

PURSUANT to Section 28 of the Civil Aviation Act 1990
I, MAURICE WILLIAMSON, Minister of Transport,
HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

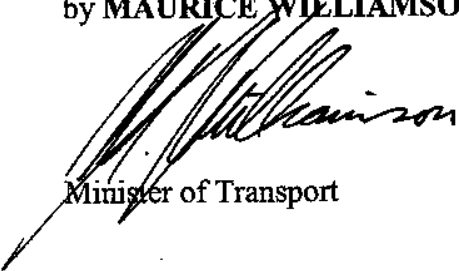
This

10

day of

September 1998

by **MAURICE WILLIAMSON**



Minister of Transport

Civil Aviation Rules

Part 140

Aviation Security Service Organisations — Certification

Docket 1012

Civil Aviation Rules

Part 140

**Aviation Security Service Organisations —
Certification**

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 140 is to define a regulatory safety boundary for organisations wishing to provide aviation security services. The boundary prescribes the minimum organisational requirements for these organisations and the minimum standards for the provision of aviation security services.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process.

A draft of Part 140 was developed by the rules team and an informal draft was published and distributed on 12 December 1996 and a period of informal consultation followed. This culminated in the issue of Notice of Proposed Rulemaking 97-4 under Docket 1012 on 9 May 1997

The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 15 May 1997. The notice was mailed to members of the Regulatory Review Consultative Group and to other parties, including overseas Aviation Authorities and organisations, who were considered likely to have an interest in the proposal.

A period of 60 days was allowed for comment on the proposed rule.

The submissions and verbal comments were considered and where appropriate the proposed rules amended to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 140 comes into force on 2 November 1998 in accordance with section 34(4) of the Civil Aviation Act 1990.

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Subpart A — General

140.1 *Applicability*

This Part prescribes rules governing the certification and operation of organisations that provide aviation security services at a security designated aerodrome or security designated navigation installation.

140.3 *Definitions*

In this Part—

Aviation security officer means an employee of a holder of an aviation security service certificate who is designated as such under section 81(2) of the Act or a person for the time being employed as such in the Aviation Security Service:

High risk flight means a flight that is assessed to be affected by a higher than normal threat factor by the—

- (1) Director; or
- (2) aircraft operator; or
- (3) State of registration of the aircraft:

In service has the same meaning as in section 2(3) of the Aviation Crimes Act 1972:

Normal flight means a flight that is not a high risk flight:

Screening point means that area provided by the aerodrome operator under 139.203(d)(4) for carrying out passenger screening:

Security designated navigation installation means a navigation installation for the time being designated as a security designated navigation installation under section 82 of the Act:

Security management means the aviation security officer in charge at each location specified under 140.61(a)(5) and includes that officer's deputy and any other officer delegated any responsibility by that officer:

Unauthorised article means those articles referred to in section 11(1)(a), (b), (c), and (d) of the Aviation Crimes Act 1972.

140.5 Requirement for certificate

No person shall provide aviation security services at a security designated aerodrome or security designated navigation installation except under the authority of, and in accordance with the provisions of, an aviation security service certificate issued under this Part.

140.7 Application for certificate

Each applicant for an aviation security service certificate shall complete form CAA 24140/01 and submit it to the Director with—

- (1) the exposition required by 140.61; and
- (2) payment of the appropriate application fee.

140.9 Issue of certificate

Subject to section 79A of the Act, the Director shall issue an aviation security service certificate if—

- (1) the applicant's senior persons required by 140.51 are fit and proper persons; and
- (2) the Director is satisfied that the applicant is—
 - (i) the Aviation Security Service; or
 - (ii) an operator of a security designated aerodrome or security designated navigation installation that will provide aviation security services at that aerodrome or navigation installation; and
- (3) the applicant's exposition meets the requirements of Subpart B; and
- (4) the granting of the certificate is not contrary to the interests of aviation safety and security.

140.11 Functions and duties of certificate holder

(a) Each holder of an aviation security service certificate shall, at each location specified in its exposition, have the following functions and duties—

- (1) where the certificate holder is the operator of a security designated aerodrome, to carry out—

- (i) passenger and baggage screening of all international aircraft passenger services and of such other services where the screening is judged advisable by the Director; and
 - (ii) where necessary, searches of aircraft; and
 - (iii) aerodrome security patrols; and
 - (2) where the certificate holder is the operator of a security designated navigation installation, to carry out patrols of that designated navigation installation; and
 - (3) to review, inquire into, and keep itself informed on security techniques, systems, devices, practices, and procedures related to the protection of civil aviation and persons employed in or using it; and
 - (4) for the purpose of better carrying out any of its functions under this Part, to co-operate with the Police, Government departments, airport authorities, operators, and authorities administering the airport security services of other countries, and with any appropriate international organisation.
- (b) Notwithstanding paragraph (a), the Aviation Security Service shall have the functions and duties prescribed in section 80 of the Act.

140.13 *Duration of certificate*

- (a) An aviation security service certificate may be granted or renewed for a period of up to five years.
- (b) An aviation security service certificate shall remain in force until it expires or is suspended or revoked.
- (c) The holder of an aviation security service certificate that expires or is revoked shall forthwith surrender the certificate to the Director.
- (d) The holder of an aviation security service certificate that is suspended shall produce the certificate to the Director for appropriate endorsement.

140.15 *Renewal of certificate*

- (a) An application for the renewal of an aviation security service certificate shall be made by the certificate holder on form CAA 24140/01.

(b) The application for the renewal shall be made before the application renewal date specified on the certificate or, if no such renewal date is specified, not less than 30 days before the certificate expires.

140.17 *Implementation*

This Part shall come into force on 2 November 1998.

Subpart B — Certification Requirements

140.51 *Personnel requirements*

- (a) Each applicant for an aviation security service certificate shall employ—
- (1) a senior person identified as the Chief Executive who has the authority within the applicant's organisation to ensure that all activities undertaken by the organisation can be financed and carried out in accordance with the requirements prescribed by this Part; and
 - (2) a senior person or group of senior persons—
 - (i) responsible for ensuring that the applicant's organisation complies with the requirements of this Part; and
 - (ii) ultimately responsible to the Chief Executive; and
 - (3) sufficient personnel to plan, inspect, supervise, and carry out the aviation security services detailed under 140.61(a)(7).
- (b) The applicant shall—
- (1) establish a procedure to initially assess the ability of each applicant to perform the duties and requirements of the position of an aviation security officer, taking into account the applicant's—
 - (i) education; and
 - (ii) communication skills; and
 - (iii) character; and
 - (iv) experience; and
 - (v) health; and
 - (2) designate those of its employees who will be aviation security officers; and
 - (3) establish a procedure to train and maintain the competence of its aviation security officers; and

- (4) provide personnel who are authorised to plan, inspect, supervise, and carry out the aviation security services detailed under 140.61(a)(7) with written evidence of the scope of their authorisation.

140.53 *Establishment of operations procedures*

(a) Where the applicant for an aviation security service certificate is the Aviation Security Service or the operator of a security designated aerodrome, it shall establish procedures necessary to enable the requirements in Appendix A to be complied with.

(b) Where the applicant for an aviation security service certificate is the operator of a security designated navigation installation, it shall establish procedures necessary to enable the requirements in A.12(d) to be complied with.

140.55 *Documentation*

(a) Each applicant for an aviation security service certificate shall establish a procedure to ensure all documentation that is necessary to support the aviation security services that it provides is available to all personnel who need access to the documentation to carry out their duties.

(b) The documentation referred to in paragraph (a) shall include—

- (1) all relevant legislation; and
- (2) all relevant international technical manuals or notices on aviation security; and
- (3) documentation issued to the certificate holder by the Director; and
- (4) the certificate holder's exposition.

(c) The applicant shall establish a procedure to control all documents referred to in paragraph (a) to ensure that—

- (1) the documents are reviewed and approved by appropriate personnel prior to issue; and
- (2) current issues of relevant documents are available to personnel at all locations where they need access to such documents; and

- (3) outdated documents are promptly removed from all points of issue or use; and
 - (4) changes to documents are reviewed and approved by appropriate personnel; and
 - (5) the current issue of each document can be identified; and
 - (6) its exposition is amended so as to remain a current description of the service provider, its services, procedures, and facilities.
- (d) The applicant shall establish a procedure to provide and maintain a copy of its exposition at each location specified under 140.61(a)(5).

140.57 *Records*

- (a) Each applicant for an aviation security service certificate shall establish a procedure to identify, collect, index, store, and maintain the records that are necessary to ensure compliance with this Part.
- (b) The applicant shall establish a procedure to—
- (1) maintain a register of its aviation security officers, including details of their experience, qualifications, competence, training, medical assessment, and current authorisations; and
 - (2) ensure that—
 - (i) all records are of a legible and permanent nature; and
 - (ii) the records required by paragraph (b)(1) are retained for 2 years from the date the person ceases to be authorised by the certificate holder; and
 - (iii) the records required other than by paragraph (b)(1) are retained for 2 years.

140.59 *Internal quality assurance*

- (a) Each applicant for an aviation security service certificate shall establish an internal quality assurance system to ensure compliance with, and the adequacy of, the procedures required by this Part.
- (b) The internal quality assurance system shall include—

- (1) a security policy and security policy procedures that are relevant to the applicant's organisational goals and the expectations and needs of its customers; and
 - (2) a procedure to ensure quality indicators, including defect and incident reports, and personnel and customer feedback, are monitored to identify existing problems or potential causes of problems within the system; and
 - (3) a procedure for corrective action to ensure existing problems that have been identified within the system are corrected; and
 - (4) a procedure for preventive action to ensure that potential causes of problems that have been identified within the system are remedied; and
 - (5) an internal quality audit programme to audit the applicant's organisation for conformity with the procedures in its exposition and achievement of the goals set in its security policy; and
 - (6) management review procedures that may, where appropriate, include the use of statistical analysis, to ensure the continuing suitability and effectiveness of the internal quality assurance system in satisfying the requirements of this Part; and
 - (7) a procedure to ensure that the senior person who has the responsibility for internal quality assurance has direct access to the Chief Executive on matters affecting security.
- (c) The security policy procedure shall ensure that the security policy is understood, implemented, and maintained at all levels of the organisation.
- (d) The procedure for corrective action shall specify how—
- (1) to correct an existing problem; and
 - (2) to follow up a corrective action to ensure the action is effective; and
 - (3) management will measure the effectiveness of any corrective action taken.
- (e) The procedure for preventive action shall specify how—
- (1) to correct a potential problem; and

- (2) to follow up a preventive action to ensure the action is effective; and
 - (3) to amend any procedure required by this Part as a result of a preventive action; and
 - (4) management will measure the effectiveness of any preventive action taken.
- (f) The internal quality audit programme shall—
- (1) specify the frequency and location of the audits taking into account the nature of the activity to be audited; and
 - (2) ensure audits are carried out by trained auditing personnel who are independent of those having direct responsibility for the activity being audited; and
 - (3) ensure the results of audits are reported to the personnel responsible for the activity being audited and the manager responsible for internal audits; and
 - (4) require preventive or corrective action to be taken by the personnel responsible for the activity being audited if problems are found by the audit; and
 - (5) ensure follow up audits to review the effectiveness of any preventive or corrective action taken.
- (g) The procedure for management review shall—
- (1) specify the frequency of management reviews of the quality assurance system taking into account the need for the continuing effectiveness of the system; and
 - (2) identify the responsible manager who shall review the quality assurance system; and
 - (3) ensure the results of the review are evaluated and recorded.

140.61 Organisation exposition

- (a) Each applicant for an aviation security service certificate shall provide the Director with an exposition that shall contain—

- (1) a statement signed by the Chief Executive, on behalf of the organisation, confirming that the exposition—
 - (i) defines the organisation and demonstrates its means and methods for ensuring ongoing compliance with this Part; and
 - (ii) will be required to be complied with by its personnel at all times; and
- (2) the titles and names of the persons required by 140.51(a)(1) and (2); and
- (3) the duties and responsibilities of the persons specified in paragraph (a)(2) including matters in respect of which they deal directly with the Director on behalf of the organisation; and
- (4) an organisation chart showing associated lines of responsibility of the persons and supervisory persons specified in paragraph (a)(2); and
- (5) details of each location where the organisation intends to provide aviation security services and the facilities at each location; and
- (6) a summary of the organisation's staffing structure to be used at each location listed under paragraph (a)(5); and
- (7) details of the aviation security services to be provided at each location; and
- (8) details of the scope of the medical examination report and the method of assessment of fitness required by A.22; and
- (9) details of the applicant's procedures required by—
 - (i) 140.53 regarding the operating procedures; and
 - (ii) 140.55 regarding control and distribution of aviation security documentation; and
 - (iii) 140.57 regarding the identification, collection, indexing, storage, and maintenance of records; and

(iv) 140.59 regarding internal quality assurance of the applicant's organisation; and

(10) procedures to control, amend, and distribute the exposition.

(b) The Director shall not issue the applicant with an aviation security service certificate unless the applicant's exposition is acceptable to the Director.

Subpart C — Operating Requirements

140.101 Continued compliance

Each holder of an aviation security service certificate shall continue to—

- (1) hold at least one complete and current copy of its exposition at each location specified in its exposition; and
- (2) comply with all the procedures and systems detailed in its exposition; and
- (3) make each applicable part of its exposition available to personnel who are required to comply with those parts in the performance of their duties; and
- (4) meet the standards and comply with the requirements of—
 - (i) Subpart B; and
 - (ii) those parts of Appendix A for which it is required to have procedures under 140.53.

140.103 Changes to the exposition

(a) Each holder of a aviation security service certificate shall—

- (1) ensure that its exposition is amended so as to remain a current description of its organisation; and
- (2) ensure any amendment to its exposition meets the applicable requirements of this Part; and
- (3) comply with the amendment procedure contained in its exposition; and
- (4) provide the Director with a copy of each amendment to its exposition as soon as practicable after the amendment is incorporated into its exposition; and
- (5) make such amendments to its exposition as the Director may consider necessary in the interests of aviation security.

(b) Where the certificate holder proposes to make a change to any of the following, prior application to and acceptance by the Director is required:

- (i) the chief executive:
 - (ii) the listed senior persons:
 - (iii) the location at which aviation security services may be provided:
 - (iv) the scope for which the certificate is granted:
 - (v) the organisation's internal quality assurance system.
- (c) An application to make any of the changes specified in paragraph (b) shall be made by the certificate holder on form CAA 24140/01.
- (d) The Director may prescribe conditions during or following any of the changes specified in paragraph (b).
- (e) The certificate holder shall comply with any conditions prescribed under paragraph (d).
- (f) Where any of the changes specified in paragraph (b) requires an amendment to the certificate, the certificate holder shall forward the certificate to the Director as soon as practicable.

Appendix A — Security Operational Standards

A.1 Sterile area search

The holder of an aviation security service certificate shall—

- (1) ensure that its aviation security officers carry out a sterile area search to confirm the integrity of each sterile area in the following circumstances:
 - (i) prior to the commencement of a period of passenger screening;
 - (ii) when the sterile nature of the area may have been compromised; and
- (2) ensure that its aviation security officers, when carrying out a sterile area search—
 - (i) ensure no unauthorised article has been left or hidden in the sterile area; and
 - (ii) ensure that all persons screened are kept segregated from all persons who have not been screened; and
- (3) carry out tests or checks, to confirm—
 - (i) the thoroughness of any search of a sterile area, within each 28 day cycle; and
 - (ii) the proficiency of each aviation security officer carrying out sterile area searches, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.

A.2 Security control of sterile areas

The holder of an aviation security service certificate shall ensure that—

- (1) all goods and supplies that are to be taken or delivered into any sterile area by a person other than a passenger are subjected to screening or security control to ensure that no unauthorised article is introduced on board any aircraft by this means; and
- (2) its aviation security officers monitor movements within the sterile area to confirm the integrity of the sterile area.

A.3 Aircraft search

- (a) The holder of an aviation security service certificate shall ensure that, when its aviation security officers carry out an aircraft search, the search—
- (1) includes passenger seating, overhead lockers, floor areas, toilets, and other areas to which passengers on previous services could have had ready access; and
 - (2) is of sufficient intensity to discover any unauthorised article that has been concealed or otherwise introduced on board.
- (b) The certificate holder shall ensure that, when a flight that is assessed to be a high risk flight—
- (1) the aircraft is subjected to a complete search by its aviation security officers with the operator's assistance; and
 - (2) the search is carried out in a planned manner using the operator's search check-list for that aircraft; and
 - (3) the search is of sufficient intensity to discover any unauthorised article that has been concealed or otherwise introduced on board.
- (c) The certificate holder shall—
- (1) ensure that a record is made of each search carried out under paragraph (a) or (b), that includes details of—
 - (i) the names of the officers carrying out the search; and
 - (ii) any unauthorised articles found; and
 - (iii) any disposal action taken; and
 - (2) carry out tests or checks, to confirm—
 - (i) the thoroughness of any search of an aircraft required to be searched, within each 28 day cycle; and
 - (ii) the proficiency of each aviation security officer carrying out unscreened or high risk aircraft searches, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.

A.4 Screening point security and equipment

The holder of an aviation security service certificate shall ensure—

- (1) that screening points be situated so that every person entering the sterile area from any area not subject to security control must pass through them; and
- (2) sufficient personnel and equipment are available to carry out screening at such a speed that standards can be maintained without the departure of the aircraft being unnecessarily delayed; and
- (3) uplifted items suitable for carriage on an aircraft are passed to the air operator concerned for carriage as hold stowed baggage; and
- (4) its aviation security officers are instructed in the use of standard test pieces to ensure that they can competently check the screening equipment; and
- (5) any metal detector used at a screening point is—
 - (i) tested with a standard test piece acceptable to the Director prior to the commencement of a period of passenger screening; and
 - (ii) only used if it gives a positive reaction to the standard test piece; and
- (6) any x-ray apparatus used at a screening point is tested in a manner acceptable to the Director.

A.5 Screening of the person

(a) The holder of an aviation security service certificate shall inform all persons about to undergo screening, by notice posted at each screening point, that—

- (1) screening of the person or their baggage is only undertaken with the consent of that person; and
- (2) any person refusing to be screened will be denied entry beyond that point; and
- (3) any passenger refusing to be screened may be refused carriage by the carrier.

- (b) The certificate holder shall—
- (1) ensure that its aviation security officers do not allow any person to enter a sterile area through any screening point unless an officer screens that person; and
 - (2) ensure that its aviation security officers do not allow any departing international passenger to enter a sterile area unless an officer screens that passenger, except those specifically exempted by Cabinet; and
 - (3) ensure that its aviation security officers, when screening any person, ensure that person is not carrying or in possession of any unauthorised article; and
 - (4) carry out tests or checks to confirm—
 - (i) the thoroughness of any screening, within each 28 day cycle; and
 - (ii) the proficiency of each aviation security officer carrying out the screenings, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.

A.6 *Screening by x-ray*

- (a) The holder of an aviation security service certificate shall ensure its aviation security officers, when screening any article by use of x-ray—
- (1) satisfy themselves that it does not contain any unauthorised article; and
 - (2) do not continuously view the presented image on x-ray monitors for periods exceeding 10 minutes.
- (b) Where an article contained within another article cannot be positively identified by x-ray examination as not being an unauthorised article, or where any doubt exists, the certificate holder shall ensure its aviation security officers do not allow the article or the person who is carrying the article to enter the sterile area until positive identification of the article is made by an officer.
- (c) The certificate holder shall carry out tests or checks, to confirm—

- (1) the thoroughness of any x-ray screening, within each 28 day cycle; and
- (2) the proficiency of each aviation security officer carrying out x-ray screening, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.

A.7 Hand search of carry-on baggage

(a) The holder of an aviation security service certificate shall ensure that—

- (1) its aviation security officers, when checking carry-on baggage by hand, satisfy themselves that it does not contain any unauthorised article; and
- (2) unless its aviation security officers are satisfied that any carry-on baggage does not contain any unauthorised article, the carriage of that baggage in the aircraft is prohibited, and an officer informs the operator of the aircraft; and
- (3) where there is any cause to suspect that any item contains an explosive device, its aviation security officers comply with the procedure required by A.11(b)(5).

(b) The certificate holder shall ensure that where a passenger declines to have any computer, video camera, or similar item examined by x-ray, its aviation security officers do not allow the item or the person who is carrying the item to enter the sterile area until an officer—

- (1) where practicable, hand searches the item and requests the passenger to operate the equipment; and
- (2) where a hand search is not practicable, clears the item for carriage on board provided—
 - (i) the item operates satisfactorily; and
 - (ii) it is apparent that the item is in new, or near new condition; and
 - (iii) there is no sign of the case having been tampered with or modified, including case-holding screw damage; and

- (iv) the behaviour of the passenger does not give cause for concern; and
 - (v) there is no other reason to be concerned as to the item, or its contents.
- (c) The certificate holder shall carry out tests or checks, to confirm—
- (1) the thoroughness of any hand search, within each 28 day cycle; and
 - (2) the proficiency of each aviation security officer carrying out hand searches, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.

A.8 Relinquishment of items - disposal action

The holder of an aviation security service certificate shall—

- (1) establish a procedure for dealing with unauthorised articles relinquished by passengers; and
- (2) ensure that its aviation security officers record details of each unauthorised article taken from any passenger, including—
 - (i) the description of the unauthorised article; and
 - (ii) the name and flight details of the passenger; and
 - (iii) the name of each aviation security officer involved; and
 - (iv) the disposal of the unauthorised article.

A.9 Surveillance of persons being screened

The holder of an aviation security service certificate shall ensure its aviation security officers—

- (1) on x-ray load duty—
 - (i) are alert for any person who gives cause for concern; and
 - (ii) ensure carried items are positioned on the conveyer in a manner that facilitates the work of its aviation security officers on x-ray screen examination; and

- (2) on metal detector duty, screen all persons who give cause for concern whether or not they activate the metal detector alarm.

A.10 Breaches of security screening

(a) Where screened passengers have had contact with unauthorised unscreened persons in the sterile area the holder of an aviation security service certificate shall ensure that its aviation security officers—

- (1) remove all persons from the sterile area; and
- (2) re-search the sterile area to confirm that no unauthorised article has been left in the sterile area; and
- (3) re-screen all persons entering the sterile area in accordance with A.5(b).

(b) Where any unauthorised person is found in a sterile area or on board an aircraft, and a mix of screened and unscreened persons has not occurred, it shall be sufficient to search the areas at risk.

A.11 Screening point emergencies — action plans and alarms

(a) The holder of an aviation security service certificate shall have a procedure for dealing with any situation, at each screening point, when the safety of any person has been or is likely to be compromised.

(b) The certificate holder shall include in its procedure—

- (1) the building evacuation procedure applicable to the location of each screening point; and
- (2) a system to warn other aviation security officers that an emergency exists; and
- (3) a system whereby its aviation security officers operate covert alarms at each screening point to—
 - (i) alert their local security base and the Police; and
 - (ii) advise other parties in accordance with the requirements of the Aerodrome Emergency Plan required by 139.57 of the existence of an emergency; and
- (4) actions to be taken—

- (i) when a person presents an unauthorised article at the screening point, in circumstances that indicate the person may have criminal intentions; and
 - (ii) when an unauthorised article is identified on the x-ray monitor, to ensure its aviation security officers attempt to keep the passenger concerned separated from the suspect item; and
- (5) when a suspected explosive device has been discovered, a procedure to—
- (i) alert the Police and the aerodrome operator; and
 - (ii) advise any other parties in accordance with the Aerodrome Emergency Plan; and
 - (iii) assist in evacuating the area; and
 - (iv) assist the police in locating and detaining the offender.

A.12 Mobile patrol

(a) Except as provided in paragraph (c) or (d), the holder of an aviation security service certificate shall ensure its aviation security officers maintain mobile patrols 24 hours daily—

- (1) for the detection of persons who may be a threat to the security of operations at the locations specified in the aviation security service certificate; and
- (2) to provide a prompt response to security related emergencies at the locations specified in the aviation security service certificate.

(b) The certificate holder shall ensure its aviation security officers, when carrying out mobile patrols—

- (1) have a thorough knowledge of the location of facilities in the certificate holder's area of responsibility specified in 140.61(a)(5); and
- (2) ensure a thorough coverage is given to the area referred to in paragraph (b)(1); and
- (3) ensure patrols are carried out—

- (i) on an irregular basis; and
 - (ii) to check for unauthorised vehicles and persons; and
 - (iii) to deter unauthorised access to security, or otherwise restricted, areas of the aerodrome; and
- (4) be at the scene of any security related emergency in the security area of a security designated aerodrome, within 5 minutes of being requested to attend the emergency; and
- (5) patrol cargo and freight areas within security areas; and
- (6) patrol navigation installations within the security areas of an aerodrome; and
- (7) inspect all perimeter fencing and barriers of any security area of the aerodrome to detect any breach of the security perimeter; and
- (8) ensure the inspection required by paragraph (b)(7) includes—
- (i) covering the perimeter at least three times during night and at least three times during day; and
 - (ii) patrols that vary the timing of visits to buildings and facilities; and
 - (iii) checking the integrity of security area signs; and
 - (iv) maintaining records of each perimeter inspection to ensure that the required coverage is achieved.
- (c) Where the Aviation Security Service is providing aviation security services at an aerodrome, other than at Auckland, Wellington, or Christchurch International Airports, its aviation security officers may maintain mobile patrols at that aerodrome less than 24 hours daily, without complying with paragraph (b)(8), if—
- (1) the aerodrome operator is providing its own 24 hour daily security presence; and
 - (2) its aviation security officers patrol the period from 90 minutes prior to each international departure until 15 minutes after departure.

(d) Where the certificate holder is the operator of a security designated navigation installation it may maintain mobile patrols at that installation less than 24 hours daily provided that it ensures its aviation security officers carry out patrols—

- (1) for the detection of persons who may be a threat to the security of operations at the navigation installation specified in the aviation security service certificate; and
- (2) to provide a prompt response to security related emergencies at the navigation installation specified in the aviation security service certificate.

A.13 Check point security

The holder of an aviation security service certificate shall ensure that its aviation security officers—

- (1) on duty at any security check point—
 - (i) allow access beyond the check point only to persons with current and valid identity cards or documentation, in accordance with 19.357; and
 - (ii) ensure the check point is secured at any time the check point is left unattended; and
- (2) on duty at a vehicle security check point ensure that only authorised persons and vehicles are allowed beyond that check point.

A.14 Random security spot checks

The holder of an aviation security service certificate shall ensure that its aviation security officers carry out random security spot checks on—

- (1) persons who are in or are attempting to enter security areas to ensure that they have current and valid identity cards or documentation, in accordance with 19.357; and
- (2) vehicles to ensure they are authorised to be in the security area.

A.15 Verification – ID cards and licences

The holder of an aviation security service certificate shall ensure that its aviation security officers—

- (1) monitor identification cards and pilot licences used for access purposes; and
- (2) if any doubt exists as to the authenticity of the documentation referred to in subparagraph (1), establish whether the card or licence has been reported lost or stolen, or is otherwise invalid.

A.16 Security escorts

(a) The holder of an aviation security service certificate shall have a procedure that determines the circumstances where persons or vehicles are required to be escorted by an aviation security officer.

(b) The certificate holder shall ensure that each aviation security officer, before commencing a security escort, briefs the escorted person—

- (1) where the person is in a vehicle, to follow closely behind the escorting vehicle; and
- (2) to obey all instructions given by the escorting officer.

(c) If the escorted person is to remain in the security area without an escorting officer in attendance, the officer shall, before leaving the escorted person, brief that person—

- (1) not to leave the area designated by the escorting officer, without being escorted by an escorting officer; and
- (2) on how to contact the certificate holder when requiring an escort from that area.

A.17 Foot patrols

The holder of an aviation security service certificate shall ensure that—

- (1) foot patrols are carried out by its aviation security officers to detect persons who may pose a threat to the security of civil aviation; and
- (2) its aviation security officers who carry out foot patrols—
 - (i) have a thorough knowledge of the location of facilities in their area of responsibility; and
 - (ii) provide thorough patrol coverage of their area of responsibility; and

- (iii) provide an immediate response to any notified or detected security related incidents.

A.18 Aircraft security

- (a) The holder of an aviation security service certificate shall ensure that—
- (1) its aviation security officers at the aerodrome specified in its certificate—
 - (i) keep all aircraft that are in service under general surveillance; and
 - (ii) prevent unauthorised persons from approaching or going on board any aircraft; and
 - (iii) conduct a walk-round visual inspection of aircraft that are in service for international destinations with attention being given to those areas where a person or unauthorised article could be concealed; and
 - (2) except as provided in paragraph (b), its aviation security officers patrol all aircraft that are in service for international destinations—
 - (i) on an irregular basis; and
 - (ii) at least once every two hours during night; and
 - (iii) at least once every four hours during day; and
 - (3) its aviation security officers request the air operator's representative to attend to the aircraft in the following circumstances:
 - (i) where an unattended aircraft is attached to an air-bridge and is not secure:
 - (ii) where there is cause for concern that the aircraft has been interfered with.
- (b) Where the Aviation Security Service is providing aviation security services at an aerodrome, other than at Auckland, Wellington, and Christchurch International Airports, its aviation security officers may maintain patrols of aircraft that are in service for international destinations at that aerodrome for periods less than that required by paragraph (a)(2), if—

- (1) the aerodrome operator is providing its own 24 hour daily security presence; and
- (2) its aviation security officers patrol each of those aircraft from 90 minutes prior to its scheduled departure time and remain at that aerodrome until 15 minutes after its departure.

A.19 Patrol vehicles

The holder of an aviation security service certificate shall ensure that each vehicle it uses to patrol security areas is—

- (1) sign-written and identifiable to other aerodrome users; and
- (2) equipped to a standard acceptable to the Director.

A.20 Intelligence and information

The holder of an aviation security service certificate shall ensure that classified documentation is—

- (1) secured in a locked safe or cabinet depending on its classification; and
- (2) only promulgated to individuals or agencies cleared to receive it and then only on a *need-to-know* basis.

A.21 Liaison with other organisations

The holder of an aviation security service certificate shall, for each location specified under 140.61(a)(5)—

- (1) consult and liaise with all other organisations involved in contingency planning affecting the security of operations at that location; and
- (2) ensure sufficient information is given to other organisations at that location to motivate security awareness on the part of all personnel.

A.22 Aviation security officer – medical requirements

The holder of an aviation security service certificate shall ensure that no person is appointed to the position of an aviation security officer until that person is assessed, on the basis of a medical examination report, as fit to carry out the functions and duties of that position.

A.23 Training

(a) The holder of an aviation security service certificate shall ensure that its personnel do not perform the duties of an aviation security officer unless those personnel—

- (1) receive training on the topics listed in paragraph (c) as applicable to their particular duties; and
- (2) sit a written examination at the end of their training; and
- (3) meet the level of competence specified in paragraph (c) for each topic they receive training on.

(b) The grading system of the level of competence specified in paragraph (c) shall be as follows:

- (1) grade 1 denotes an awareness of the subject;
- (2) grade 2 denotes a basic knowledge of the subject;
- (3) grade 3 denotes the ability to apply a basic knowledge of the subject in situations likely to arise in the course of their duties;
- (4) grade 4 denotes the ability to apply a thorough knowledge of the subject in situations likely to arise in the course of their duties;
- (5) grade 5 denotes the ability to apply a thorough knowledge of the subject and to exercise sound judgement in situations likely to arise in the course of their duties.

(c) The topics that personnel referred to in paragraph (a) are required to be trained on are as follows:

- (1) **Legislation relating to aviation security:**
 - (i) **Aviation Crimes Act 1972** to examine the powers of an aviation security officer, aircraft commander, and the police and study the crimes that are provided for under the Aviation Crimes Act 1972, to grade 4;
 - (ii) **New Zealand Bill of Rights Act 1990** to examine the rights of individuals to be secure against unreasonable search or seizure, to grade 3;

- (iii) **Civil Aviation Act 1990 and Civil Aviation Rules** to examine the responsibilities, functions, and powers of an aviation security officer and offences applicable to aviation security, to grade 5:
 - (iv) **Part 19** to examine the provisions of 19.351, 19.353, 19.355, 19.357, and 19.359, to grade 3:
 - (v) **Civil Aviation (Offences) Regulations 1997** to examine the offence provisions and penalties for breaches of 19.351, 19.353, 19.355, 19.357, and 19.359, to grade 3:
 - (vi) **Crimes Act 1961** to examine sections 157, 203, 300, 301, and 303 of the Crimes Act dealing with endangering transport, to grade 3:
 - (vii) **Arrest and use of force** to examine the sections of the Crimes Act dealing with arrest and use of force, to grade 5:
- (2) **Screening and search of passengers and baggage:**
- (i) to outline the general principles governing the screening and search of passengers and baggage, to grade 4; and
 - (ii) to be familiar with and proficient in the use of the screening equipment provided by the certificate holder, to grade 4; and
 - (iii) to have practical experience with the procedures and methods for searching passengers and their baggage, to grade 4:
- (3) **Aircraft anti-sabotage checks** to examine the response required when aircraft require anti-sabotage checks following a threat or where the aircraft is involved in a previously unscreened service and the measures taken to ensure it is sterile before pre-flight screening, to grade 4:
- (4) **Improvised explosive devices** as they affect civil aviation to give aviation security officers an understanding of improvised explosive devices likely to be encountered on airports, in aircraft, or at the passenger screening point, to grade 3:

- (5) **Dealing with armed offenders** to instruct aviation security officers on the action they should take to handle an armed offender and protect other persons from the threat, to grade 3:
- (6) **Hijack response procedures** to give aviation security officers an understanding of procedures to be followed in the event of a hijacking, to grade 2:
- (7) **Foot and mobile security patrols** to make aviation security officers familiar with all aspects of foot and mobile preventive patrols and responding to security incidents, to grade 4:
- (8) **Aerodrome surface movements** to teach aviation security officers the correct procedure during vehicle movements on the aerodrome, to grade 5:
- (9) **Aeronautical radio-telephone operations and procedures** to teach aviation security officers the correct radio discipline to the standard of a restricted radio/telephone operators certificate, to grade 4:
- (10) **The threat factor** to update aviation security officers on the current terrorist and criminal trends, to grade 2:
- (11) **Weapons** to familiarise aviation security officers with a range of firearms and similar weaponry to assist in identification of these items during pre-flight screening duties, to grade 3:
- (12) **Historical background and statistics of acts of unlawful Interference** to provide aviation security officers with a knowledge of the evolution of aviation security and the extent of occurrences, to grade 2:
- (13) **Background information on international obligations** to familiarise aviation security officers with ICAO, the existence of the Conventions, Annex 17 and manuals associated with Annex 17, Document 8973/5, to grade 1.

A.24 Recurrent testing

- (a) The holder of an aviation security service certificate shall ensure all its aviation security officers are tested without prior notice using a standard test piece.

- (b) Testing shall be designed to assess the integrity of screening procedures and structured to ensure that its aviation security officers being tested have a reasonable opportunity to detect the standard test piece.
- (c) A standard test piece shall not be used for recurrent testing unless it is acceptable to the Director.
- (d) Each standard test piece shall—
- (1) represent an unauthorised article; and
 - (2) be used under realistic operational conditions.
- (e) The following measure of proficiency shall be applied to aviation security officers being tested or re-tested:
- (1) if each standard test piece is detected during testing, the aviation security officer being tested meets the required standard:
 - (2) if a standard test piece is not detected during any test conducted under paragraphs (f) to (j), the aviation security officer being tested has not met the required standard and shall—
 - (i) be re-tested; and
 - (ii) be removed from that duty until satisfactorily completing the re-test:
 - (3) if a standard test piece is not detected upon re-test—
 - (i) the examiner carrying out the test shall advise security management; and
 - (ii) security management shall record the failure; and
 - (iii) security management shall have each of its aviation security officers who failed the test attend corrective training and be further tested to show that the officer can meet the standard for the task before that officer is permitted to return to duty on that task.
- (f) The certificate holder shall, when metal detector testing is being carried out, ensure that—

- (1) the examiner carrying out the test conceals the standard test piece on the test courier in a manner acceptable to the Director; and
 - (2) the test courier—
 - (i) where the detector is a walk through detector, enters the metal detector in the direction of the passenger flow at normal walking speed; or
 - (ii) is seated or carried in a conveyance; and
 - (3) when a walk through metal detector alarm activates, the examiner determines whether the aviation security officer being tested locates and identifies the standard test piece by use of a hand-held metal detector or physical search; and
 - (4) when a hand-held metal detector alarm activates, the examiner determines whether the aviation security officer being tested locates and identifies the standard test piece; and
 - (5) if the alarm on the walk through or hand-held metal detector is not activated by the proximity of a standard test piece—
 - (i) the examiner informs security management that there is a fault; and
 - (ii) that metal detector is removed from service until it meets operational standards.
- (g) The certificate holder shall, when x-ray testing is being carried out, ensure that the examiner carrying out the test—
- (1) places the standard test piece amongst other items in the bag being screened; and
 - (2) determines whether the aviation security officer being tested identifies the standard test piece on the x-ray monitor and locates the standard test piece by a hand search; and
 - (3) assesses the aviation security officer's judgement of the need for a hand search where the contents cannot be clearly identified on the x-ray monitor.

(h) The certificate holder shall, when hand search testing is being carried out, ensure that the examiner carrying out the test—

- (1) conceals the standard test piece amongst other items in the bag being searched; and
- (2) determines whether the aviation security officer being tested locates the standard test piece.

(i) The certificate holder shall, when sterile area search testing is being carried out, ensure that the examiner carrying out the test—

- (1) conceals the standard test piece in the sterile area prior to the sterile area search; and
- (2) determines whether the aviation security officer being tested locates the standard test piece.

(j) The certificate holder shall, when aircraft search testing is being carried out, ensure that the examiner carrying out the test—

- (1) conceals the standard test piece in any part of the aircraft to which the passengers normally have access; and
- (2) determines whether the aviation security officer being tested locates the standard test piece.

CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 140. It provides details of the consultation undertaken in making the rules.)

Background to the Civil Aviation Rules

In April 1988 the Swedavia-McGregor Report on civil aviation regulation in New Zealand was completed. Following the recommendations contained in that report, the Civil Aviation Authority (CAA) (formerly the Air Transport Division of the Ministry of Transport) commenced a complete review of all existing civil aviation legislation. The existing legislation that is still appropriate has been rewritten into the new rules format. New legislation is being generated where necessary for the areas not presently covered.

Considerable research was carried out to determine the format for the new legislation. It was decided that the legislative framework should incorporate the advantages of the regulatory system of the Federal Aviation Administration (FAA) of United States of America and the system being developed by the European Joint Aviation Authorities and published as Joint Aviation Requirements (JAR).

The new rules are structured in a manner similar to the Federal Aviation Regulations (FAR) of the FAA, and aim to achieve maximum harmonisation whilst allowing for national variations. Close co-operation is also being maintained with the Civil Aviation Safety Authority of Australia to ensure maximum harmonisation with their regulatory code.

New Zealand's revised legislation is published as Civil Aviation Rules (CAR) which is divided into Parts. Each Part contains a series of individual rules which relate to a particular aviation activity.

Accompanying most Parts will be at least one associated Advisory Circular (AC) which will expand, in an informative way, specific requirements of the Part and acceptable means of compliance. For instance an AC may contain examples of acceptable practices or procedures which would meet the requirements of a particular rule.

The CAR numbering system is based on the FAR system. As a general principle the subject matter of a rule Part will be the same or similar to the FAR although the title may differ to suit New Zealand terminology. Where

a CAR Part does not readily equate with a FAR number code, a number has been selected that does not conflict with any existing FAR Part.

The objective of the new rules system is to strike a balance of responsibility between the State authority and those who provide services and exercise privileges in the civil aviation system. This balance must enable the State authority to set standards for, and monitor performance of, aviation participants whilst providing the maximum flexibility for the participants to develop their own means of compliance.

Section 12 of the Civil Aviation Act 1990 requires participants in the aviation system to carry out their activities safely and in accordance with the relevant prescribed safety standards and practices. Section 28 of the Act allows the Minister to make ordinary rules.

Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on the proposed new rules, the Authority issued Notice of Proposed Rule Making 97-4 under Docket Number 1012 on 9 May 1997. This Notice proposed the introduction of Civil Aviation Rules Part 140 to provide a regulatory safety boundary for Aviation Security Service Organisations

Supplementary Information

All comments made on the Notice of Proposed Rule Making are available in the rules docket for examination by interested persons. A report summarising each substantive contact with the Civil Aviation Authority contact person concerning this rule making has been filed in the docket.

Availability of the Document

Any person may view a copy of Part140 at Aviation House, 1 Market Grove, Lower Hutt or on the CAA Internet page at <http://www.caa.govt.nz>. Printed copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

Summary of Comments on Docket Number 1012 NPRM

1. General comments on the NPRM

From the 10 submissions received the following comments were made:

1.1 Christchurch International Airport Limited submitted that the document assumes all aviation security duties at an aerodrome will be provided by a single service provider, the Aviation Security Service (Avsec) or the Aerodrome operator. There is the possibility that at some time other aviation security duties could be performed by the aerodrome operator (eg perimeter patrols) at the same time. This would require the Director to issue two aviation security service certificates specifying the responsibilities of the two organisations. Part 140 should allow for this.

They suggested a new clause entitled “Limitations” should be included where the Director has the right to specify which aviation security services the certificate holder must provide and/or not provide. This would also apply to ACNZ where they are authorised to be the aviation security service provider for all or some of their off airport navigation facilities.

CAA response: The Civil Aviation Authority disagrees. This would not reflect the intent of the Act. Part 140 does not provide for the possibility of an aviation security service provider and the Aviation Security Service sharing the responsibility for the provision of security services at any one aerodrome. However section 79A(3) of the Civil Aviation Act 1990 does provide, at the discretion of the Minister, for such a situation in the event of emergencies arising at any aerodrome.

1.2 Christchurch International Airport Limited further submitted that they were concerned at the detail included in this rule. Some of the material, particularly Appendix A, would be more suited to an advisory circular. There may be other ways of meeting the rule requirements than with those specified in the NPRM. The rule should allow the applicant for a certificate to specify how they propose to operate in compliance with the rules.

CAA response: The Civil Aviation Authority agrees. Much of the material alluded to has been taken out of Part 140 and will be included in the Advisory Circular as a possible means of compliance.

1.3 Christchurch International Airport Limited further submitted that there should be a reference in Part 140 to the precedence of Part 139 over

Part 140 in the event of a conflicting requirement or interpretation. As the operator of the aerodrome, they have an overriding responsibility to ensure the safety and security of the facilities and all operations on the aerodrome.

CAA response: The Civil Aviation Authority disagrees. The aerodrome operators have specific security requirements in Part 139, but this does not give the operator an overriding responsibility for all aviation security responsibilities.

1.4 Auckland International Airport Limited repeated their earlier comment that as AIAL is ISO 9000 qualified, AIAL should be able to audit the services of the aviation security service provider. Part 140 should provide for this auditing process.

CAA response: The Civil Aviation Authority disagrees. If audit responsibilities are required to be delegated by the Director then this would be done by way of a formal delegation in accordance with the Civil Aviation Act, and not through the Civil Aviation Rules.

1.5 Mr Milton T Y Cassidy commented that there is nothing in this Part that specifically relates to dangerous goods, and in his opinion it should have. Dangerous goods already forms large part of their (AVSEC) duties, for example at the screening point, and this needs to be expanded to include Cargo and Courier cargo and mail. This Part also needs to include reference to Part 92.

CAA response: The Civil Aviation Authority agrees that this matter requires further consideration. However this issue involves principally Part 92, and if any changes are required to Part 140 as a consequence of reviewing Part 92, they will effected through the normal rule amendment process. Refer also 2.1.'

2. Specific comments on the NPRM

Specific comments received from the 10 submissions are discussed as follows:

2.1 140.3---Definitions

Mr R J Crooks suggested that in respect of the definition "screening" the insertion of the words "or other means" after the word "technical". This would bring it into line with the ICAO definition. As the definition in the

rule stands, screening can only be carried out by technical means precluding such means as hand search. For example in A.6 Standards are set for “screening”. He questions whether it can only be done by technical means. This applies also to section 140.11(a)(1)(i) dealing with passenger screening.

The Aviation Security Service suggested that the definition of “screening” should be amended to read “technical or other means that are”. The current definition doesn’t allow for hand screening in the absence of X-rays, etc.

CAA response: The Civil Aviation Authority agrees. The definition of screening has been removed from this Part and reliance will be placed on the definition in Part 1, which reflects the total ICAO definition.

The Aviation Security Service suggested that dangerous goods should be removed from the definition of “unauthorised articles” as they are covered in Part 92. What is then required is that the power previously contained in Reg. 31(7) be reinstated. Part 92 allows the retention of dangerous goods only after an accident or incident has occurred. The question was also raised as to whether the Service should be bothering with dangerous goods. It has no power or obligation under Part 92 (all such powers being with the airline operator) even though it is the only organisation in a position to detect most of the goods.

CAA response: The Civil Aviation Authority agrees. The definition of unauthorised article has been amended and no longer refers to dangerous goods. Refer also 1.5. With respect to the power previously contained in regulation 31(7) of the Civil Aviation Regulations 1953, the appropriate Civil Aviation Rules dealing with dangerous goods is Part 92 and that is the appropriate place to deal with this dangerous goods issue. Part 140 focuses upon unauthorised articles, which does not include dangerous goods.

2.2 140.9—Issue of certificates

Wellington International Airport Limited stated that this rule allows only the existing Aviation Security Service, an aerodrome operator or navigation installation operator (ACNZ Radiola) to become aviation security service certificate holders. If aerodrome operators choose not to provide their own security service, then they are limited to contracting one of two other operators, one of whom has no current specialist security capability. Private security firms should have the opportunity to contract for work in this

industry sector, if they choose. WIAL considers that any organisation that is able to meet the requirement of this Rule to the Director's satisfaction should be granted an aviation security service certificate.

Although current legislation does not allow other private contractors to provide this service, WIAL requests that the Civil Aviation Authority note this comment for inclusion in any future legislative review.

CAA response: The Civil Aviation Authority has noted this comment and has referred it on to the appropriate division within the Civil Aviation Authority for further consideration.

Mr R J Crooks asked in his submission on 140.9(1) whether the word "natural" is intended or is it a typing error.

CAA response: The word natural in this sense means a person and not a body corporate.

2.3 140.11—Functions and duties of certificate holders

Auckland International Airport Limited stated that this section outlines the functions and duties of the certificate holder where the certificate holder is the designated aerodrome operator, and separately lists the functions and duties of the Aviation Security Service. They submitted that the functions and duties of the certificate holder should be the same, and that to limit the aerodrome operator's functions in the manner indicated is unnecessarily restrictive.

CAA response: The Civil Aviation Authority disagrees. The functions and duties of the Aviation Security Service are specifically provided for in the Civil Aviation Act. Other security service providers are given functions and duties that are considered necessary to perform those tasks that are permitted to be performed under the Act.

Auckland International Airport Limited also asked whether the reference to the Police and government departments refers to Police and government departments of other countries as well as the Police and government departments of New Zealand.

CAA response: This will be the case in certain circumstances, namely where they are an appropriate international organisation, in terms of section 80(e) the Act.

Wellington International Airport Limited suggested that the rule should be re-worded to read: “passenger and baggage screening ... judged advisable by the Director; and where necessary, to undertake searches of baggage, cargo, aircraft, aerodromes and navigation installations.”

CAA response: The Civil Aviation Authority agrees and 140.11 has been amended accordingly.

The Aviation Security Service submitted that this section sets out the duties of an aviation security provider but doesn't include aircraft search. However Appendix A.3 specifies that this function will be performed.

CAA response: The Civil Aviation Authority agrees and 140.11 has been amended accordingly.

2.4 140.59—Internal quality assurance

Rural Aviation (1963) Ltd in their submission on 140.59(b)(6) questioned the statement “which shall include the use of statistical analysis”. The requirement for management review procedures and continuous assessment and improvement of the QA system is supported but the use of the word “shall” in this context is not. The operator should have to have appropriate management review procedures that do not have to use statistical analysis.

CAA response: The Civil Aviation Authority agrees and 140.59 has been amended accordingly.

2.5 140.61—Organisation exposition

Auckland International Airport Limited in their submission on 140.61(b) suggested that the words “in the context of this rule” should be added at the end of this section.

CAA response: The Civil Aviation Authority agrees with the substance of the comment but considers that the Director is, regardless of whether the suggested amendment was included in the rule, obliged to make the acceptability determination based solely upon relevant factors.

2.6 140.103—Changes to the exposition

Auckland International Airport Limited in their submission on 140.103(a) suggested reference in the first line to a “a design organisation” should perhaps be a reference to “an aviation security service”.

Rural Aviation (1963) Ltd in their submission on 140.103(a) commented that the sentence “Each holder of a design organisation certificate...” should probably read “Each holder of an aviation security service certificate...”.

CAA response: The Civil Aviation Authority agrees and 140.103 has been amended accordingly.

Appendix A

2.7 A.1—Sterile area search

The Aviation Security Service submitted that the requirement to test every 28 days means that at least one test will be carried out during each 28 day period. This requirement will be met during the course of recurrent testing of officers.

CAA response: Comments noted.

2.8 A.2—Security control of security areas

The Aviation Security Service stated that Part 139 also places responsibilities on the aerodrome operator. Duty free goods arriving in the security area from a bonded warehouse are considered to have been screened.

CAA response: Comments noted.

2.9 A.3—Aircraft search

Wellington International Airport Limited stated that unless the rule is expanded to cover the other security activities described in the Act, then aerodrome operators holding aviation security service certificates will not be able to carry out this function.

CAA response: The Civil Aviation Authority agrees and A.3 has been amended so as to not make an aircraft search a requirement. However it does impose standards when a search is being undertaken. The right to undertake this search will be obtained from the aircraft operator.

The Aviation Security Service in their submission on App A.3(a)(2)(ii) suggested that the flight deck be deleted from this paragraph as they are checked by crew and passengers don't normally have access.

CAA response: The Civil Aviation Authority agrees and A.3 has been amended accordingly.

The Aviation Security Service suggested that the requirement to carry out aircraft searches would affect the ability of the provider to recover costs in cases of specific requests from airlines or overseas authorities.

CAA response: The Civil Aviation Authority agrees and A.3 has been amended accordingly.

2.10 A.4—Screening point security and equipment

Mr R J Crooks in his submission on A.4(d) asked that there be an explanation of the word “standard”. Perhaps the word “manufacturers” could be used or another description adopted.

The Aviation Security Service suggested that the description of “test piece” as “standard” or “manufacturer’s standard” should be amended to “approved” with the actual test piece to be defined in the provider’s exposition and thereby approved by the Director. This recognises the difficulty in obtaining test pieces from manufacturers and the use of those approved by the manufacturers or by overseas authorities.

CAA response: The test pieces that will be used by an organisation and that are considered by the Director to be suitable will be that organisation’s standard test pieces and will be included in the accepted exposition. It is considered appropriate to refer to these test pieces as standard test pieces to reflect the fact that they are the standard for that organisation. A.26(f) of the NPRM prescribed the test pieces which may be used, however that has been removed to provide each organisation with the flexibility to propose its own test pieces. Approved under the Act means that each *standard test piece* would have to be approved in writing by the Director; in these circumstances the requirement to have a written approval is considered unnecessary.

The Aviation Security Service suggested deleting the words “on the operator’s body” in A.4(c). There is no guarantee that the operator will be wearing suitable metal.

CAA response: The Civil Aviation Authority agrees and A.4 has been amended accordingly.

2.12 A.7—Baggage screening by x-ray (now A.6)

The Aviation Security Service in their submission on App A.7(b) suggested replacing “shall with “should” or “may”. The trained officer must have the discretion to decide on the action to be taken.

CAA response: The Civil Aviation Authority disagrees. If an officer is not sure whether a bag contains an unauthorised article it shall, subject to section 12 of the Aviation Crimes Act 1972, be opened and inspected accordingly.

2.13 A.8—Hand search of carry-on baggage (now A.7)

The Aviation Security Service in their submission on App A.8(b) suggested that this section should be re-examined. The Service’s equipment has been tested and there is no way that it can affect such articles. Although it is not perfect, X-ray is still the best chance officers have of detecting any anomalies.

CAA response: The Civil Aviation Authority disagrees. The comments have been noted, but until screening equipment is further refined and the travelling public better educated, occasions for such searches to be adopted will occur.

2.14 A.12—Screening point emergencies-action plans and alarms (now A.11)

Wellington International Airport Limited submitted that emergency evacuation plans are the responsibility of the building owner under the Building Act, and as such, evacuation procedures will not necessarily be included in the aerodrome’s emergency plan. WIAL suggest the following wording, “the certificate holder shall include in its plan the evacuation procedures for the building(s) where it performs security related procedures; and...”, in A.12(b)(1).

CAA response: The Civil Aviation Authority agrees, and A.12 has been amended accordingly.

New Zealand Customs Service believed it appropriate that the Customs Service should be added to paragraphs A.12(b)(3) and A.12(b)(5).

CAA response: The Civil Aviation Authority disagrees as all relevant Government Departments are included under “other parties” referred to in A.12(b)(5).

2.15 A.13—Mobile patrol (now A.12)

Christchurch International Airport Limited submitted that A.13 includes overlap and duplication with the requirements of part 139. They submitted that “clauses A.13(c) (7) and (8) particularly come under part 139. We are certainly audited on this aspect by Civil Aviation Authority”.

CAA response: Comments noted. The Civil Aviation Authority agrees in principle, but considers that the aviation security service providers have the primary responsibility for the prevention of crime against international civil aviation.

Auckland International Airport Limited suggested that the word “emergency” should be amended to read “security incident”.

CAA response: A.13 has been amended to “security related emergency”.

Wellington International Airport Limited submitted that the statement in paragraph (b) “where the Aviation Security Service is providing aviation security services at an aerodrome...”, is a typographical error and should read “where an aviation security service certificate holder is providing aviation security services at an aerodrome...”.

If it is not an error then, WIAL submitted, this rule compels aerodrome operators to continue using the Aviation Security Service, even if they hold their own aviation security service certificate. WIAL referred to the comments made with regard to 140.11.

CAA response: Part 140 does not provide for the possibility of an aviation security service provider and the Aviation Security Service sharing the responsibility for the provision of security services at any one aerodrome. However section 79A(3) of the Civil Aviation Act 1990 does provide, at the discretion of the Minister, for such a situation in the event of emergencies arising at any aerodrome.

Wellington International Airport Limited made a further submission on A.13(c)(4) which requires that aviation security officers on patrol must be able to respond to the scene of an emergency within 3 minutes of being requested to attend. While the intent of this clause is accepted, in some circumstances at Wellington airport, this standard would not be physically possible to achieve. For example, Wellington does not have a perimeter road inside the security fence and security officers patrolling outside the perimeter fence during night fenceline inspections would not be able to respond within three minutes.

CAA response: The Civil Aviation Authority agrees, and A.13 has been amended to 5 minutes.

Mr R J Crooks asked whether the aerodrome operator should be the holder of an aviation security services certificate or if not, comply with the provisions of A.13. Otherwise the patrol would go from an approved system to one not meeting the standard.

CAA response: Comments noted. The Civil Aviation Authority considers that as the Aviation Security Service will be present during international departures the standards will be met at those times.

2.16 A.14—Security escorts (now A.16)

Christchurch International Airport Limited submitted that A.14 is restrictive, and does not represent current practice. It is not essential for the aviation security service provider to provide escorts. At Christchurch CIAL and ACNZ undertake such activities in addition to Avsec.

Providing an escort is not essentially a security activity. This clause should be prefaced by the words “Where the aviation security service provider provides an escort service...”.

The responsibility for escorts should come under Part 139. The aerodrome operator must have the right to determine who has airside access to that aerodrome.

Auckland International Airport Limited submitted that this rule suggests that the aviation security service certificate holder should not have the exclusive right to escort vehicles and personnel. This does not reflect the current practice. This should be amended to provide that an aviation security service provider could carry out these functions if authorised and required to do so by the aerodrome operator.

Wellington International Airport Limited submitted that this rule allows only aviation security certificate holders to escort vehicles and people into security areas, specifically excluding other airport operating staff from providing escorts to their own contractors and visitors. It also does not require security officers to check with operating staff that there is a valid reason for the person or vehicle to enter the security area, or whether it is safe to do so.

CAA response: The Civil Aviation Authority agrees and A.14 has been amended accordingly.

Mr R J Crooks recommended that the word “unauthorised” be deleted and the word “approved” (or similar) be inserted in lieu. He stated “This subsection refers to those persons or vehicles who are approved access in A.14(a). I feel unauthorised persons should not be admitted. It would not be appropriate to substitute the word “authorised” because of its use in subsection (d)(2)”.

CAA response: A.14 has been amended by deleting the word “unauthorised”.

2.17 A.16—Aircraft security (now A.18)

Wellington International Airport Limited agreed with the intent of A.16(a)(2)(ii) to visit all unattended international aircraft every two hours during the night, however it seems to contradict A.13(b)(2) which states that mobile patrols are required at least 90 minutes prior to departure and 15 minutes after departure. Aviation security service providers could argue under A.16 that they are required to be at the airport 24 hours per day to check international aircraft parked at the airport overnight due to curfew restrictions, while aerodrome operators would argue that security officers are required only 90 minutes before the plane departs.

WIAL requests that this apparent contradiction be considered and a decision made to determine which clause takes precedence over the other.

CAA response: The Civil Aviation Authority agrees there was a conflict and A.16 has been amended to include a new paragraph that provides for the situation where the Aviation Security Service patrol for less than 24 hours a day at aerodromes serving international civil aviation other than Auckland, Wellington or Christchurch International Airports.

2.18 A.17—Patrol vehicle equipment (now A.19)

Auckland International Airport Limited suggested the words “and apron control frequencies” should be added at the end of A.17(a)(2)(i).

Wellington International Airport Limited requested that A.17(a)(2)(i) be amended to read: “VHF radio communications with the aerodrome ground frequency and aerodrome apron management frequency”.

Wellington International Airport Limited further submitted that A.17(2)(v) seems to be overly prescriptive and considers it would be sufficient to require vehicles to carry a hand-held spotlight. The method of operating the spotlight is irrelevant as long as it is reliable.

Rural Aviation (1963) Ltd submitted that “A.17(a)(2)(i) should read “radio communications equipment for communication with the aerodrome ground controller” It may not always be appropriate for VHF equipment to be used and it is our belief that the selection of the appropriate equipment and systems for each location should be left to the operator and airport concerned, without any unnecessary restrictions from the rules. By way of an example, if a given airport is such that UHF frequencies offer better communications coverage around the facility then the security provider should be able to reach an agreement with the ground control provider (e.g. Airways Corp.) that mobile patrol vehicles will communicate with the ground controller on a UHF link. To do this under the rule as written would require an exemption or a rule change. I guess what we are trying to say is that by specifying VHF no added safety benefit is accrued, and both individual circumstances and future changes in technology are not provided for”.

The Aviation Security Service suggested that the requirement for this type of equipment should be more general in definition. The rule should specify the purpose for equipment to be provided but, as with other sections of the rules, leave the actual provision up to the security provider.

CAA response: The Civil Aviation Authority agrees and A.17 has been amended to make it less prescriptive and allow each certificate holder more flexibility.

2.19 A.19—Check point security (now A.13)

Auckland International Airport Limited submitted that the aviation security service certificate holder should not have the exclusive right to provide this service. Again, the aviation security service holder should only provide these services if authorised to do so by the aerodrome operator.

CAA response: The Civil Aviation Authority agrees that the aviation security service certificate holder should not have the exclusive right to provide this service and A.13 has been amended accordingly. This rule does not require a certificate holder to have a check point. However if the holder considers it appropriate to do so, the rule sets the standards by which the holder operates the checkpoint.

2.20 A.20—Random security spot checks (now A.14)

Mr R J Crooks asked whether the origin of 19.357 is explained.

CAA response: This matter refers to a specific rule already in existence in Part 19.

2.21 A.21—Verification - data base - ID cards and licences (now A.15)

Wellington International Airport Limited suggested that it is overly prescriptive to tell the aviation security service provider that they must have a data base as the mechanism for monitoring the validity of ID cards and pilot licences. It is up to the security service provider to choose the method they will use to monitor identification used to gain access to security areas. The heading should read “A.21 Verification - ID cards and licences”.

CAA response: The Civil Aviation Authority agrees, and A.21 has been amended accordingly.

2.22 A.23—Liaison with other agencies and operators (now A.21)

Wellington International Airport Limited supported the intent of this clause, particularly contingency planning for screening hold stowed baggage and cargo for airline operators that have been targeted by activist or terrorist groups.

CAA response: Comments noted.

2.23 A.25—Training (now A.23)

Wellington International Airport Limited suggested an amendment to aviation security officers training so that A.25(c)(1)(iii) includes a reference to CAR Part 12, as aviation security certificate holders are required to notify the Civil Aviation Authority of any security incidents as soon as practicable.

CAA response: The Civil Aviation Authority agrees and A.23 has been amended accordingly.

WIAL further submitted for A.25(c)(4) that aviation security officers be trained to Grade 4 to be able to detect and deal with improvised explosive devices.

CAA response: The Civil Aviation Authority disagrees. Officers are not expected to be explosive experts.

WIAL further submitted for A.25(c)(6) that aviation security officers be trained to Grade 3 to be able to apply practical knowledge to a hijack situation.

CAA response: The Civil Aviation Authority disagrees. This is a Police responsibility.

Mr R J Crooks in his submission on A.25(c)(1) suggested adding Crimes Act 1961 to examine section 157 dealing with duty to avoid omissions dangerous to life.

CAA response: The Civil Aviation Authority agrees and A.23 has been amended accordingly.

The Aviation Security Service suggested that knowledge of the Bill of Rights and Aviation Crimes Acts should be to grade 5.

CAA response: The Civil Aviation Authority disagrees, but there is no objection to an applicant applying a higher standard. The required level for the Aviation Crimes Act has been increased to grade 4.

The Aviation Security Service further suggested that the Trespass Act should no longer be necessary as section 51 of the Civil Aviation Act provides the necessary power.

CAA response: The Civil Aviation Authority agrees and A.23 has been amended accordingly.

2.24 A.26—Recurrent testing (now A.24)

Auckland International Airport Limited submitted for A.26(g) that for a public document this provision contains too much detail regarding testing procedures.

CAA response: The Civil Aviation Authority agrees, and A.24 has been amended accordingly.

Wellington International Airport Limited submitted that the testing of aviation security officers should mimic as closely as possible all likely scenarios. Therefore, they considered that it is unacceptable for test pieces to be “reasonably easy to detect, locate and identify”. An offender is not going to make their weapon or device reasonably easy to detect, locate and identify.

WIAL suggested amending the wording to: “Standard test pieces shall be detectable and identifiable.” This then allows the person doing the testing to set the degree of difficulty, depending upon actual or likely security risks to be encountered at their aerodrome.

CAA response: The Civil Aviation Authority agrees and A.24 has been amended accordingly.

The Aviation Security Service in their submission on A.26(d)(3) stated that this would be virtually impossible at Auckland due to volume of traffic. They suggested that this paragraph be amended to read “assess the risk arising from the failure”. Once the risk has been determined, action can be decided.

CAA response: The Civil Aviation Authority agrees and this requirement has been removed.

Conclusion

The Authority concludes from this consultation that the aviation industry participants favour the direction of the new rules. The rules also meet New Zealand’s international obligations under the applicable ICAO Annex. The

comments and all background material used in developing the rules are held on the Docket File and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for Docket File 1012.