



PURSUANT to Section 52 of the Civil Aviation Act 2023, and:


(a) being satisfied of the matters specified in section 61(2)(a) and (b) of that Act; and

(b) having had regard to the criteria specified in section 72 in accordance with section 61(2)(c) of that Act.

I, Hon SIMEON BROWN, Minister of Transport,

HEREBY MAKE the following rules.

SIGNED AT

This 20th day of July 2024


by Hon Simeon Brown

Minister of Transport

Civil Aviation Rules

Part 99, Initial Issue

Drug and Alcohol Management Plans (DAMPs)

Docket 24/CAR/02

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Rule objective

The objective of the initial issue of Part 99 is to give effect to provisions in the Civil Aviation Act 2023 (the 2023 Act) for drug and alcohol management plans and testing – specifically subpart 6 of Part 4, and clauses 24-31 in Schedule 1.

Specifically, the rules are required to:

- identify DAMP (Drug and Alcohol Management Plan) operators for the purposes of section 113 of the 2023 Act
- prescribe notification, reporting and administrative matters, and provide for some matters to be dealt with in transport instruments made separately by the Director of Civil Aviation
- manage the two-year transition period (from 5 April 2025 to 4 April 2027) so that CAA is able to efficiently consider DAMPs submitted to it for approval, and
- make amendments to existing rule parts so that Drug and Alcohol Management Plans (DAMPs) become part of operator expositions after the transition period and can be updated.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 24-02, containing the proposed draft Civil Aviation Rule Part 99 was issued for public consultation under Docket 24/CAR/02 on 26 March 2024.

The NPRM was published on the CAA web site and the industry was notified by automatic email alerts.

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

Summary of submissions

Fourteen written submissions were received on the NPRM. A summary of submissions for this NPRM is available on the CAA website along with CAA's response and documentation of all the changes made to the final rule. As a result of submissions and comments the only significant amendment was:

- removal from rule 99.17(a) the requirement for a DAMP operator to keep records of the precise time of random testing.

There were also technical and editorial changes, including to where definitions are set out and use of rule Part 1 Definitions and Abbreviations.

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 to other rule Parts

Sixteen existing rule parts are amended by new rule Part 99, specifically by rule 99.23. These amendments take effect on 5 April 2025, the same day as Part 99 has effect.

Effective date of rule

Initial issue of Part 99 comes into force on 5 April 2025 immediately after the commencement of Section 489 of the Civil Aviation Act 2023.

Availability of rules

Civil Aviation Rules are available from—

CAA web site: <http://www.aviation.govt.nz/>

Freephone: 0800 GET RULES (0800 438 785)

Part 99: Drug and Alcohol Management Plans (DAMPs)

99.1 Purpose

This Part gives effect to the provisions of the Act relating to drug and alcohol management plans by identifying DAMP operators, by influencing the scope of DAMPs, and by prescribing notification and reporting obligations and other administrative and transitional matters.

99.3 Definitions

In this Part –

DAMP operator has the meaning given in rule 99.5:

current DAMP operator means a person who is a DAMP operator on 5 April 2025. This definition expires on 6 April 2028:

licence holder has the meaning given in clause 1 of Schedule 2 of the Act:

negative result has the meaning given in section 113 of the Act:

random testing has the meaning given in section 113 of the Act:

safety-sensitive activity has the meaning given in section 113 of the Act:

safety-sensitive worker has the meaning given in section 113 of the Act:

testable drug has the meaning given in section 113 of the Act.

99.5 Who is a DAMP operator

(a) A person who holds any of these certificates and meets the other conditions in section 113 of the Act is a DAMP operator:

- (1) an adventure aviation operator certificate issued under rule 115.9:
- (2) an airline air operator certificate issued under rule 119.11(a):
- (3) a general aviation air operator certificate issued under rule 119.11(b):
- (4) an agricultural aircraft operator certificate issued under rule 137.153:
- (5) an aerodrome operator certificate granted under rule 139.9:
- (6) a qualifying aerodrome operator certificate granted under rule 139.9:
- (7) an aviation security service certificate issued under rule 140.9:
- (8) a standard aviation training organisation certificate granted under rule 141.5(a):
- (9) a maintenance organisation certificate issued under rule 145.9:
- (10) an aircraft design organisation certificate granted under rule 146.9:
- (11) a maintenance training organisation certificate granted under rule 147.35:
- (12) a manufacturing organisation certificate granted under rule 148.9:
- (13) an aeronautical telecommunication service certificate issued under rule 171.9:
- (14) an air traffic service certificate granted under rule 172.9:

- (15) an instrument flight procedure service certificate granted under rule 173.9:
 - (16) a meteorological service certificate granted under rule 174.9:
 - (17) an aeronautical information service certificate issued under rule 175.7.
- (b) The Director may not grant an exemption under section 322(1) of the Act to exclude a person entirely from the requirements that result from them being a DAMP operator.
- (c) Despite rule 99.5 (a) a person who is:
- (1) not a current DAMP operator; and
 - (2) between 5 April 2025 and 4 April 2027 receives a certificate listed in rule 99.5 (a),
- does not become a DAMP operator until 5 April 2027.
- (d) Rule 99.5 (c) and this rule expire on 5 April 2027.

99.7 Specified testable drugs to be included in a DAMP

In addition to the requirements in section 114 of the Act, a DAMP operator must ensure that the testable drugs include any drugs specified in a transport instrument.

99.9 Deadline for current DAMP operators to submit a DAMP for approval

- (a) The date before which a current DAMP operator must submit a DAMP to the Director for approval (see clause 26 of Schedule 1 of the Act) is:
- (1) for an operator who holds a certificate in the first column in the table, 1 October 2025:
 - (2) for an operator who holds a certificate in the second column in the table, 1 July 2026:

- (3) for an operator who holds a certificate in both columns, 1 October 2025.

| DAMP to be submitted before 1 October 2025 | DAMP to be submitted before 1 July 2026 |
|---|--|
| an adventure aviation operator certificate (Part 115) | |
| an airline air operator certificate to conduct operations in accordance with Part 121 or 125 (Part 119) | an airline air operator certificate to conduct operations in accordance with Part 135 (Part 119) |
| | a general aviation air operator certificate (Part 119) |
| | an agricultural aircraft operator certificate (Part 137) |
| an aerodrome operator certificate for an aerodrome designated as a Tier 1 security designated aerodrome under section 120(1)(a) of the Act (Part 139) | an aerodrome operator certificate for an aerodrome that is not designated as a Tier 1 security designated aerodrome (Part 139) |
| | a qualifying aerodrome operator certificate (Part 139) |
| | a standard aviation training organisation certificate (Part 141) |
| a maintenance organisation certificate to maintain any aircraft carrying out operations specified in rule 121.1 or 125.1, or to maintain any component of those aircraft (Part 145) | any other maintenance organisation certificate (Part 145) |

| DAMP to be submitted before 1 October 2025 | DAMP to be submitted before 1 July 2026 |
|--|--|
| | an aircraft design organisation certificate (Part 146) |
| | a maintenance training organisation certificate (Part 147) |
| | a manufacturing organisation certificate (Part 148) |
| an aeronautical telecommunication service certificate (Part 171) | |
| an air traffic service certificate (Part 172) | |
| an instrument flight procedure service certificate (Part 173) | |
| | a meteorological service certificate (Part 174) |
| an aeronautical information service certificate (Part 175) | |

(b) A DAMP that the Director has approved becomes part of the relevant exposition on the implementation date specified in the Director's approval (see clause 27(2) of Schedule 1 of the Act).

(c) This rule expires on 6 April 2028.

99.11 How a DAMP can be amended before becoming part of an exposition

(a) A current DAMP operator may amend an approved DAMP before it becomes part of the relevant exposition by following the procedure for amending their system for safety management.

(b) This rule expires on 6 April 2028.

99.13 Chief executive is responsible for meeting all DAMP obligations

The person identified as the chief executive in the relevant exposition or other documentation must ensure that the DAMP operator complies with all obligations under this Part and under the Act.

99.15 Notification if a test result is not negative, or of refusal to consent to testing or suspected tampering

(a) This rule applies where a DAMP operator makes a notification to the Director under section 117(3) of the Act, including a notification of suspected tampering (see section 118).

(b) The notification must state:

- (1) whether the notification concerns a result which was not negative, refusal to consent to testing, or suspected tampering;
- (2) the date of the test, refusal or suspected tampering;
- (3) the date the DAMP operator became aware of the result of the test, the refusal or the suspected tampering;
- (4) whether alcohol or a drug was detected and, if a drug, which drug;
- (5) the safety-sensitive activity which the individual performs;
- (6) a contact person at the DAMP operator, and their contact details, if different from the person and contact details in the exposition or other relevant documentation; and
- (7) if the individual is a licence holder, the individual's name and individual client number.

(c) The DAMP operator must make the notification using the approved CAA form.

(d) The DAMP operator must supply to the Director any clarification or further detail that the Director reasonably requests.

99.17 DAMP operator to keep records

(a) A DAMP operator must ensure that a record is kept of all random testing, specifying:

- (1) the name of the worker;
- (2) the relevant safety-sensitive activity;
- (3) the date of the test, and when the DAMP operator received the results;
- (4) the results of the test (or that the worker refused to consent); and
- (5) whether tampering was suspected and if so why.

(b) The DAMP operator must ensure that the record is kept in a secure location and retained for at least 5 years from the date of testing.

(c) The DAMP operator must also comply with the requirements in a transport instrument specifying what records a DAMP operator must ensure are kept, and how records must be kept.

99.19 Routine reporting to the Director on random testing

A DAMP operator must comply with the requirements in a transport instrument specifying depersonalised information on random testing that a DAMP operator must report to the Director, and the time and form of that reporting.

99.21 Transport instruments made for the purposes of this Part

(a) A transport instrument made for the purposes of this Part may impose different obligations on different classes, including by reference to categories of certificate holder, size of DAMP operator, safety-sensitive activity or safety-sensitive worker.

(b) In accordance with section 431 of the Act a transport instrument made for the purposes of this Part may be made by the Director.

(c) Before making a transport instrument the Director must have regard to relevant international standards, guidance and practice.

- (d) The transport instrument must specify dates for compliance.
- (e) The Director may amend or replace a transport instrument from time to time.
- (f) A transport instrument is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

99.23 Amendments to other Parts

- (a) Other rule Parts are amended as set out in the Annex.
- (b) This Rule and the Annex expire on 6 April 2025.

Annex to Rule 99.23

- The following new sub-paragraph is inserted in the places set out in clause 2 below:
“(X)if a DAMP is required (see rule 99.5 and section 114 of the Act) a DAMP meeting the requirements of Part 99 and of the Act.”
- The sub-paragraph is inserted immediately after the following rules, and numbered as the next available number in the sequence in accordance with Table 1:

Table 1

| Inserted immediately after rule | Numbered as rule (X =) |
|--|-------------------------------|
| 115.79(a)(1A) | 115.79(a)(1B) |
| 119.81(a)(1A) | 119.81(a)(1B) |
| 119.125 (a)(1A) | 119.125 (a)(1B) |
| 139.77(a)(1A) | 139.77(a)(1B) |
| 139.417(a)(1A) | 139.417(a)(1B) |

| Inserted immediately after rule | Numbered as rule (X =) |
|---------------------------------|------------------------|
| 140.61(a)(1) | 140.61(a)(1A) |
| 141.63(a)(1A) | 141.63(a)(1B) |
| 145.67(a)(1A) | 145.67(a)(1B) |
| 146.67(a)(1A) | 146.67(a)(1B) |
| 147.23(a)(2) | 147.23(a)(2A) |
| 148.67(a)(1A) | 148.67(a)(1B) |
| 171.77(a)(1A) | 171.77(a)(1B) |
| 172.125(a)(1A) | 172.125(a)(1B) |
| 173.71(a)(1A) | 173.71(a)(1B) |
| 174.79(a)(1A) | 174.79(a)(1B) |
| 175.69(a)(1A) | 175.69(a)(1B) |

3. The following rule is inserted after rule 137.160:

“137.161 Agricultural Aircraft Operator DAMP

If a DAMP is required (see rule 99.5 and section 114 of the Act) an applicant for an agricultural aircraft operator certificate must provide the Director with a document meeting the requirements of Part 99 and of the Act.”

4. The following new sub-paragraph is inserted in the places set in clause 5 below:

“(X) any DAMP, if the change is a material change.”

5. The sub-paragraph is inserted immediately after the following rules, and numbered as the next available number in the sequence in accordance with Table 2:

Table 2

| Inserted immediately after rule | Numbered as rule (X =) |
|--|---------------------------------------|
| 115.109(b)(5) | 115.109(b)(5A) |
| 119.165(b)(5) | 119.165(b)(6) (replacing “[revoked]”) |
| 137.209(2)(ii) | 137.209(2)(iii) |
| 139.127(d)(3) | 139.127(d)(4) |
| 139.455(d)(3) | 139.455(d)(4) |
| 140.103(b)(5) | 140.103(b)(6) |
| 141.103(d)(5) | 141.103(d)(6) |
| 145.105(d)(7) | 145.105(d)(8) |
| 146.105(d)(5) | 146.105(d)(6) |
| 147.25(b)(6) | 147.25(b)(7) |
| 148.105(d)(8) | 148.105(d)(9) |
| 171.115(b)(5) | 171.115(b)(6) |
| 172.161(d)(4) | 172.161(d)(5) |
| 173.103(b)(4) | 173.103(b)(5) |
| 174.109(d)(5) | 174.109(d)(6) |

| Inserted immediately after rule | Numbered as rule (X =) |
|---------------------------------|------------------------|
| 175.109(d)(5) | 175.109(d)(6) |

6. Rule 115.62 is replaced with:

“115.62 Drug and alcohol programme

(a) An applicant for an adventure aviation operator certificate must establish a drug and alcohol programme for monitoring and managing the risks relating to the use of any drug, or consumption of alcohol by— (1) any crew member: (2) a tandem master: (3) a ground crew member: (4) any other person whose work directly affects the safety of an adventure aviation operation.

(b) This programme may be combined with the operator’s DAMP (see rule 99.5 and section 114).”

7. The following new sub-paragraph is added to rule 1.3 Abbreviations:

“DAMP has the meaning given in section 113 of the Act:”

8. The following new sub-paragraph is added to rule 1.1 General definitions:

“transport instrument means an instrument made by a specified person under Part 10 subpart 3 of the Act, and includes an instrument yet to be made, and any instrument as amended or replaced from time to time:”