



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

I, STEVEN JOYCE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This ^{18th} day of ^{August} 2011

by **STEVEN JOYCE**

Minister of Transport

Civil Aviation Rules

Part 125, Amendment 16

Air Operations — Medium Aeroplanes

Docket 8/CAR/5

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Rule objective

The objective of amendment 16 to Part 125 is to:

- Address the disparity of various operating standards between Part 121 *Air Operations — Large Aeroplanes* and Part 125 by amending existing rules, and introducing new rules in Part 125.
- Address rules that are not fully compliant with ICAO standards and recommended practices.
- Correct two minor formatting errors.

Extent of consultation

Development of the rule amendment proposal included informal discussions, meetings, and emails with Air National, Air New Zealand, Air Safaris, Pacific Jets, and the International Civil Aviation Organization (ICAO). Prior to the publication of the notice of proposed rulemaking (NPRM), the rule amendment project for Part 125 was undertaken in consultation with a project working group (PWG) that consisted of representatives from the aviation industry. The PWG also had support from the New Zealand Air Line Pilots Association.

NPRM 09-04, containing the proposed amendment to Part 125, was issued for public consultation under Docket 8/CAR/5 on 17 December 2009.

The publication of this NPRM was notified in the Gazette on 17 December 2009 and advertised in the daily newspapers in the five main provincial centres on 18 December 2009. The NPRM was 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 28 working days to 5 February 2010 was allowed for comment on the proposed rule. This was extended to 19 February 2010 (38 working days) to provide industry with extra time to read the advisory circular to the rule which was published on 9 February 2010.

Summary of submissions

Four written submissions were received on the NPRM. These submissions were considered and as a result the requirement that operations at night must be performed under instrument flight rules (IFR) has been changed to allow operators who conduct night scenic flights to perform operations at night under visual flight rules (VFR) provided certain conditions are met.

Editorial changes have been made, where appropriate, to clarify the requirements of the rule.

The document, TSO C119c, was published by the FAA during the course of developing this rule amendment so it has been added as a referenced document in Appendix B.10(a).

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

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 revoking and replacing rules 125.63, 125.87, 125.89, 125.155, 125.157, 125.353, 125.363, appendix B.9, and appendix B.10; and the insertion of a new rule 125.58

Effective date of rule

Amendment 16 to Part 125 comes into force on 1 October 2011.

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 125 Air Operations — Medium Aeroplanes

Subpart B — Flight Operations

Insert the following new rule after rule 125.57:

125.58 Search and rescue information

(a) A holder of an air operator certificate must ensure that each aeroplane that is operated under the authority of the certificate carries on board relevant information concerning the search and rescue services in the area over which the aeroplane is to be flown.

(b) A holder of an air operator certificate that was current on 30 September 2011 is not required to comply with the requirements of paragraph (a) until 1 April 2012 or until the holder's air operator certificate expires whichever is the sooner.

Rule 125.63 is revoked and replaced by the following rule:

125.63 Flight check system

(a) A holder of an air operator certificate must establish a flight check system for use by the flight crew members of each aeroplane that is operated under the authority of the certificate.

(b) When establishing the flight check system required by paragraph (a), the certificate holder must have regard to the principles of human factors and crew resource management to ensure that the flight crew members can make safe decisions for the management of the aeroplane.

(c) The flight check system required by paragraph (a) must—

- (1) provide instructions and guidelines for the safe and efficient management of the flight deck; and
- (2) specify methods to be used for ensuring the safe conduct of the flight; and
- (3) include procedures and checklists for ensuring compliance with—

- (i) the aeroplane flight manual; and
 - (ii) the manufacturer's technical and safety instructions; and
 - (4) include—
 - (i) expanded checklists in the operations manual; and
 - (ii) scan checks; and
 - (iii) abbreviated checklists for quick reference, including emergency procedures; and
 - (5) when used for a SEIFR passenger operation, include procedures for ensuring that when a person performing a pre-flight check removes a flight critical item during the pre-flight check, another person authorised by the certificate holder checks that the item has been replaced in accordance with the aeroplane flight manual before the flight commences.
- (d) Each flight crew member performing an air operation must use a cockpit checklist in accordance with the flight check system required by paragraph (a)—
- (1) before, during, and after every phase of the operation; and
 - (2) in non-normal, and emergency situations.
- (e) A holder of an air operator certificate that was current on 30 September 2011 is not required to comply with the requirements of paragraphs (b) and (c)—
- (1) until 1 April 2012 or until the holder's air operator certificate expires, whichever is the sooner; and
 - (2) provided the holder ensures that when a person performing a pre-flight check for a SEIFR operation removes a flight critical item during the pre-flight check another person, authorised by the certificate holder, checks that the item has

been replaced in accordance with the aeroplane flight manual before the flight commences.

Rule 125.87 is revoked and replaced by the following rule:

125.87 Flights over water

(a) A holder of an air operator certificate must ensure that an aeroplane that is operated under the authority of the certificate is not operated on an extended over-water operation unless—

- (1) the operation is conducted under IFR; and
- (2) the crew members are trained in ditching procedures for the aeroplane; and
- (3) a risk assessment has been made to determine the risks to the survival of the occupants of the aeroplane in the event of a ditching taking into account the operating environment and the climatic conditions.

(b) A holder of an air operator certificate that was current on 30 September 2011 is not required to comply with the requirements of paragraphs (a)(2) and (a)(3) until 1 April 2012 or until the holder's air operator certificate expires whichever is the sooner.

Rule 125.89 is revoked and replaced by the following rule:

125.89 Night operations

(a) A pilot-in-command of an aeroplane performing an air operation at night must perform the operation under IFR.

(b) Despite paragraph (a), a pilot-in-command may perform an air operation at night under VFR if—

- (1) the holder of the air operator certificate has established procedures for flight at night under VFR; and
- (2) the certificate holder's operations specifications authorises flight at night under VFR; and

- (3) the flight departs from and arrives at the same aerodrome; and
- (4) the operation is performed—
 - (i) within 25 nm of the aerodrome; and
 - (ii) at a height not less than 3,000 feet AGL; and
- (5) the meteorological conditions are not less than a ceiling of 3,000 feet AGL and a flight visibility of not less than 16 km; and
- (6) the pilot-in-command holds a current ATPL; and
- (7) each flight crew member holds a current instrument rating; and
- (8) the aircraft is equipped in accordance with the requirements of rules 91.511, 91.517, and 91.519; and
- (9) the operation is performed in accordance with the procedures required by paragraph (1).

Subpart C — Operating Limitations and Weather Requirements

Rule 125.155 is revoked and replaced by the following rule:

125.155 Meteorological conditions — VFR flight

- (a) A pilot-in-command of an aeroplane performing an air operation must not commence a flight under VFR unless current meteorological reports, or a combination of current reports and forecasts, indicate that VFR minima prescribed in Part 91 and in paragraph (b) can be complied with along the route, or that part of the route to be flown under VFR.
- (b) A pilot-in-command of an aeroplane performing an air operation outside controlled airspace under VFR must—

- (1) fly in meteorological conditions of not less than a ceiling of 1000 feet AGL and a flight visibility of not less than 5 km; and
 - (2) fly beneath the ceiling, remaining clear of cloud, and in continuous sight of the ground or water; and
 - (3) except as provided in paragraph (c), not fly above more than scattered cloud.
- (c) A pilot-in-command of an aeroplane must not perform an air operation under VFR above more than scattered cloud unless the aeroplane—
- (1) meets the requirements for flight under IFR and the minimum number of flight crew members required for operating the aeroplane under IFR, holding current instrument rating qualifications, are at the controls; and
 - (2) is equipped with operative instruments and equipment, including radio navigation equipment, that are required for flight under IFR; and
 - (3) is capable, with one engine inoperative, of maintaining a net flight path that has a positive slope at 1000 feet above the cloud; and
 - (4) carries radio navigation equipment enabling it to be navigated by IFR to an aerodrome where an instrument approach procedure may be carried out for landing; and
 - (5) carries sufficient fuel and fuel reserves to proceed by IFR to an aerodrome where an instrument approach procedure may be carried out for landing.

Rule 125.157 is revoked and replaced by the following rule:

125.157 Meteorological conditions — IFR flight

- (a) A pilot-in-command of an aeroplane performing an air operation must not commence an operation under IFR unless current

meteorological reports, or a combination of current meteorological reports and forecasts, indicate that—

- (1) the meteorological conditions at the applicable destination aerodrome at the estimated time of arrival will be at or above the minima published in the applicable AIP for the instrument procedure likely to be used at that aerodrome; or
- (2) if only 1 alternate aerodrome is listed in the flight plan, the ceiling and visibility requirements prescribed in rule 91.405(a)(2) will be met; or
- (3) if 2 or more alternate aerodromes are listed in the flight plan, the ceiling and visibility requirements prescribed in rule 91.405(b) will be met at the alternate aerodromes at the estimated time of arrival.

(b) A pilot-in-command of an aeroplane performing an air operation must not commence an operation under IFR unless at least 1 alternate aerodrome is listed in the flight plan where the ceiling and visibility requirements prescribed in rule 91.405(b) will be met at that alternate aerodrome at the estimated time of arrival if—

- (1) the departure or destination aerodrome for the operation is outside of the New Zealand FIR; and
- (2) the destination aerodrome does not have 2 or more physically separate runways that are suitable in accordance with the flight manual for use by the aeroplane being used.

Subpart F — Instruments and Equipment

Rule 125.353 is revoked and replaced by the following rule:

125.353 General

A holder of an air operator certificate must ensure that an aeroplane is not used to conduct an air operation under the authority of the certificate unless—

- (1) the aeroplane is equipped—

- (i) with the type of instruments and equipment required by Subpart F of Part 91 and this Subpart; and
 - (ii) with the number of instruments and equipment to ensure that the failure of any independent system required for either communication or navigation purposes, or both, will not result in the inability to communicate and navigate safely as required for the route being flown; and
- (2) the instruments and equipment installed in the aeroplane comply with—
- (i) the applicable specifications and airworthiness design standards listed in the following—
 - (A) Appendix B to this Part:
 - (B) Appendix C to Part 21:
 - (C) Part 26; or
 - (ii) an alternative specification or design standard acceptable to the Director; and
- (3) the instruments and equipment have been installed in accordance with the aeroplane manufacturer's instructions or other instructions acceptable to the Director; and
- (4) except as may be provided by a MEL approved under rule 91.539 for use for that aeroplane, the instruments and equipment installed in the aeroplane are in an operable condition.

Rule 125.363 is revoked and replaced by the following rule:

125.363 Emergency equipment

- (a) A holder of an air operator certificate must ensure that an aeroplane is not used to conduct an air operation under the authority of the certificate unless—

- (1) despite the seat breaks specified in rules 91.523(a) and (b), the aeroplane is equipped in accordance with the requirements of rule 91.523; and
- (2) despite the distance from shore specified in rules 91.525(b) to (d), for an extended over-water operation, the aeroplane is equipped in accordance with—
 - (i) the requirements of rule 91.525(b); and
 - (ii) if the aeroplane exceeds 5700 kg MCTOW, the requirements of rule 91.525(d); and
- (3) based upon the risk assessment required by rule 125.87(a)(3), the life-rafts required by rule 91.525(b)(1) for an extended over-water operation are equipped with such lifesaving equipment, including means for sustaining life, as is appropriate to the operation.

(b) A holder of an air operator certificate that was current on 30 September 2011 is not required to comply with the requirements of paragraph (a)(3) until 1 April 2012 or until the holder's air operator certificate expires whichever is the sooner.

Appendix B — Instruments and Equipment Airworthiness Design Standards

Appendix B.9 is revoked and replaced by the following rule:

B.9 Terrain awareness and warning system (TAWS)

- (a) TAWS Class A must meet the requirements of TSO C151a or TSO C151b for Class A equipment.
- (b) TAWS Class B must meet the requirements of TSO C151a or TSO C151b for Class B equipment.

Appendix B.10 is revoked and replaced by the following rule:

B.10 Airborne collision avoidance system (ACAS II)

- (a) ACAS II must meet the requirements of TSO C119b or TSO C119c.

- (b) ACAS is equipment that meets the requirements of TSO C118 or TSO C119a.

Consultation Details

(This statement does not form part of the rules contained in Part 125. It provides details of the consultation undertaken in making the rules.)

A notice of proposed rulemaking, NPRM 09-04 *Part 125 Update*, containing the proposed rules was issued for public consultation under Docket 8CAR/5 on 17 December 2009.

A total of 4 responses to the NPRM were received. They were from the following organisations: Auckland Air Charter, Flight 2000, Southern DC3, and Air Milford.

Subject Area

The subject of one submission was an objection to the structure of the air transport operating rules that results in a VFR operation which utilises medium sized aeroplanes being captured by Part 125 operating rules when it would be more appropriate to be operating under Part 135.

CAA Response

The CAA acknowledges, as noted in the NPRM, that the current basis of passenger seating configuration and payload capacity to differentiate between which operating rules must be observed is not ideal at the Part 125 level. However, it is outside the scope of this rule project to address that issue.

Rule reference 125.87(a)(1)

One submission was received regarding rule 125.87(a)(1). The submitter conducts target towing for the Navy, maritime patrol and oceanographic survey. The nature of these operations is low-level extended over-water operations which, by necessity, are conducted under VFR. The submitter proposed that commercial transport operations should be excluded from the requirement to conduct extended over-water operations under IFR.

CAA Response

Operations such as target towing, maritime patrol, and oceanographic survey that must be conducted under Part 125 are special in nature, and, with appropriate controls, can be conducted safely. The CAA considers that introducing rules to regulate

infrequent and exceptional types of operations becomes somewhat speculative, and is unlikely to realise a sufficiently comprehensive set of requirements for every instance of operation. For those operations, the provisions of section 37 of the Civil Aviation Act 1990 could be applied on a case-by-case basis.

Rule reference 125.89

Three submissions were received regarding rule 125.89.

- The submitter's operations regarding rule 125.87 above also include A-to-B operations at night under VFR. The submitter proposed that commercial transport operations (CTO) should be excluded from the requirement to conduct night operations under IFR.
- The other two submitters operate sightseeing flights at night. They proposed that A-to-A scenic operations performed at night under VFR should be permitted within a 25nm radius.
- One of the submitters also proposed that ferry flights at night under VFR should be permitted.

CAA Response

In light of these submissions, the CAA reviewed the proposals and took the following action—

Excluding commercial transport operations and ferry flights from the requirement – the CAA considers that ferry flights at night, which are conducted under the authority of the certificate, should be conducted under IFR. Although not prohibited by ICAO, the CAA believes that, generally, A-to-B air operations at night under VFR present an unacceptable risk because of the visibility limitations inherent in night flying and New Zealand's mountainous terrain.

With regard to CTO operations, the same reasoning contained in the CAA Response to rule reference 125.87(a)(1) applies.

The proposed rule will not, therefore, be amended to exclude CTO or ferry flights from the requirement.

A-to-A scenic flights – the CAA considers that in this case the risks can be mitigated or managed and will make provision to conduct operations at night provided the operator establishes procedures for flight at night under VFR and the following conditions are met—

- *Night VFR operations are approved on the certificate holder's operations specifications;*
- *The flight departs from and arrives at the same aerodrome;*
- *The operation is performed within a radius of 25 nm from the aerodrome and at a height not less than 3,000 feet AGL;*
- *Meteorological conditions are not less than a ceiling of 3,000 feet AGL and a flight visibility of not less than 16 km;*
- *The pilot-in-command holds a current ATPL and each pilot holds a current instrument rating;*
- *The aircraft meets the instrument and equipment requirements of rules 91.511, 91.517, and 91.519;*
- *The operator's procedures are followed.*