

## Part 129 Foreign Air Transport Operator – Certification: Summary of changes

Alongside the standard changes outlined in Section 3.1 of the Overview of Rules Realignment for the Civil Aviation Act 2023 document, this Rule Part also contains the following changes.

### ***129.103 Changes to certificate holder's organisation***

To improve sentence clarity and readability, rule 129.103(b) has been reworded:

(a) If ~~the~~ the holder of a foreign air operator certificate must **obtain approval from the Director before changing:** proposes to make a change to any of the following, prior application to and acceptance by the Director is required:

- (1) the senior person or persons nominated in accordance with rule 129.63(a)(1):
- (2) the base locations in New Zealand from which the certificate holder performs air transport operations:
- (3) the scope of operations under the certificate, relative to operations to, from, or within New Zealand:
- (4) the air operator security programme required by rule 129.61.

### ***129.107 Use of aerodromes***

Due to expired transitional provisions, rule 129.107(2) has been rewritten:

A holder of a foreign air operator certificate must ensure that an aeroplane conducting a foreign air transport operation under the authority of the certificate ~~after 12 July 2007~~ does not use an aerodrome within New Zealand for landing or taking-off unless—

- (1) the runway to be used at the aerodrome is provided with a RESA at each end of the runway in accordance with the requirements of Part 139 Appendix A.1; or
- (2) if the runway does not have a RESA as required in paragraph (1), the certificate holder **must** ensures that ~~for an operation conducted after 12 October 2011~~ the take-off and landing performance calculations for the aeroplane are based on a reduction of the appropriate declared distances for the runway to provide the equivalent of a 90 metre RESA at the overrun end of the runway strip.

## **Part 129**

### **Foreign Air Transport Operator - Certification**

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## Subpart A — General

### 129.1 Applicability

(a) Except as provided in paragraph (b), this Part applies to persons conducting foreign air transport operations of—

- (1) more than two take-offs or landings within New Zealand in any consecutive 28 day period; or
- (2) more than eight take-offs or landings within New Zealand in any consecutive 365 day period.

(b) This Part does not apply to operations conducted for the purpose of medical emergencies, including evacuations, or the carriage of medical supplies or body organs.

### 129.3 Definitions

In this Part—

**Foreign air transport operation** means an air transport operation conducted by a person not domiciled in New Zealand that is—

- (1) to or from New Zealand; or
- (2) within New Zealand as part of an air operation to or from New Zealand.

### 129.5 Requirement for certificate

(a) A person must not perform an operation to which this Part applies except under the authority of, and in accordance with, a foreign air operator certificate issued under this Part.

(b) The requirements in paragraph (a) do not apply to air operations conducted in New Zealand under an Australian AOC with ANZA privileges.

### 129.7 Application for certificate

Each applicant for the grant of a foreign air operator certificate must—

- (1) complete the approved CAA form and submit it to the Director with a payment of the appropriate application fee not less than 90

days before the date of intended operation, unless a shorter period is acceptable to the Director; and

- (2) provide the details required by rule 129.13(b) for the operations specifications; and
- (3) provide for review those parts of its exposition relevant to its operations to, from, or within New Zealand, required by rule 129.63; and
- (4) provide evidence of its authorisation required by rule 129.51.

### **129.9 Issue of certificate**

An applicant is entitled to a foreign air operator certificate if the Director is satisfied that—

- (1) the applicant meets all applicable requirements of Subpart B; and
- (2) the applicant, where the applicant is a natural person, and the applicant's senior person or persons nominated in accordance with rules 129.63(1) and (2) are fit and proper persons; and
- (3) the ICAO contracting State or State or territory referred to in rule 129.51 is maintaining its functions in respect of the proposed foreign air transport operation in accordance with the Convention; and
- (4) the granting of the certificate is not contrary to the interests of aviation safety.

### **129.11 Privileges of certificate holder**

A foreign air operator certificate specifies the foreign air transport operations that the holder of the foreign air operator certificate may perform.

### **129.13 Operations specifications**

- (a) A foreign air operator certificate issued in accordance with this Part must be accompanied by the operations specifications specified in paragraph (b).
- (b) Operations specifications must contain—

- (1) the specific location of the certificate holder's principal base of operations; and
- (2) if different, the address that must serve as the primary point of contact for correspondence between the Director and the certificate holder; and
- (3) the certificate holder's New Zealand address for service; and
- (4) other business names under which the certificate holder may operate; and
- (5) the type of aircraft authorised for use; and
- (6) the kinds of operations authorised; and
- (7) the authorisation and limitations for routes and areas of operations; and
- (8) the names of aerodromes and alternates to be used; and
- (9) any exemption granted from any requirement of this or any other Part; and
- (10) any other item the Director determines is necessary to cover a particular situation.

#### **129.15 Duration of certificate**

- (a) A foreign air operator certificate may be granted or renewed for a period of up to five years.
- (b) A foreign air operator certificate remains in force until it expires or is suspended or revoked by the Director.
- (c) The holder of a foreign air operator certificate that expires or is revoked must surrender the certificate to the Director as soon as possible.
- (d) The holder of a foreign air operator certificate that is suspended must produce the certificate to the Director as soon as possible for appropriate endorsement.

### **129.17 Notification of termination of operations**

Each holder of a foreign air operator certificate who terminates operations to which this Part applies must notify the Director in writing within 30 days of the date of termination.

### **129.19 Renewal of certificate**

- (a) If the holder of a foreign air operator certificate wishes to apply for renewal of their certificate they must use the approved CAA form.
- (b) The application required by paragraph (a) must be submitted to the Director before the application renewal date specified in the certificate or, if no such date is specified, not less than 60 days before the certificate expires.

## **Subpart B— Foreign Air Transport Operator — Certification Requirements**

### **129.51 Authorisation**

Each applicant for the grant of a foreign air operator certificate must be the holder of a valid air operator certificate or equivalent document issued by an ICAO contracting State or a State or a territory that is acceptable to the Director, that authorises the holder to conduct proposed operations to, from, or within New Zealand.

### **129.53 Proving flights or tests**

- (a) Each applicant for the grant or amendment of a foreign air operator certificate must, if required by the Director, perform proving flights or tests to satisfy the Director that it can meet any relevant prescribed requirement.
- (b) The flights or tests must be conducted in a manner acceptable to the Director.

### **129.55 Reporting of accidents and incidents**

Each applicant for the grant of a foreign air operator certificate must establish procedures for notifying any accident or incident involving its aircraft and occurring within New Zealand to the Director, in accordance with Part 12.

### **129.57 Records – personnel**

Each applicant for the grant of a foreign air operator certificate must establish procedures to ensure that—



- (1) an accurate record is maintained, in New Zealand, of each person employed, contracted, or otherwise engaged by it who is based in New Zealand and to whom any of the following applies:
  - (i) the person, in the performance of their duties, is required to hold an aviation licence or rating;
  - (ii) the person is exercising any delegation of the Director's functions or powers;
  - (iii) the person is exercising any authorisation granted by the certificate holder.
- (2) the record includes details of—
  - (i) the relevant experience, qualifications, and training of each person listed under subparagraph (1); and
  - (ii) the scope, validity, and currency of any licence or rating referred to in subparagraph (1)(i); and
  - (iii) the delegations referred to in subparagraph (1)(ii); and
  - (iv) authorisations referred to in subparagraph (1)(iii).
- (3) the record is retained in New Zealand for one year, or such longer period as may be required by the Director, from the date that the person—
  - (i) ceases to perform duties requiring a licence or rating; or
  - (ii) exercises any delegation or authorisation.

### **129.59 Records – resources**

Each applicant for the grant of a foreign air operator certificate must—

- (1) establish procedures to ensure details are recorded of testing, checking, and calibration of any safety-critical resources used in carrying out the operations specified on the certificate; and
- (2) retain in New Zealand the record of details required by subparagraph (1) for 2 years from the date the details are recorded.

### **129.61 Air operator security programme**

Each applicant for the grant of a foreign air operator certificate that proposes to conduct an operation to which this Part applies, that is carrying ten or more fare paying passengers must establish an air operator security programme that meets the requirements of Part 108.

### **129.63 Foreign air transport operator exposition**

(a) Each applicant for the grant of a foreign air operator certificate must ensure that its exposition contains the following details—

- (1) the titles and names of its senior person or persons based in New Zealand; and
- (2) the titles and names of its senior person or persons who have responsibility for ensuring that the certificate holder meets the requirements of this or any other Part; and
- (3) the duties and responsibilities of the senior person or persons specified under paragraphs (a)(1) and (2), including matters for which they have responsibility to deal directly with the Director on behalf of the applicant's organisation; and
- (4) a summary of the scope of activities at each location within New Zealand where operational personnel are based for the purpose of providing the foreign air transport operations; and
- (5) an organisation chart showing lines of responsibility of the senior persons specified under paragraphs (a)(1) and (2), and extending to each location listed under paragraph (a)(4); and
- (6) a summary of the applicant's staffing structure at each location listed under paragraph (a)(4); and
- (7) the principal place of operation in its country of domicile and, where applicable, its main operations base and main maintenance base; and
- (8) appropriate contacts within the civil aviation authority that have principal oversight of the applicant's organisation; and
- (9) the procedures required by—

- (i) rule 129.55 regarding accidents and incidents; and
  - (ii) rule 129.57 regarding personnel records; and
  - (iii) rule 129.59 regarding resource records; and
- (10) where required by rule 129.61, the air operator security programme; and
  - (11) the procedures by which the exposition is authorised, controlled, distributed, amended, and reviewed; and
  - (12) such other information that is required by it to satisfactorily conduct operations to which this Part applies.

(b) The Director must not issue the applicant with a foreign air operator certificate unless the applicant's exposition as it relates to foreign air transport operations is acceptable to the Director.

## **Subpart C — Foreign Air Transport Operator — Operating Requirements**

### **129.101 Continued compliance**

- (a) A holder of a foreign air operator certificate must comply with the operations specifications required by rule 129.13.
- (b) A holder of a foreign air operator certificate must—
  - (1) continue to meet the standards and comply with the requirements of Subpart B; and
  - (2) hold at least 1 current copy of those parts of the certificate holder's exposition required to be provided by rule 129.7(3), and its operations specifications, relevant to the Foreign Air Operator Certificate at each major location in New Zealand specified in the exposition; and
  - (3) comply with every procedure detailed in the certificate holder's exposition; and

- (4) make each applicable part of the certificate holder's exposition and the operations specifications issued by the Director under this Part available to personnel who require those parts to carry out their duties.
- (c) A holder of a foreign air operator certificate must, on request by the Director, make available to the Director the certificate holder's exposition containing the details required by rule 129.63.

### **129.103 Changes to certificate holder's organisation**

- (a) A holder of a foreign air operator certificate must—
- (1) ensure that the certificate holder's exposition is amended so as to remain a current description of the certificate holder's operations to, from, or within New Zealand; and
  - (2) ensure that each amendment made to the certificate holder's exposition meets the applicable requirements of this Part and complies with the amendment procedures contained in the exposition.
- (b) The holder of a foreign air operator certificate obtain approval from the Director before changing:
- (1) the senior person or persons nominated in accordance with rule 129.63(a)(1):
  - (2) the base locations in New Zealand from which the certificate holder performs air transport operations:
  - (3) the scope of operations under the certificate, relative to operations to, from, or within New Zealand:
  - (4) the air operator security programme required by rule 129.61.
- (c) An application to make any of the changes specified in paragraph (b) must be made by the holder of a foreign air operator certificate on the approved CAA form.
- (d) The Director may specify conditions during or following any of the changes specified in paragraph (b).

- (e) The holder of a foreign air operator certificate must comply with any conditions specified by the Director under paragraph (d).
- (f) If any of the changes referred to in paragraph (b) requires an amendment to a foreign air operator certificate, the holder of the certificate must forward the certificate to the Director as soon as practicable.
- (g) The holder of a foreign air operator certificate must make such amendments to the certificate holder's exposition as the Director considers necessary in the interests of aviation safety or security.

### **129.105 Airborne Collision Avoidance System (ACAS II)**

A holder of a foreign air operator certificate must ensure that a turbine-powered aeroplane, with a MCTOW greater than 5700kg or a passenger seating configuration greater than 19 seats, operated to, from, or within New Zealand under that certificate is equipped with an ACAS II that meets the requirements of FAA TSO-C119b.

### **129.107 Use of aerodromes**

A holder of a foreign air operator certificate must ensure that an aeroplane conducting a foreign air transport operation under the authority of the certificate does not use an aerodrome within New Zealand for landing or taking-off unless—

- (1) the runway to be used at the aerodrome is provided with a RESA at each end of the runway in accordance with the requirements of Part 139 Appendix A.1; or
- (2) if the runway does not have a RESA as required in paragraph (1), the certificate holder ensures that the take-off and landing performance calculations for the aeroplane are based on a reduction of the appropriate declared distances for the runway to provide the equivalent of a 90 metre RESA at the overrun end of the runway strip.

### **129.107A Aerodrome operating minima to be used for each aerodrome**

- (a) A holder of a foreign air operator certificate must ensure that a pilot-in-command performing a foreign air transport operation in New Zealand

complies with the aerodrome operating minima that applies to the aerodrome, as published in the AIPNZ.

(b) The holder of a foreign air operator certificate may increase the aerodrome operating minima by including the increased aerodrome operating minima in the certificate holder's exposition.

(c) A pilot-in-command who operates under an increased aerodrome operating minima in accordance with paragraph (b) must comply with any requirements specified in the certificate holder's exposition in relation to the increased aerodrome operating minima.

### **129.109 Emergency Locator Transmitter**

(a) To avoid doubt, a holder of a foreign air operator certificate conducting a foreign air transport operation with an aeroplane is not required to comply with rule 91.529(a).

(b) Despite rule 91.529(g), a holder of a foreign air operator certificate must not conduct a foreign air transport operation using an aeroplane unless the aeroplane is equipped in accordance with the following:

- (1) if the aeroplane is authorised to carry more than 19 passengers and the individual airworthiness certificate for the aeroplane was first issued before 1 July 2008, the aeroplane must be equipped with at least 1 automatic ELT or 2 ELTs of any type:
- (2) if the aeroplane is authorised to carry more than 19 passengers and the individual airworthiness certificate for the aeroplane is first issued after 1 July 2008, the aeroplane must be equipped with either:
  - (i) at least 2 ELTs, one of which must be automatic; or
  - (ii) at least 1 ELT and a capability to autonomously transmit information from which a position can be determined by the operator at least once every minute, when in distress:
- (3) if the aeroplane is authorised to carry 19 passengers or less and the individual airworthiness certificate for the aeroplane was first issued before 1 July 2008, the aeroplane must be equipped with at least 1 ELT of any type:

- (4) if the aeroplane is authorised to carry 19 passengers or less and the individual airworthiness certificate for the aeroplane is first issued after 1 July 2008, the aeroplane must be equipped with at least 1 automatic ELT:
- (5) every ELT installed or carried in the aeroplane must—
- (i) be FAA TSO C-126 certified; or
  - (ii) meet the international standards of ICAO relating to aviation safety; and
  - (iii) transmit on both frequencies of 406 MHz and 121.5 MHz or other frequency as required by the international standards of ICAO.