



PURSUANT to Section 29B of the Civil Aviation Act 1990

I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *16th* day of *September* 2008

by **HARRY JAMES DUYNHOVEN**

A handwritten signature in black ink, appearing to read 'Harry James Duynhoven', is written over a large, stylized, hand-drawn signature box that resembles a triangle with a horizontal line through it.

Minister for Transport Safety

Civil Aviation Rules

Part 93, Amendment 4

**Special Aerodrome Traffic Rules and Noise Abatement
Procedures**

Docket 99/CAR/1333 & 99/CAR/1334

Contents

Rule objective	3
Background	3
Extent of consultation.....	4
Summary of submissions	5
Examination of submissions.....	5
Insertion of Amendments	5
Effective date of rule.....	6
Availability of rules.....	6
Part 93 Amendments	7
Subpart C — Wellington International Airport	7
93.107 Noise abatement procedures	7
Consultation Details	9

Rule objective

The objective of amendment 4 to Part 93 is to update the noise abatement rule for Wellington International Airport that includes a reference to Part 97.

This amendment to Part 93 is consequential to the implementation of new rule Parts 95 and 173.

Background

Rule 93.107 refers to an IFR procedure prescribed under Part 97 and includes a transition provision until Part 97 comes into force. When Part 93 was originally drafted it was planned to have a Part 97 for prescribing IFR procedures. However when Part 95 was being developed the requirements intended to be included in Part 97 were instead incorporated into Part 95.

The original development of Part 95 and its associated Part 173 was commenced in 1998 as part of the original suite of Civil Aviation Rules that were developed under the Civil Aviation Act 1990 to replace the old 1953 Civil Aviation Regulations.

Two notices of proposed rulemaking were published in October 1998 to provide for public consultation on the proposals to certificate air navigation service organisations for the purpose of devolving the design and certification of instrument flight procedures to appropriate industry organisations.

A number of submissions on the NPRMs were received from industry and other interested persons. However after consideration of the submissions and development of proposed final rules taking into account the submissions, the project was put aside because of a higher priority for other rule development work.

The Part 173/95 rule development project was restarted in 2003 with the proposed final rules being updated to take into account the latest rule drafting styles and standards from the Parliamentary Counsel Office, the changed international standards for instrument flight procedures, and the submissions received during the updating.

Extent of consultation

Two NPRM, 98-7 for Part 95 Visual and Instrument Procedures for Flight Under IFR, and 98-8 for Part 173 Air Navigation Service Organisations – Certification, containing the proposed rules prescribing the criteria and the processes for the establishment of visual and instrument procedures for flight under IFR and prescribing requirements for the certification of organisations providing IFR procedure design services were issued for public consultation under docket 95/CAR/1107 and 95/CAR/1035 respectively on 23 October 1998.

The publication of these NPRM was notified in the Gazette on 22 October 1998 and advertised in the daily newspapers in the five main provincial centres on 31 October 1998. The NPRM were 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 further letter dated 15 November 1998 was sent to the civil aviation Swedavia Joint Consultative Group seeking their views on the provision of meteorological minima for IFR approaches to alternate aerodromes at the time of flight planning. (The Swedavia Joint Consultative Group was a joint industry/CAA group established to consult initially on the development of the Civil Aviation Act 1990, then on the programme and priorities for the rules re-write project that commenced in 1990, and then on the development of the various rules under the new Civil Aviation Act 1990.)

A period of 56 days was allowed for comment on the proposed rules.

NPRMs 98-7 and 98-8 did not include any proposed amendment to Part 93.

The rule development project for Parts 95 and 173 was recommenced in 2003 under docket 99/CAR/1333 for Part 95 and 99/CAR/1334 for Part 173. The Part 95 draft final rule proposals from the initial project were, between 2003 and 2007, updated to take into account current legislative drafting practices, the amendments that had been made to other rules in the meantime and submissions made between 2003 and 2007.

During the finalisation and updating of Parts 95 and 173, drafts of the updated rules were sent for consultation to 40 international and New

Zealand organisations and individuals who were known to have, or indicated they had an interest in IFR procedure design. Twenty two of those 40 organisations and individuals responded and this consultation continued during the development of the attached final rules. The respondents who are individuals or representatives of organisations (both from within and outside New Zealand) with experience in or an interest in IFR flight procedure design, support these proposed final rules. These proposed final rules were also forwarded to those persons who responded to the original NPRM. No comment, except those responding to the redrafting process, was received from this latter group.

Summary of submissions

A total of 20 submissions were received on the original NPRM (5 on NPRM 98-8 Part 173, 9 on NPRM 98-7 Part 95, and 6 on the Swedavia Joint Consultative Group letter). These submissions and other comments received by the CAA were considered and draft final rules were developed from the original NPRM. These draft final rules were further developed into the final rules. During this final development process, the rules and the changes to the rules were distributed to 40 stakeholders, interested parties, and the submitters responding to the original NPRM for their review and comment. Comments, mainly associated with Part 173, were received from 22 of the 40 persons and organisations contacted but none of the comments relate to the changes required in Part 93.

The consequential amendments to Part 93 including some editorial changes to update the rule in accordance with current drafting standards were then referred to Parliament's Regulations Review Committee before being signed by the Minister for Transport Safety.

Examination of submissions

Submissions on Parts 95 and 173 may be examined by application to the Docket Clerk at the Civil Aviation Authority between 8:30 am and 4:30 pm on weekdays, except statutory holidays.

Insertion of Amendments

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

Effective date of rule

Amendment 4 to Part 93 comes into force on 23 October 2008.

Availability of rules

Civil Aviation Rules are available from–

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

Freephone: 0800 GET RULES (0800 438 785)

Part 93 Amendments

Subpart C — Wellington International Airport

Rule 93.107 is revoked and replaced by the following new rule:

93.107 Noise abatement procedures

- (a) Except as provided in paragraph (b), a pilot-in-command of an aircraft must—
- (1) not operate over the Wellington noise abatement area specified in Appendix B at an altitude lower than the minimum heights for VFR flight prescribed in rule 91.311 or 1500 feet QNH, whichever is the higher; and
 - (2) except when climbing after take-off from runway 34, not operate at an altitude lower than 1500 feet QNH within a distance of 0.50 nm of the Miramar peninsula or Point Jerningham.
- (b) A pilot-in-command of an aircraft may operate over the Wellington noise abatement area below the altitude prescribed in paragraph (a) in any of the following circumstances:
- (1) when descending north of a line joining Point Gordon and Shelley Bay to land on runway 16;
 - (2) when descending from the VFR airport holding pattern indicated in Appendix B to land;
 - (3) when conducting an IFR procedure published in the AIPNZ;
 - (4) when operating a helicopter—
 - (i) conducting an operation under Part 133; or
 - (ii) conducting an operation under rule 137.205; or

- (iii) engaged on a police operation that is authorised by the Commissioner of Police; or
- (iv) performing a take-off or landing at a heliport within the noise abatement area.

Consultation Details

(This statement does not form part of the rules contained in Part 93. It provides details of the consultation undertaken in making the rules.)

The editorial changes to Part 93 are consequential to the introduction of new Rule Parts 173 and 95.

Parts 173 and 95 were consulted on in 2 parts as follows.

The initial consultation started in 1996 and culminated in draft rule proposals being developed from submissions on NPRM published in 1998. Due to a lack of resource no further action was taken until 2003 when the project was re-opened. During the consultation the CAA reorganised its docket files and the docket numbers and titles for each project were changed as follows:-

- Docket 95/CAR/1107 NPRM 98-7 Part 95 Visual and Instrument Procedures for Flight Under IFR became Docket 99/CAR/1333 Part 95 Instrument Flight Procedures—Registration.
- Docket 95/CAR/1035 NPRM 98-8 Part 173 Air Navigation Service Organisations – Certification became Docket 99/CAR/1334 Part 173 Instrument Flight Procedure Service Organisation—Certification and Operation.

Details of the consultation relating to the Part 95 and 173 rules are contained in the consultation details in the initial issues of Parts 173 and 95. The detail includes background and historical information.

The submissions and all background material used in developing the rules are held on the docket files and are available for public inspection at Aviation House, 10 Hutt Road Petone. Persons wishing to view the dockets should contact the Docket Clerk on Phone +64 560 9603 and ask for dockets 95/CAR/1035, 99/CAR/1334, 95/CAR/1107, and 99/CAR/1333.