance review is individually certified for each of the certificate holder's aircraft that are subject to a maintenance review.
- (d) The certificate holder must ensure that the person who carries out a maintenance review of an aircraft—
- (1) is authorised by the certificate holder and has experience, that is at least equivalent to the experience required for the grant of an appropriate aircraft maintenance engineer licence rating, for the type of aircraft; and
 - (2) carries out the review in accordance with the applicable paragraph (b) or (c); and
 - (3) certifies that the maintenance review has been carried out by entering the following statement in the appropriate maintenance logbook with the person's signature, authorisation number, and the date of entry:

The maintenance review of this aircraft and such of its equipment as is necessary for its continued airworthiness has been carried out in accordance with the requirements of Civil Aviation Rule 135.415.

Consultation Details

(This statement does not form part of the rules contained in Part 135. It provides details of the consultation undertaken in making the rules.)

A review of the continuing airworthiness and maintenance requirements for New Zealand aircraft has been under development since 1998 following a review of the state of aircraft maintenance that was carried out in 1997. The changes to Part 43 are the central part of a package of changes that update rules relating to the maintenance of aircraft. The package was developed under docket 1/CAR/1357 and published in May 2005 as 3 separate Notices of Proposed Rule Making, NPRM 05-04 dealing with Part 43 and related rule Parts 91, and 145, NPRM 05-05 dealing with Part 21 and related Parts 26, 39,146, and 148, and NPRM 05-06 dealing with Part 119 and related Parts 103, 104, 121, 125, 135, and 137. The changes to the various rules are based on the 1997 review of aircraft maintenance and proposals arising from a CAA-Industry Technical Study Group set up in 1999.

The 3 Notices of Proposed Rulemaking, NPRM 05-04 Part 43 General Maintenance Rules, NPRM 05-05 Part 21 Certification of Products and Parts, and NPRM 05-06 Part 119 Air Operator – Certification, containing the proposed rules were issued for public consultation under Docket 1/CAR/1357 on 5 May 2005.

Comments arising from the NPRM

A total of eighty written submissions were received on the three NPRM's, mostly in relation to the Part 43 and 91 changes. The CAA has worked through these submissions and as a result has amended the rules where appropriate. None of the submissions related directly to the proposed changes to Part 135.

The structure of some rules have been amended and editorial changes have been made to provide clarity and, in some cases, to maintain consistency in the terminology used.

The consultation details relating to amendment 15 to Part 135 are contained in the consultation details of amendment 5 to Part 43. The submissions and all background material used in developing the rules are held on the docket file and are available for public inspection at Aviation House, 10 Hutt Road Petone. Persons wishing to view the

docket should contact the Docket Clerk on Phone +64 560 9603 and ask for docket 1/CAR/1357.