



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

I, MARK GOSCHE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *18th* day of *December* 2001

by **MARK GOSCHE**

Minister of Transport

Civil Aviation Rules

Part 172

Air Traffic Service Organisations—Certification, Amendment 2

Docket 1/CAR/1359

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Objective

Part 172 prescribes rules governing—

- (1) the certification and operation of organisations providing an air traffic service in—
 - (i) the New Zealand Flight Information Region, designated under Part 71; or
 - (ii) the Auckland Oceanic Flight Information Region, designated under Part 71; and
- (2) the operating and technical standards for the provision of air traffic services operated by those organisations.

The objective of amendment 2 to Part 172 is to incorporate the changes regarding flight information and alerting services that are consequential to the revised VFR flight planning rules in amendment 6 to Part 91 *General Operating and Flight Rules*.

Extent of consultation

In October 2000 the CAA formed a Civil Aviation Industry Rules Advisory Group Technical Study Group (CIRAG TSG) to examine proposals made by the Airways Corporation of New Zealand and the Aviation Industry Association in respect to changes to VFR flight planning. This TSG examined and discussed the various issues raised and accepted the wording of a draft Notice of Proposed Rule Making.

A Notice of Proposed Rulemaking 01-1 containing the proposed amendments to VFR flight planning was subsequently issued for public consultation under Docket 1/CAR/1359 on 13 March 2001.

The publication of this NPRM was notified in the *Gazette* on 15 March 2001 and advertised in the daily newspapers in the five main provincial centres on 17 March 2001. 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 30 days was allowed for comment on the proposed rules.

Summary of comments

The submissions and verbal comments were considered and where appropriate the proposed rules were amended to take account of the comments made. There were no significant changes made to the proposal as a result of the comments received.

Examination of comments

Comments may be examined by application to the Docket Clerk at Aviation House between 8:30 am and 4:30 pm on weekdays, except statutory holidays.

Insertion of amendments

The amendments to the rules in this Part are reflected by the revocation of the existing rules and insertion of the amended rules.

Effective date of rule

Amendment 2 to Part 172 comes into force on 24 January 2002.

Availability of rules

Civil Aviation Rules are available from–

CAA web site: <http://www.caa.govt.nz/> or from:
Freephone: 0800 GET RULES (0800 438 785)

Part 172 Amendments

Subpart B — Certification Requirements

Rule 172.93 is revoked and the following new rule is inserted:

172.93 Flight information service

General

(a) An applicant for the grant of an air traffic service certificate must establish procedures to ensure that a flight information service is provided to —

- (1) each aircraft, being provided with an ATC service, that is likely to be affected by the information in paragraph (b):
- (2) each aircraft, being provided with an aerodrome flight information service, that is likely to be affected by the information in paragraph (b):
- (3) each aircraft operating IFR that is likely to be affected by the information in paragraph (b):
- (4) any aircraft operating VFR for which the pilot has submitted a VFR flight plan to an ATS unit:
- (5) any aircraft operating VFR if the pilot makes a specific request to an ATS unit for flight information.

(b) The applicant must ensure that the procedures required by paragraph (a) for the provision of the flight information service includes the provision of available and relevant—

- (1) SIGMET information; and
- (2) information on weather conditions reported or forecast, at departure, destination, and alternate aerodromes; and

- (3) information concerning pre-eruption volcanic activity, volcanic eruptions, and volcanic ash clouds; and
 - (4) information concerning the release into the atmosphere of radioactive materials or toxic chemicals; and
 - (5) information on changes in the serviceability of navigation aids; and
 - (6) information on changes in the condition of aerodromes and associated facilities, including information on the state of the aerodrome movement areas when they are affected by snow, ice, or water; and
 - (7) information on unmanned free balloons; and
 - (8) other information likely to affect safety.
- (c) An applicant for the grant of an air traffic service certificate for an aerodrome control service or aerodrome flight information service must establish procedures to ensure that, whenever water is present on a runway, a description of the runway surface conditions on the centre half of the width of the runway is made available using one of the following terms—
- (1) DAMP – the surface shows a change of colour due to moisture; or
 - (2) WET – the surface is soaked but there is no standing water; or
 - (3) WATER PATCHES – significant patches of standing water are visible; or
 - (4) FLOODED – extensive standing water is visible.
- (d) An applicant for the grant of an air traffic service certificate for an aerodrome control service, approach control service, or aerodrome flight information service must establish procedures to

ensure that, where practical, local aircraft operators likely to be affected by the information are advised of short-notice changes to published hours of service where they are unlikely to have the information from any other source.

Traffic Information

(e) An applicant for the grant of an air traffic service certificate for an air traffic control service, must establish procedures to ensure that essential traffic information is passed to all affected traffic.

(f) An applicant for the grant of an air traffic service certificate must establish procedures to ensure that each ATS unit operating under that certificate provides traffic information to flights that are known to the ATS unit and are likely to be affected by the information as follows:

- (1) in class C airspace, between VFR flights, together with traffic avoidance advice on request:
- (2) in class D airspace, between IFR and VFR flights by day, and between VFR flights, together with traffic avoidance advice on request:
- (3) in class E airspace, between IFR and VFR flights by day, and where practical between VFR flights on request:
- (4) in class G airspace, between IFR flights, and where practical between other flights on request.

Rule 172.97 is revoked and the following new rule inserted:

172.97 Alerting service

(a) In this Rule—

ALERFA means the Alert phase:

DETRESFA means the Distress phase:

INCERFA means the Uncertainty phase:

RCC means the rescue co-ordination centre established by the Authority under section 72B(2A) of the Act.

(b) An applicant for the grant of an air traffic service certificate must establish systems and procedures to ensure the provision of an alerting service within its areas of responsibility—

- (1) for all aerodrome traffic when an aerodrome control service or aerodrome flight information service is being provided; and
- (2) for all aircraft—
 - (i) operating under a flight plan submitted in accordance with 91.307 or 91.407; or
 - (ii) otherwise known by any air traffic service to be in need of assistance; or
 - (iii) known or believed to be the subject of unlawful interference.

(c) An applicant for the grant of an air traffic service certificate must establish procedures to ensure that, in the event of a state of emergency described in paragraph (f)—

- (1) immediate declaration of an INCERFA, ALERFA, or DETRESFA is made, in accordance with paragraph (f); and
- (2) the declaration is notified to the ACC or FIC responsible, except where the emergency can be dealt with by local emergency organisations.

(d) An applicant for the grant of an air traffic service certificate in respect of an area control service or flight information service must

establish procedures to ensure that, in the event of a state of emergency, an ACC or FIC—

- (1) serves as the central point within the FIR concerned for collecting all information relevant to the state of emergency; and
- (2) except as prescribed in paragraph (1)(1), forwards such information without delay to the RCC.

(e) Notwithstanding paragraph (c), an applicant for an air traffic service certificate for an aerodrome control service, approach control service, or aerodrome flight information service, must establish procedures to ensure that whenever the urgency of the situation so requires, those services must first alert appropriate local emergency organisations.

(f) The declaration required by paragraph (c) must be made in the following circumstances, and in any other circumstances that warrant such a declaration—

- (1) *INCERFA* when—
 - (i) no communication has been received from an IFR or controlled VFR aircraft within a period of 15 minutes after the time a communication should have been received, or from the time an unsuccessful attempt to establish communication with the aircraft was first made, whichever is the earlier; or
 - (ii) a pilot fails to terminate the flight plan or amend the nominated SARTIME and immediate checks have failed to locate the aircraft; or
 - (iii) a VFR aircraft on a VFR flight plan for which a SARTIME has not been provided fails to arrive within 30 minutes of the estimated time of arrival—

except when no doubt exists as to the safety of the aircraft and its occupants; or

(2) *ALERFA* when—

- (i) an aircraft is known or believed to be subject to unlawful interference; or
- (ii) following the uncertainty phase, subsequent attempts to establish communication with the aircraft or inquiries to other relevant sources have failed to reveal any news of the aircraft; or
- (iii) an aircraft has been cleared to land, and fails to land within five minutes of the estimated time of landing, and communication has not been re-established with the aircraft; or
- (iv) information has been received that indicates that the operating efficiency of the aircraft has been impaired, but not to the extent that a forced landing is likely—

except, in the case of subparagraphs (ii), (iii), and (iv), when evidence exists that would allay apprehension as to the safety of the aircraft and its occupants; or

(3) *DETRESFA* when—

- (i) following the alert phase further unsuccessful attempts to establish communication with the aircraft and more widespread unsuccessful inquiries point to the probability that the aircraft is in distress; or
- (ii) the fuel on board is considered to be exhausted, or to be insufficient to enable the aircraft to reach safety; or

- (iii) information is received that indicates that the operating efficiency of the aircraft has been impaired to the extent that a forced landing is likely;
or
- (iv) information has been received that, or it is reasonably certain that, the aircraft is about to make or has made a forced landing—

except when there is reasonable certainty that the aircraft and its occupants are not threatened by grave and imminent danger and do not require immediate assistance.

(g) An applicant for the grant of an air traffic service certificate must establish procedures to ensure the notification of an emergency situation required by paragraph (c)(2) includes such of the following information as is available, in the order listed:

- (1) INCERFA, ALERFA, or DETRESFA as appropriate to the phase of the emergency:
- (2) agency and person calling:
- (3) nature of the emergency:
- (4) significant information from the flight plan:
- (5) unit that made last contact, time, and radio frequency used:
- (6) last position report and how determined:
- (7) colour and distinctive marks of aircraft:
- (8) any action taken by the reporting office.

(h) An applicant for the grant of an air traffic service certificate must establish procedures to ensure that, following the notification of an emergency situation, the RCC is provided, without delay, with—

- (1) any useful additional information; and
 - (2) notification when the emergency situation no longer exists.
- (i) An applicant for the grant of an air traffic service certificate must establish procedures to ensure, as necessary, the use of all available means to establish and maintain communication with, and surveillance of, an aircraft in a state of emergency.
- (j) An applicant for the grant of an air traffic service certificate must establish procedures to ensure that, when a state of emergency is considered to exist, the last known position of any aircraft involved is established and recorded.
- (k) An applicant for the grant of an air traffic service certificate for the provision of an area control service or flight information service within the Auckland Oceanic FIR must establish procedures to ensure that, when a state of emergency is considered to exist, the position and track of other aircraft known to be operating in the vicinity are established to determine those most suitable to provide assistance.
- (l) An applicant for the grant of an air traffic service certificate in respect of an area control service or flight information service must establish procedures to ensure that —
- (1) when an ACC or FIC declares an INCERFA or ALERFA it must, where practical, advise the aircraft operator prior to notifying the RCC; and
 - (2) all information notified to the RCC by an ACC or FIC must, where practical, also be communicated without delay to the aircraft operator.

CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 172. It provides details of the consultation undertaken in making the rules.)

The consultation details relating to amendment 2 to Part 172 are contained with the associated amendment 6 to Part 91. The comments and all the background material used in developing the rules are held on the docket and are available for public scrutiny. Persons wishing to view the docket should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket 1/CAR/1359.