



**PURSUANT** to Section 29 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**

Minister for Transport Safety

A handwritten signature in black ink, appearing to read 'Harry James Duynhoven'. The signature is written in a cursive style with a large, stylized 'H' and 'D'.

**Civil Aviation Rules**

**Part 137, Amendment 4**

**Agricultural Aircraft Operations**

*Docket 1/CAR/1357*

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**Rule objective**

The objective of amendment 4 to Part 137 is to amend the requirements relating to agricultural operations over congested areas to remove maintenance inspections requirements that in effect duplicate maintenance inspection requirements prescribed in Part 91.

Amendment 4 to Part 137 is associated with amendment 15 to Part 91 and 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 15 to Part 135

**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 4 to Part 137 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 is unlikely to affect safety and personal security:

**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 of the submissions related to the proposed amendments to Part 137.

The rule 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 an existing rule and replacing it with a new rule.

### **Effective date of rule**

Amendment 4 to Part 137 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 137 - Amendment

### Subpart E — Commercial Operations – Operating Requirements

*Rule 137.205 is revoked and replaced by the following new rule:*

#### **137.205 Operations over congested areas**

(a) A holder of an agricultural aircraft operator certificate who intends to perform an agricultural aircraft operation over a congested area of a city, town, or settlement must—

- (1) in conjunction with, and for the briefing of every person and organisation involved in the operation, document a plan for the operation; and
- (2) ensure that every person and organisation involved in the operation is briefed on the plan that is required under paragraph (a)(1); and
- (3) give notice of the operation to the public by an effective means.

(b) The plan required under paragraph (a)(1) must contain—

- (1) information about any obstruction to flight; and
- (2) details of the emergency landing capability of the aircraft used; and
- (3) details of any co-ordination that may be necessary with the appropriate air traffic control service.

(c) A pilot-in-command of an aircraft performing an agricultural aircraft operation over a congested area of a city, town or settlement, must comply with the plan that is required under paragraph (a)(1).

(d) The holder of the agricultural aircraft operator certificate must retain the plan required under paragraph (a)(1) for a period of at least 2 years from the date that the operation is completed.

## Consultation Details

*(This statement does not form part of the rules contained in Part 137. 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 3 NPRM's, mostly in relation to the Part 43 and 91 changes. The CAA has worked through these submissions but none of the submissions related to Part 137.

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 4 to Part 137 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.