



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

I, JENNIFER MARY SHIPLEY, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *20th* day of *February* 1997

by **JENNIFER MARY SHIPLEY**

A handwritten signature in black ink, appearing to read 'Jennifer Mary Shipley', with a long horizontal flourish extending to the right.

Minister of Transport

Civil Aviation Rules

Part 119

Air Transport Operator — Certification

Docket Nr. 1031

Civil Aviation Rules
Part 119

Air Transport Operator — Certification

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 119 is to prescribe rules providing for certification of operators that perform air transport operations.

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. The Register was identified as the Regulatory Review Consultative Group.

A draft of Part 119 was developed by the rules rewrite team in consultation with members of the consultative group. An informal draft was published and distributed on 10 July 1995 and a period of informal consultation followed. This culminated in the issue of Notice of Proposed Rulemaking 95-13 under Docket 1031 on 13 December 1995.

The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 6 December 1995. 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 90 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 119 comes into force on 1 April 1997.



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Subpart A — General

119.1 *Applicability*

This Part prescribes rules governing the certification and activities of persons domiciled in New Zealand conducting air transport operations.

119.3 *[Reserved]*

119.5 *Requirement for certificate*

(a) Each person having operational responsibility for an air transport operation shall hold, and comply with, an air operator certificate issued under this Part.

(b) No person shall perform an air transport operation except under the authority of, and in accordance with, an air operator certificate issued under this Part.

(c) No person shall advertise, promote, or otherwise offer to perform an air transport operation unless the operation—

- (1) is authorised by the scope of an air operator certificate issued under this Part; or
- (2) would be authorised by the scope of an air operator certificate, application for which has been made in accordance with 119.9; or
- (3) would be authorised by an amendment to an air operator certificate, application for which has been made in accordance with 119.165.

(d) For the purpose of paragraph (a) a person has operational responsibility for an air transport operation if the person has responsibility for 2 or more of the following functions:

- (1) determining whether the operation may be operated safely;
- (2) assigning crew members for the operation;
- (3) employing, contracting, or otherwise engaging crew members for the operation;
- (4) making a decision to vary the operation, other than a decision by the pilot-in-command taken on the grounds of safety.

119.7 *Certificate categories*

The following certificates are issued under this Part:

- (1) standard air operator certificate, for operations performed under Part 121 or 135;
- (2) restricted air operator certificate, for operations performed under Part 135.

119.9 Application for certificate

Each applicant for the grant of an air operator certificate shall—

- (1) complete form CAA 24119/01 and submit it to the Director, with a payment of the appropriate application fee, not less than 90 days before the date of intended operation, unless a shorter period is acceptable to the Director; and
- (2) provide the details required by 119.15(b), for the operations specifications; and
- (3) provide the exposition required—
 - (i) for a standard air operator certificate, by 119.81; or
 - (ii) for a restricted air operator certificate, by 119.125.

119.11 Issue of certificate

(a) An applicant is entitled to a standard air operator certificate if the Director is satisfied that—

- (1) the applicant meets the applicable requirements of Subpart B; and
- (2) the applicant, where the applicant is a natural person, and the applicant's senior persons required by 119.51(a)(1) and (2) are fit and proper persons; and
- (3) the granting of the certificate is not contrary to the interests of aviation safety.

(b) An applicant is entitled to a restricted air operator certificate if the Director is satisfied that—

- (1) the applicant meets the applicable requirements of Subpart C; and
- (2) the applicant, where the applicant is a natural person, and the applicant's senior persons required by 119.101(a)(1) and (2) are fit and proper persons; and
- (3) the granting of the certificate is not contrary to the interests of aviation safety.

119.13 Privileges of certificate holder

- (a) An air operator certificate specifies the privileges that the certificate holder is authorised to perform.
- (b) A standard air operator certificate may authorise the certificate holder to perform—
- (1) air transport operations listed in the certificate holder's certificate; and
 - (2) ground or flight training appropriate to the aircraft operated or intended to be operated; and
 - (3) test or check flights to determine the competence of flight crew; and
 - (4) tests or checks to determine the competence of other persons providing the services or carrying out the operations listed in the certificate holder's exposition.
- (c) A restricted air operator certificate may authorise the certificate holder to perform—
- (1) day VFR air transport operations utilising the services of a nominated pilot or, to an extent acceptable to the Director, up to two relief pilots; and
 - (2) non-stop sightseeing or joyride air transport operations, under VFR conditions, departing from, remaining within 35 nm of, and returning to the same aerodrome.

119.15 Operations specifications

- (a) The holder of an air operator certificate shall comply with the operations specifications on the certificate.
- (b) Operations specifications shall contain—
- (1) the specific location of the certificate holder's principal base of operations; and
 - (2) the certificate holder's address for service; and
 - (3) other business names under which the certificate holder may operate; and
 - (4) the type of aircraft authorised for use; and
 - (5) the kinds of operations authorised; and

- (6) the authorisation and limitations for routes and areas of operations; and
- (7) any exemption granted from any requirement of this or any other Part; and
- (8) any other item the Director determines is necessary to cover a particular situation.

119.17 Duration of certificate

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

119.19 Notification of termination of operations

- (a) Each holder of an air operator certificate that terminates air transport operations shall notify the Director of the termination in writing within 30 days of the date of termination.
- (b) The notification required by paragraph (a) shall include a request for revocation of the air operator certificate.

119.21 Renewal of certificate

- (a) An application for the renewal of an air operator certificate shall be made by the holder of the air operator certificate on form CAA 24119/01.
- (b) The application required by paragraph (a) shall be submitted to the Director before the application renewal date specified in the certificate or, if no such date is specified, not less than 60 days before the certificate expires.

119.23 Exemptions

A person may apply for an exemption from any requirement in this Part in accordance with Part 11 and the provisions in section 37 of the Act.

Subpart B — Standard Air Operator – Certification Requirements

119.51 Personnel requirements

(a) Each applicant for the grant of a standard air operator certificate shall employ, contract, or otherwise engage—

- (1) a senior person identified as the Chief Executive who—
 - (i) 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 and standards prescribed by this Part; and
 - (ii) is responsible for ensuring that the organisation complies with the requirements of this Part; and
- (2) senior persons—
 - (i) responsible for ensuring that the applicant's organisation complies with its exposition; and
 - (ii) responsible for the functions referred to in paragraph (b)(1); and
 - (iii) ultimately responsible to the Chief Executive; and
- (3) sufficient personnel to plan, perform, supervise, inspect, and certify the operations listed in the applicant's exposition.

(b) The senior persons required by paragraph (a)(2)(ii) shall—

- (1) subject to paragraph (c), each be responsible for no more than one of the following functions—
 - (i) air transport operations, including the flight operations and the supporting ground operations;
 - (ii) crew training;
 - (iii) the control and direction of maintenance;
 - (iv) internal quality assurance;
 - (v) where an air operator security programme is required by 119.75, air operator security;
 - (vi) conducting occurrence investigations in accordance with Part 12; and

(2) hold the minimum qualifications and experience listed in Appendix A as applicable to the function for which they are responsible.

(c) Dependent on the size of an applicant's organisation and the expected scope of its activities, a person may be nominated as responsible for more than one of the functions referred to in paragraph (b)(1) if such an arrangement is acceptable to the Director.

(d) Any function referred to in paragraph (b)(1) may be delegated to other personnel provided the senior person responsible for the function retains responsibility for the function and the delegation is acceptable to the Director.

119.53 Personnel competency requirements

(a) Each applicant for the grant of a standard air operator certificate shall establish procedures—

- (1) to initially assess and to maintain the competence of personnel authorised to plan, perform, supervise, inspect, or certify the air transport operations listed in the applicant's exposition; and
- (2) to ensure those personnel are provided with written evidence of the scope of their authorisation.

(b) Each applicant may contract with an organisation, that is certificated under Part 141 and appropriately authorised under that certificate, to perform the functions of checking to assess or training to maintain the competence of the applicant's personnel in accordance with paragraph (a)(1).

(c) Each applicant that contracts with an organisation under paragraph (b) shall include in its exposition details of—

- (1) the functions to be transferred to the organisation; and
- (2) the scope of the checking or training to be carried out by the organisation; and
- (3) the authority of the organisation to carry out the checking or training referred to in paragraph (c)(2).

(d) The applicant may, as an alternative to paragraph (b), for aircraft at or below 5700 kg or with 9 or less passenger seats, utilise an external checking or training programme acceptable to the Director that is carried out by an appropriately qualified holder of a flight examiner rating.

119.55 Resource requirements

(a) Each applicant for the grant of a standard air operator certificate shall provide resources, acceptable to the Director—

- (1) that enable the satisfactory provision of the operations listed in the applicant's exposition; and
 - (2) that shall, where appropriate, include—
 - (i) accommodation, offices, workshops, hangars, and buildings; and
 - (ii) equipment, tools, material, training aids, data, and documentation necessary to perform the operations listed in the applicant's exposition.
- (b) The applicant shall ensure the environment it provides—
- (1) is appropriate for the tasks to be performed; and
 - (2) where appropriate, offers protection from weather elements.

119.57 Proving flights or tests

(a) Each applicant for the grant or amendment of a standard air operator certificate shall, if required by the Director, perform proving flights or tests to satisfy the Director that it can meet any relevant prescribed requirement.

(b) The flights or tests shall be conducted in a manner acceptable to the Director.

119.59 Operational, safety, and maintenance data

Each applicant for the grant of a standard air operator certificate shall establish procedures to control, amend, and distribute its operational, safety, and maintenance data.

119.61 Maintenance responsibilities

(a) Each applicant for the grant of a standard air operator certificate shall establish procedures to ensure the continued airworthiness of its aircraft, including airframes, aircraft engines, propellers, rotors, appliances, emergency equipment, and parts.

(b) Each applicant for the grant of a standard air operator certificate that contracts with another person to perform its maintenance shall include in its exposition details of—

- (1) the functions to be transferred to the other person; and
- (2) the scope of the maintenance to be carried out by the other person; and
- (3) the authority of the other person in respect of the functions and maintenance to be carried out.

119.63 Maintenance programme

Each applicant for the grant of a standard air operator certificate shall include in its aircraft maintenance programme required under Part 121 or Part 135—

- (1) the registration mark of each aircraft that is subject to the programme; and
- (2) instructions and procedures for the conduct of aircraft maintenance including any required inspections and tests, setting out in detail the parts and areas of the airframe, aircraft engine, propellers, rotors, appliances, and emergency equipment, that—
 - (i) must be inspected; and
 - (ii) could result in a failure, malfunction, or defect endangering the safe operation of the aircraft if not performed properly or if improper parts or materials are used; and
- (3) a schedule for the performance of the maintenance under subparagraph (2) expressed in terms of the time in service, cycles, calendar time, number of system operations, or any combination of these; and
- (4) procedures for maintenance trend analysis if the programme utilises condition monitored maintenance; and
- (5) procedures to ensure that all inspections required by the programme are performed; and
- (6) procedures for recording deficiencies found during maintenance, including examples of records; and
- (7) procedures for the correction or deferral of deficiencies found during maintenance; and
- (8) procedures for the retention of—
 - (i) a description of the work performed, or a reference to data acceptable to the Director; and
 - (ii) the name of the person certifying the release to service for the work if the work is to be performed by a person outside the applicant's maintenance organisation.

119.65 Documentation

(a) Each applicant for the grant of a standard air operator certificate shall establish a procedure for the control of documentation required by any applicable Part, including but not limited to Parts 91, 108, 121, and 135.

- (b) The procedure required by paragraph (a) shall ensure that—
- (1) all documentation is reviewed and authorised by appropriate personnel before issue; and
 - (2) current issues of all relevant documents are available to personnel at all locations where they need access to such documentation, in either hard copy, electronic, or other form acceptable to the Director; and
 - (3) all obsolete documentation is promptly removed from all points of issue or use; and
 - (4) changes to documentation are reviewed and approved by appropriate personnel; and
 - (5) the current version of each item of documentation can be identified to preclude the use of superseded material.

119.67 Records—personnel

Each applicant for the grant of a standard air operator certificate shall establish procedures to ensure that—

- (1) a record is maintained of—
 - (i) each employee who, in the performance of their duties, is required to hold a licence or rating; and
 - (ii) each employee who is exercising any delegation of the Director's functions or powers; and
 - (iii) each employee who is exercising any authorisation granted by the certificate holder; and
- (2) the record includes details of—
 - (i) the relevant experience, qualifications, and training of each employee listed under subparagraph (1); and
 - (ii) the scope, validity, and currency of any licence or rating referred to in subparagraph (1)(i); and
 - (iii) the delegations referred to in subparagraph (1)(ii); and
 - (iv) the authorisations referred to in subparagraph (1)(iii); and
- (3) the record is retained for one year from the date that the employee—
 - (i) ceases to perform duties requiring a licence or rating; or

- (ii) exercises any delegation or authorisation.

119.69 Records—resources

Each applicant for the grant of a standard air operator certificate shall—

- (1) establish procedures to ensure details are recorded of testing, checking, and calibration of any safety-critical resources used in carrying out the operations specified on the certificate; and
- (2) retain the record of details required by subparagraph (1) for 2 years from the date the details are recorded.

119.71 Flight authorisation and control

Each applicant for the grant of a standard air operator certificate shall establish procedures to ensure that the initiation, continuation, and termination of each operating cycle of an air transport operation is authorised by the person required by 119.51(b)(1)(i) or 119.51(c).

119.73 Flight following system

(a) Each applicant for the grant of a standard air operator certificate shall establish procedures to ensure that, for each flight for which a flight following flight plan is not filed with an ATS organisation certificated under Part 172, the standard air operator certificate holder—

- (1) has at least the information required to be included in a VFR flight plan; and
- (2) is provided with the location and time for the re-establishing of communications, if the flight will operate in an area where communications cannot be maintained; and
- (3) makes timely notification to an organisation acceptable to the Director if the aircraft is overdue or missing.

(b) The maximum time period for which an aircraft may be planned to be without communication capability as provided for in paragraph (a)(2) is 30 minutes or such longer period that is acceptable to the Director.

119.75 Air operator security programme

Each applicant for the grant of a standard air operator certificate that proposes to operate a regular air transport passenger service from or within New Zealand with any aircraft that has a passenger seating configuration, excluding any required crew member seats, of more than nine seats shall establish an air operator security programme that meets the requirements of Part 108.

119.77 Establishment of operations procedures

(a) Each applicant for the grant of a standard air operator certificate shall establish procedures necessary to enable any requirement of this or any other Part to be complied with.

(b) Procedures referred to in paragraph (a) shall be required, as appropriate, for, but not necessarily limited to, the following rules:

- (1) Part 92 regarding dangerous goods:
- (2) Part 12 regarding accidents, incidents, and statistics:
- (3) 91.7 regarding portable electronic devices:
- (4) 91.121 regarding the stowage of passenger service equipment:
- (5) 91.211 regarding passenger briefings:
- (6) 91.213 regarding carriage and stowage of hand baggage:
- (7) 91.215 regarding carriage of cargo:
- (8) 91.221 regarding the information to be available on board for crew use:
- (9) 91.413 regarding take-off and landing IFR:
- (10) 91.421 regarding flight in icing conditions:
- (11) 91.537 regarding inoperative instruments and equipment:
- (12) 91.603 regarding maintenance requirements:
- (13) 91.617 regarding certification of maintenance:
- (14) 91.627 regarding maintenance records:
- (15) 121.11 regarding the use of flight simulators and other training devices:
- (16) 121.13 regarding carriage of firearms:
- (17) 121.59 regarding flight preparation:
- (18) 121.61 regarding operational flight plans:
- (19) 121.63 regarding search and rescue information:
- (20) 121.65 regarding emergency and survival equipment information:
- (21) 121.71 regarding the use of aerodromes:
- (22) 121.75 regarding fuel:

- (23) 121.77 regarding the flight check system:
- (24) 121.81 regarding passengers safety:
- (25) 121.85 regarding flight compartment admission:
- (26) 121.89 regarding use of flight recorders:
- (27) 121.91 regarding refuelling and defuelling operations:
- (28) 121.93 regarding fuel spillage:
- (29) 121.95 regarding emergency situation action plans:
- (30) 121.153 regarding meteorological information:
- (31) 121.157 regarding meteorological conditions – IFR flight:
- (32) 121.163 regarding reduced take-off minima:
- (33) 121.165 regarding en-route limitations:
- (34) 121.167 regarding ETOPS limitations:
- (35) 121.169 regarding IFR procedures:
- (36) 121 Subpart D regarding performance:
- (37) 121.303 regarding goods, passenger, and baggage weights:
- (38) 121.305 regarding aeroplane load limitations:
- (39) 121.307 regarding the load manifest:
- (40) 121.353 regarding instruments and equipment:
- (41) 121.405 regarding the maintenance reliability report:
- (42) 121.415 regarding maintenance personnel duty times:
- (43) 121.417 regarding maintenance review:
- (44) 121.503 regarding crew member requirements:
- (45) 121.505 regarding flight crew duty assignment:
- (46) 121.513 regarding pilot operating limitations:
- (47) 121.517 regarding flight crew member pairing limitations:
- (48) 121.559 regarding crew member introduction segment:
- (49) 121.561 regarding crew member transition segment:
- (50) 121.563 regarding crew member upgrade segment:

- (51) 121.565 regarding crew member recurrent segment:
- (52) 121.567 regarding consolidation:
- (53) 121.575 regarding flight attendant training:
- (54) 121.581 regarding crew members training records:
- (55) 121.607 regarding flight crew competency checks:
- (56) 121.609 regarding flight-instructor competency checks:
- (57) 121.611 regarding flight attendant crew member competency:
- (58) 121.613 regarding competency and testing records:
- (59) 121 Subpart K regarding flight and duty time:
- (60) 121 Subpart L regarding manuals, logs, and records:
- (61) 135.9 regarding carriage of firearms:
- (62) 135.57 regarding flight preparation:
- (63) 135.59 regarding emergency and survival equipment information:
- (64) 135.61 regarding fuel:
- (65) 135.63 regarding cockpit check list:
- (66) 135.65 regarding passenger safety:
- (67) 135.67 regarding flight compartment admission:
- (68) 135.71 regarding use of flight recorders:
- (69) 135.73 regarding refuelling and defuelling operations:
- (70) 135.75 regarding fuel spillage:
- (71) 135.77 regarding use of aerodromes:
- (72) 135.81 regarding operations of single-engine aircraft:
- (73) 135.83 regarding restriction or suspension of operations:
- (74) 135.91 regarding emergency situation action plans:
- (75) 135.153 regarding meteorological information:
- (76) 135.163 regarding reduced take-off minima:
- (77) 135.165 regarding IFR procedures:
- (78) 135 Subpart D regarding performance:

- (79) 135.303 regarding goods, passenger, and baggage weights:
- (80) 135.305 regarding aircraft load limitations:
- (81) 135.307 regarding load manifest:
- (82) 135.353 regarding instruments and equipment:
- (83) 135.409 regarding persons certifying maintenance:
- (84) 135.413 regarding maintenance personnel duty times:
- (85) 135.415 regarding maintenance review:
- (86) 135.503 regarding assignment of flight crew duties:
- (87) 135.555 regarding training records:
- (88) 135.557 regarding initial training for crew members:
- (89) 135.559 regarding transition training for crew members:
- (90) 135.561 regarding recurrent training for crew members:
- (91) 135.567 regarding flight crew member instructor qualifications:
- (92) 135.607 regarding flight crew competency checks:
- (93) 135.609 regarding flight attendant competency checks:
- (94) 135.613 regarding competency and testing records:
- (95) 135 Subpart K regarding flight and duty time:
- (96) 135 Subpart L regarding manuals, logs, and records.

119.79 Internal quality assurance

- (a) Each applicant for the grant of a standard air operator 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 **safety policy** and safety policy procedures, including the procedure for occurrence investigations conducted in accordance with Part 12; 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 audit programme** to audit the applicant's organisation for conformity with the procedures in its exposition and achievement of the goals set in its safety 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.
- (c) The safety policy procedures shall ensure that the safety 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 performed 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.
- (h) The senior person who has the responsibility for internal quality assurance shall have direct access to the Chief Executive on matters affecting safety.

119.81 Air transport operator exposition

- (a) Each applicant for the grant of a standard air operator certificate shall provide the Director with an exposition that shall contain—
- (1) a statement signed by the Chief Executive on behalf of the applicant's organisation confirming that the exposition and any included manuals—
 - (i) define the organisation and demonstrate its means and methods for ensuring ongoing compliance with this and any other Part; and
 - (ii) are required to be complied with by its personnel at all times; and
 - (2) the titles and names of the senior persons required by 119.51(a)(1) and (2); and
 - (3) the duties and responsibilities of the senior persons specified under paragraph (a)(2) including matters for which they have responsibility to deal directly with the Director on behalf of the organisation; and

- (4) a summary of the scope of activities at each location where operations personnel are based for the purpose of providing air transport operations; and
- (5) an organisation chart showing lines of responsibility of the senior persons specified under paragraph (a)(2) and extending to each location listed under paragraph (a)(4); and
- (6) a summary of the applicant's staffing structure at each location listed under paragraph (a)(4); and
- (7) details of the principal place of operation and, where applicable, the main operations base and the main maintenance base; and
- (8) details of the applicant's procedures required by 119.77; and
- (9) details of the applicant's procedures required by—
 - (i) 119.53 regarding competence of personnel; and
 - (ii) 119.59 regarding the operational, safety, and maintenance data, including the notification of changes in equipment and operating procedures to its appropriate operations personnel; and
 - (iii) 119.61 regarding maintenance requirements; and
 - (iv) 119.65 regarding the control of documentation; and
 - (v) 119.67 regarding personnel records; and
 - (vi) 119.69 regarding resource records; and
 - (vii) 119.71 regarding the effective flight authorisation and control of air transport operations; and
 - (viii) 119.73 regarding the operator's flight following system; and
 - (ix) 119.79 regarding the internal quality assurance of the organisation; and
- (10) details of the resources required by 119.55; and
- (11) details of the maintenance—
 - (i) programme required by 121.403 or 135.403; and
 - (ii) procedures required by 119.63; and
 - (iii) organisation that performs its maintenance; and
- (12) details of the programmes required, as appropriate, by—

- (i) 121.57 regarding aeroplane proving flights; and
 - (ii) 121.409 regarding maintenance personnel training and information; and
 - (iii) 121.417(c) regarding certifying the maintenance review; and
 - (iv) 121.553 and 121.557 regarding training; and
 - (v) 121.603 regarding operational competency assessment; and
 - (vi) 121 Subpart M regarding the advance qualification programme; and
 - (vii) 135.407 regarding maintenance personnel training and information; and
 - (viii) 135.415(c) regarding certifying the maintenance review; and
 - (ix) 135.553 regarding training; and
 - (x) 135.563 regarding flight attendant training; and
 - (xi) 135.565 regarding flight crew training; and
 - (xii) 135.603 regarding operational competency assessment; and
- (13) details of the applicant's procedures that enable it to comply with the laws of any foreign State in which it operates:
- (14) where required by 119.75, the air operator security programme; and
- (15) procedures to control, amend, and distribute the exposition.
- (b) The Director shall not issue the applicant with a standard air operator certificate unless the applicant's exposition is acceptable to the Director.

Subpart C — Restricted Air Operator – Certification Requirements

119.101 Personnel requirements

(a) Each applicant for the grant of a restricted air operator certificate shall employ, contract, or otherwise engage—

- (1) a senior person identified as the Chief Executive who—
 - (i) 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 and standards prescribed by this Part; and
 - (ii) is responsible for ensuring that the organisation complies with the requirements of this Part; and
- (2) senior persons—
 - (i) responsible for ensuring that the applicant's organisation complies with its exposition; and
 - (ii) responsible for the functions referred to in paragraph (b)(1); and
 - (iii) ultimately responsible to the Chief Executive; and
- (3) sufficient personnel to plan, perform, supervise, inspect, and certify the operations listed in the applicant's exposition.

(b) The senior persons required by paragraph (a)(2)(ii) shall—

- (1) subject to paragraph (c), each be responsible for no more than one of the following functions:
 - (i) air transport operations, including the flight operations and the supporting ground operations;
 - (ii) the control and direction of maintenance;
 - (iii) conducting occurrence investigations in accordance with Part 12; and
- (2) hold the minimum qualifications and experience listed in Appendix A as applicable to the function for which they are responsible.

(c) Dependent on the size of an applicant's organisation and the expected scope of its activities, a person may be nominated as responsible for more than

one of the functions referred to in paragraph (b)(1) if such an arrangement is acceptable to the Director.

119.103 Personnel competency requirements

(a) Each applicant for the grant of a restricted air operator certificate shall establish procedures—

- (1) to initially assess and to maintain the competence of personnel authorised to plan, perform, supervise, inspect, or certify the air transport operations listed in the applicant's exposition; and
- (2) to ensure those personnel are provided with written evidence of the scope of their authorisation.

(b) Each applicant may contract with an organisation, that is certificated under Part 141 and appropriately authorised under that certificate, to perform the functions of checking or training to maintain the competence of the applicant's personnel in accordance with paragraph (a)(1).

(c) Each applicant that contracts with an organisation under paragraph (b) shall include in its exposition details of—

- (1) the functions to be transferred to the organisation; and
- (2) the scope of the checking or training to be carried out by the organisation; and
- (3) the authority of the organisation in respect of the checking or training it will carry out.

(d) The applicant may, as an alternative to paragraph (b), for aircraft at or below 5700 kg or with 9 or less passenger seats, utilise an external checking or training programme acceptable to the Director that is carried out by an appropriately qualified holder of a flight examiner rating.

119.105 Resource requirements

(a) Each applicant for the grant of a restricted air operator certificate shall provide resources, acceptable to the Director—

- (1) that enable the satisfactory provision of the operations listed in the applicant's exposition; and
- (2) that shall, where appropriate, include—
 - (i) accommodation, offices, workshops, hangars, and buildings; and

- (ii) equipment, tools, material, training aids, data, and documentation necessary to perform the operations listed in the applicant's exposition.
- (b) The applicant shall ensure the environment it provides—
- (1) is appropriate for the tasks to be performed; and
 - (2) where appropriate, offers protection from weather elements.

119.107 Proving flights or tests

- (a) Each applicant for the grant or amendment of a restricted air operator certificate shall, if required by the Director, perform proving flights or tests to satisfy the Director that it can meet the relevant prescribed requirements.
- (b) The flights or tests shall be conducted in a manner acceptable to the Director.

119.109 Maintenance responsibilities

- (a) Each applicant for the grant of a restricted air operator certificate shall establish procedures to ensure the continued airworthiness of its aircraft, including airframes, aircraft engines, propellers, rotors, appliances, emergency equipment, and parts.
- (b) Each applicant for the grant of a restricted air operator certificate that contracts with another person to perform its maintenance shall include in its exposition details of—
- (1) the functions to be transferred to the other person; and
 - (2) the scope of the maintenance to be carried out by the other person; and
 - (3) the authority of the other person in respect of the functions and maintenance to be carried out.

119.111 Maintenance programme

Each applicant for the grant of a restricted air operator certificate shall include in its aircraft maintenance programme required under Part 135—

- (1) the registration of each aircraft that is subject to the programme; and
- (2) instructions and procedures for the conduct of aircraft maintenance including any required inspections and tests, setting out in detail the parts and areas of the airframe, aircraft engine, propellers, rotors, appliances, and emergency equipment, that—

- (i) must be inspected; and
 - (ii) could result in a failure, malfunction, or defect endangering the safe operation of the aircraft if not performed properly or if improper parts or materials are used; and
- (3) a schedule for the performance of the maintenance under subparagraph (2) expressed in terms of the time in service, cycles, calendar time, number of system operations, or any combination of these; and
- (4) procedures to ensure that all inspections required by the programme are performed; and
- (5) procedures for recording deficiencies found during maintenance, including examples of records; and
- (6) procedures for the correction or deferral of deficiencies found during maintenance; and
- (7) procedures for the retention of—
- (i) a description of the work performed, or a reference to data acceptable to the Director; and
 - (ii) the name of the person certifying the release to service for the work if the work is to be performed by a person outside the applicant's organisation.

119.113 Documentation

- (a) Each applicant for the grant of a restricted air operator certificate shall establish a procedure for the control of documentation required by any applicable Part, including but not limited to Parts 91, 108, 121, and 135.
- (b) The procedure shall ensure that—
- (1) all documentation is reviewed and authorised by appropriate personnel before issue; and
 - (2) current issues of all relevant documents are available to personnel at all locations where they need access to such documentation, in either hard copy, electronic, or other form acceptable to the Director; and
 - (3) all obsolete documentation is promptly removed from all points of issue or use; and
 - (4) changes to documentation are reviewed and approved by appropriate personnel; and

- (5) the current version of each item of documentation can be identified to preclude the use of superseded material.

119.115 Records—personnel

Each applicant for the grant of a restricted air operator certificate shall establish procedures to ensure that—

- (1) a record is maintained of each employee to whom any of the following applies:
 - (i) the person, in the performance of their duties, is required to hold a licence or rating;
 - (ii) the person is exercising any delegation of the Director's functions or powers;
 - (iii) the person is exercising any authorisation granted by the certificate holder; and
- (2) the record includes details of—
 - (i) the relevant experience, qualifications, and training of each employee referred to in subparagraph (1); and
 - (ii) the scope, validity, and currency of any licence or rating referred to in subparagraph (1)(i); and
 - (iii) the delegations referred to in subparagraph (1)(ii); and
 - (iv) the authorisations referred to in subparagraph (1)(iii); and
- (3) the record is retained for one year from the date that the employee—
 - (i) ceases to perform duties requiring a licence or rating; or
 - (ii) exercises any delegation or authorisation.

119.117 Records—resources

Each applicant for the grant of a restricted air operator certificate shall—

- (1) establish procedures to ensure details are recorded of testing, checking, and calibration of any safety-critical resources used in carrying out the operations specified on the certificate; and
- (2) retain the record of details required by subparagraph (1) for 2 years from the date the details are recorded.

119.119 Flight authorisation and control

Each applicant for the grant of a restricted air operator certificate shall establish procedures to ensure the initiation, continuation, and termination of an air transport flight or series of flights is authorised.

119.121 Flight following system

(a) Each applicant for the grant of a restricted air operator certificate shall establish procedures to ensure that, for each flight for which a flight following flight plan is not filed with an organisation certificated under Part 172, the restricted air operator certificate holder —

- (1) has at least the information required to be included in a VFR flight plan; and
- (2) is provided with the location and time for the re-establishing of communications, if the flight will operate in an area where communications cannot be maintained; and
- (3) makes timely notification to an organisation acceptable to the Director if the aircraft is overdue or missing.

(b) The maximum time period for which an aircraft may be planned to be without communication capability as provided for in paragraph (a)(2) is 30 minutes or such longer period that is acceptable to the Director.

119.123 Establishment of operations procedures

(a) Each applicant for the grant of a restricted air operator certificate shall establish procedures necessary to enable any requirement of this or any other Part to be complied with.

(b) The procedures required by paragraph (a) shall be those required, as appropriate, by, but not necessarily limited to, 119.77(b).

119.125 Air transport operator exposition

(a) Each applicant for the grant of a restricted air operator certificate shall provide the Director with an exposition that shall contain—

- (1) a statement signed by the Chief Executive on behalf of the applicant's organisation confirming that the exposition and any included manuals—
 - (i) define the organisation and demonstrate its means and methods for ensuring ongoing compliance with this and any other Part; and
 - (ii) are required to be complied with by its personnel at all times; and

- (2) the titles and names of the senior persons required by 119.101(a)(1) and (2); and
 - (3) the duties and responsibilities of the senior persons specified under paragraph (a)(2) including matters for which they have responsibility to deal directly with the Director on behalf of the applicant's organisation; and
 - (4) where appropriate, an organisation chart showing lines of responsibility of the senior persons specified in paragraph (a)(2); and
 - (5) details of the principal place of operation and the main maintenance base; and
 - (6) details of the applicant's procedures required by 119.123; and
 - (7) details of the applicant's procedures required by—
 - (i) 119.103 regarding competence of personnel; and
 - (ii) 119.105 regarding resource requirements; and
 - (iii) 119.109 regarding maintenance requirements; and
 - (iv) 119.111 regarding the maintenance programme; and
 - (v) 119.113 regarding the control of documentation; and
 - (vi) 119.115 regarding personnel records; and
 - (vii) 119.117 regarding resource records; and
 - (viii) 119.119 regarding the effective flight authorisation and control of air transport operations; and
 - (ix) 119.121 regarding the flight following system; and
 - (8) details of the programmes required, as appropriate, by those rules referred to in 119.81(11) and (12); and
 - (9) procedures to control, amend, and distribute the exposition.
- (b) The Director shall not issue the applicant with a restricted air operator certificate unless the applicant's exposition is acceptable to the Director.

Subpart D — Operating Requirements

119.151 Continued compliance

Each holder of an air operator certificate shall—

- (1) continue to meet the standards and comply with the requirements of either Subpart B or Subpart C, as appropriate; and
- (2) comply with all procedures detailed in its exposition; and
- (3) if the holder of a standard air operator certificate, hold at least one complete and current copy of its exposition and operations specifications, in hard copy, electronic, or other form acceptable to the Director, at each major location specified in its exposition.

119.153 Flight operation requirements

(a) Each holder of a standard air operator certificate performing an air transport operation with aeroplanes that have a payload capacity of more than 3410 kg or that have a seating configuration, excluding any crew member seat, of more than 30 seats, shall comply with the applicable operating requirements of Part 121.

(b) Each holder of a standard or a restricted air operator certificate performing an air transport operation with helicopters, or with aeroplanes that have a payload capacity of 3410 kg or less or that have a seating configuration, excluding any crew member seat, of 30 seats or less, shall comply with the applicable operating requirements of Part 135.

119.155 Limitations on use of services

No holder of an air operator certificate shall use any person as a flight crew member, and no person may serve as a flight crew member, on an air transport operation, unless the person—

- (1) holds an appropriate licence in accordance with Part 61; and
- (2) has, when operating outside New Zealand, any required appropriate current flight crew licence and medical certificate in the person's possession; and
- (3) is qualified for the operation in which the person acts as a flight crew member.

119.157 Charter, cross-hire, and leasing of New Zealand registered aircraft

(a) Each holder of an air operator certificate that charters, cross-hires, or leases an aircraft, with or without flight crew, from another holder of an air operator certificate shall—

(1) clearly establish with that other operator, prior to the aircraft's use in an air transport operation, under which air operator certificate the operation will be conducted; and

(2) inform the pilot-in-command under which air operator certificate the operation will be conducted.

(b) Where the holder of an air operator certificate charters, cross-hires, or leases an aircraft, with or without flight crew, from any person who does not hold an air operator certificate, then the certificate holder shall conduct the operation under its own air operator certificate.

(c) Each holder of an air operator certificate shall keep a copy of each written charter, cross-hire, or lease arrangement, under which it performs an air transport operation, for a period of at least one year after the date of completion of the last flight under the arrangement.

(d) In the case of a charter, cross-hire, or lease arrangement, that is made orally, the certificate holder shall keep a memorandum stating the elements of the arrangement, and of any amendments to it, for a period of at least one year after the date of completion of the last flight under the arrangement.

119.159 Use of non-New Zealand registered aircraft

(a) Each holder of an air operator certificate that uses a non-New Zealand registered aircraft under a charter, lease, or similar arrangement, to perform an air transport operation shall, at least 30 days prior to the performance of the operation, unless a shorter period is acceptable to the Director, notify the Director of the basic terms of the charter, lease, or similar arrangement, including—

(1) whether the aircraft provider is authorised by an ICAO contracting State to perform air transport operations; and

(2) the names of the parties to the arrangement; and

(3) the duration of the arrangement; and

(4) the nationality, the registration markings, and the type of each aircraft involved in the arrangement.

(b) The certificate holder shall obtain approval from the Director prior to the use of a non-New Zealand registered aircraft on air transport operations.

(c) When it is unclear which party to the arrangement has operational responsibility for the aircraft, the Director may make a determination and issue amendments to the operations specifications of either or both parties.

119.161 Business or trading name

(a) Each holder of an air operator certificate shall conduct its air transport operations using the trading or business name that appears on the certificate holder's certificate.

(b) No person shall perform an air transport operation unless the trading or business name of the certificate holder conducting the operation is displayed in such a manner that it is clearly identifiable, visible, and legible to any intending passenger before they board the aircraft.

(c) The certificate holder shall clearly identify, when it advertises any air transport operation conducted by it, the business or trading name that appears on the certificate.

119.163 Limitations of certificate holder

(a) The holder of a restricted air operator certificate shall—

- (1) not conduct operations to which Part 121 applies; and
- (2) only operate single engine aircraft with a passenger seating capacity of five seats or less.

(b) The holder of a restricted air operator certificate shall only perform—

- (1) day VFR air transport operations utilising the services of only the nominated pilot or, to an extent acceptable to the Director, up to two relief pilots; or
- (2) single operating cycle sightseeing or joyride air transport operations, under VFR conditions, departing from, remaining within 35 nm of, and returning to the same aerodrome; or
- (3) both of the operations referred to in paragraphs (b)(1) and (2).

119.165 Changes to certificate holder's organisation

(a) Each holder of an air operator certificate shall—

- (1) ensure that its exposition is amended so as to remain a current description of its organisation; and
- (2) ensure that any amendments made to its exposition meet the applicable requirements of this or any other Part and comply with the amendment procedures contained in its exposition; and

- (3) 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
 - (4) make such amendments to its exposition as the Director may consider necessary in the interests of aviation safety.
- (b) Where the certificate holder proposes to make a change to any of the following, prior application for and acceptance by the Director is required:
- (1) the Chief Executive;
 - (2) the listed senior persons;
 - (3) the locations nominated in 119.81(a)(7) or 119.125(a)(5), as appropriate, from which the certificate holder conducts air transport operations;
 - (4) the scope of the certificate holder's certificate;
 - (5) if a standard certificate holder, the overall scope or intent of the organisation's internal quality assurance procedures;
 - (6) the maintenance programme;
 - (7) any contractor carrying out the certificate holder's maintenance or training;
 - (8) where required, the air operator security programme.
- (c) The Director may prescribe conditions during or following any of the changes specified in paragraph (b).
- (d) The certificate holder shall comply with any conditions prescribed under paragraph (c).
- (e) Where any of the changes referred to in paragraph (b) requires an amendment to the certificate, the certificate holder shall forward the certificate to the Director as soon as practicable.

119.167 Changes to the maintenance programme

The holder of an air operator certificate shall, upon the Director's request, make any revisions to a maintenance programme found by the Director to be necessary to satisfy the continuing airworthiness requirements of that programme.

119.169 Transition

- (a) Each holder of a valid air service certificate issued under regulation 136 of the Civil Aviation Regulations 1953, or a valid aerial works certificate issued

under regulation 136A of the Civil Aviation Regulations 1953, or a certificate of approval issued under regulation 191 of the Civil Aviation Regulations 1953 may continue to exercise the privileges of the certificate, without complying with 119.5, until the expiry of that certificate **provided** that the certificate holder—

- (1) continues to comply with those of the following requirements that were in force and applicable to the certificate holder immediately before the commencement of this Part—
 - (i) the Civil Aviation Regulations 1953; and
 - (ii) the orders, notices, requirements, circulars, or other publications issued under regulation 8A of the Civil Aviation Regulations 1953; and
 - (iii) the conditions contained in the certificate holder's operations specifications; and
 - (iv) regulation 7 of the Civil Aviation (Security) Regulations 1989; and
- (2) notwithstanding paragraph (a)(1), complies with the applicable requirements in Part 91; and
- (3) complies with any conditions or requirements made by the Director under 19.13.

(b) For the avoidance of doubt, paragraph (a) shall apply notwithstanding the revocation of the Civil Aviation Regulations 1953 and the expiry of the orders, notices, requirements, circulars, or other publications issued under regulation 8A of the Civil Aviation Regulations 1953.

(c) A person employed, at or after the time this Part comes into force, by the holder of a certificate referred to in paragraph (a), shall not be required to meet the requirements in Appendix A or B for the position that person holds while that person is employed in that position by that certificate holder.

Appendix A — Qualifications and Experience of Senior Persons – Standard Certificate Holder

This Appendix prescribes the qualifications and experience for the senior persons responsible under 119.51(b)(1)(i), (ii) and (iii).

A.1 Senior person responsible for air transport operations

	Part 121 Operation	Part 135 Operation	
		Multi-crew	Single pilot
Document required	Airline Transport Pilot Licence	Airline Transport Pilot Licence	Commercial Pilot Licence, with Instrument Rating if operations include IFR
Pilot-in-command experience	3 years as pilot-in-command under Part 121 operations	3 years as pilot-in-command under Part 121 or Part 135 operations; or ↓	3 years as pilot-in-command under Part 121 or Part 135 operations; or ↓
Managerial experience	3 years in an operational control position	3 years in an operational control position	3 years in an operational control position

A.2 Senior person responsible for crew training

	Part 121	Part 135 Operation	
		Multi-crew	Single pilot
Document required	Airline Transport Pilot Licence with ratings and current to act as pilot-in-command of one type of operator's aircraft	Airline Transport Pilot Licence with ratings and current to act as pilot-in-command of one type of operator's aircraft	Commercial Pilot Licence, with Instrument Rating if operations IFR, and current to act as pilot-in-command of one type of operator's aircraft
Experience	3 years as pilot-in-command under Part 121 or Part 135 operations and 2 years experience in the check and training role	3 years as pilot-in-command under Part 121 or Part 135 operations and 2 years experience in the check and training role	3 years as pilot-in-command under Part 121 or Part 135 operations and 2 years experience in the check and training role

In addition, where there is a requirement for experience under Part 121 or 135 operations, a person may be assessed as meeting that requirement if they have had equivalent experience in air transport operations conducted under the authority of an Air Service Certificate or an equivalent type of operation acceptable to the Director.

A.3 Senior person responsible for the control and direction of maintenance

A.3.1 Part 121 Operations

The senior person responsible for the control and direction of maintenance in an organisation conducting air transport operations under Part 121 shall have a clear knowledge and understanding of the maintenance parts of the organisation's exposition and the applicable maintenance provisions of Part 121 and—

- (1) shall—
 - (i) hold or have held an aircraft maintenance engineer licence or equivalent, acceptable to the Director, with appropriate ratings; and
 - (ii) have at least five years experience in the maintenance of aircraft of a similar size and type as that to be operated by the organisation; and
 - (iii) have at least two years experience in a supervisory position which may be undertaken during the five years experience required under subparagraph (1)(ii); or
- (2) shall—
 - (i) be a graduate engineer or equivalent in an aeronautical, mechanical or electrical discipline; and
 - (ii) have at least five years experience of the maintenance of aircraft, which may be gained while working in a maintenance supervision, maintenance planning, engineering development, or workshop environment; and
 - (iii) have at least six months practical experience in aircraft maintenance tasks which may be undertaken during the five years experience required under subparagraph (2)(ii); and
 - (iv) have at least two years experience in a supervisory position which may be undertaken during the five years experience required under subparagraph (2)(ii).

A.3.2 Part 135 Operations

The senior person responsible for the control and direction of maintenance in an organisation conducting air transport operations under Part 135 shall have a clear knowledge and understanding of the maintenance parts of the

organisation's exposition and the applicable maintenance provisions of Part 135 and—

- (1) shall meet the requirements of A.3.1; or
- (2) shall—
 - (i) hold or have held an aircraft maintenance engineer licence or equivalent, acceptable to the Director, with appropriate ratings; and
 - (ii) have at least three years experience of maintenance of aircraft of a similar size and type as that to be operated by the organisation; and
 - (iii) have at least one year experience of releasing aircraft to service, which may be undertaken during the three years experience required under subparagraph (2)(ii); or
- (3) shall—
 - (i) have experience acceptable to the Director including at least five years experience of the control and direction of maintenance and the continuing airworthiness of aircraft of a similar size and type as that to be operated by the organisation; and
 - (ii) undertake any examination or test that the Director may require to determine the applicant's competency to perform the functions required.

Appendix B — Qualifications and Experience of Senior Persons – Restricted Certificate Holder

This Appendix prescribes the qualifications and experience for the senior persons responsible under 119.101(b)(1)(i) and (ii).

B.1 Senior person responsible for line operations

The senior person responsible for line operations shall have at least 750 hours flight time on the category of aircraft to be operated. At least 250 hours flight time shall have been logged as pilot-in-command on operations conducted under Part 121 or 135. A person may be assessed as meeting some or all of the requirement for Part 121 or 135 experience if, at the time this Part comes into force, they have had equivalent experience in air transport operations conducted under the authority of an Air Service Certificate or an equivalent type of operation acceptable to the Director.

B.2 Senior person responsible for the control and direction of maintenance

The senior person responsible for the control and direction of maintenance in an organisation conducting air transport operations under Part 135 shall—

- (1) have sufficient knowledge of maintenance to be able to ensure that the aircraft is maintained in an airworthy condition and that any maintenance required by its maintenance programme is satisfactorily accomplished; and
- (2) undertake any examinations or tests as the Director may require to determine the applicant's competency to perform the functions required.

CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 119. It provides details of the consultation undertaken in making the rules.)

Background to the 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 is being 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 95-13 under Docket Number 1031 on 13 December 1995. This Notice proposed the introduction of Civil Aviation Rules Part 119 Air Transport Operator - Certification.

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 these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

Summary of Comments on Docket Number NPRM

General comments on the NPRM

Two commenters considered the economic analysis of this rule, together with the other flight operations rules, was flawed. They do not accept the concept of using the FAA cost/benefit analysis as an acceptable substitute for an analysis based on the New Zealand situation. They also suggest that some new rule requirements impose costs on operators which are unlikely to produce safety gains.

CAA Response: The economic analysis only considered those aspects of the FAA analysis where appropriate to New Zealand conditions. The majority of requirements flow either directly from or as a means of compliance with the ICAO Standards as promulgated in the Annexes to the Convention. New Zealand, as a signatory, has an obligation to meet those standards, and can only consider a difference if there is little or no interface with international aviation.

2. Specific comments on the NPRM

Specific comments received from the 45 submissions are discussed as follows:

119.3 Definitions

Three commenters sought clarification regarding the definition of *operational responsibility* and suggested that definition of *maintenance programme* is required.

One commenter requested clarification regarding *Aerial Work*.

CAA Response: An AC will be used to clarify in both cases. *Aerial Work* will no longer exist

119.5 Requirement for Certificate

One commenter considered the rule would prevent advertising of new route for existing operator.

CAA Response: An amendment has been made to remove the anomaly.

119.11 Issue of Certificate

Fifteen commenters queried what is a fit and proper person. They were concerned that there are persons who run air transport operations who have and continue to collect criminal records.

CAA Response: The criteria as to what is to be considered when determining whether person is a fit and proper person is prescribed in section 10 of the Civil Aviation Act.

119.15 Duration of Certificate

Two commenters disagreed with a terminating certificate.

CAA Response: The Civil Aviation Act requires that the maximum period for which each aviation document may be issued shall be prescribed in rules made under the Act. The rule reflects CAA safety policy that the certificates are to be issued for a maximum of 5 years.

Subpart B — Standard Air Operator - Certification Requirements

119.51 Personnel Requirements

One commenter suggested clarifying who would be acceptable to the CAA as CEO and clarifying the term *sufficient personnel*.

Two commenters expressed concerns about organisational structures and specific responsibilities, as proposed in the rule.

Two commenters believe that any operator should be able to contract out their check and training functions.

One commenter suggested that there is some conflict between Part 119 and Part 121.

One commenter suggested that it is not necessary for the person with responsibility for line operations to hold or have held a pilot licence.

CAA Response: The acceptability of the CEO is a matter for the Safety Certification unit, who will implement the intent of the rule; what is acceptable will be addressed in the AC. Whilst it would be 'nice' to define *sufficient personnel*, it would be impossible to set firm figures. Such assessments will always be subjective, although there are established industry yardsticks. The rule will be amended to require that certain functions are clearly identified in the responsibilities of nominated senior persons. This will facilitate the use of some existing or proposed corporate structures.

The CAA believes that there is a scale of operation above which an operator should establish an in-house check and training capability. It is, however, accepted that *part* of that capability may be provided by contract.

The final rules will have no conflict between Parts. The CAA also believes that some operational decisions should be made by persons with significant operational experience. An operator or applicant who believes otherwise can always apply for an exemption from the requirement, and justify that request with evidence as to how at least an equivalent level of safety will be provided.

119.53 Resource Requirements

One commenter suggested that .53(b)(2) should be in Part 145.

One commenter suggested minor rewording.

One commenter suggested qualification of the resources required.

CAA Response: Some operators will not be required to use a Part 145 organisation. An appropriately licensed and rated engineer can do the work. The operator, in this case, has a responsibility to provide an environment suitable for the task.

The Act requires the Director to be satisfied as to the applicant's ability to meet the regulatory requirements. The phrase *acceptable to the Director* enables this obligation to be met.

As previously mentioned, whilst guidelines or yardsticks may exist in some cases, the decisions are usually finally subjective, but open for consensus.

119.55 Proving Flights or Tests

One commenter suggests that there is conflict between Parts 119 and 121, and that the wording is not specific enough.

One commenter suggests conflict between the parts.

One commenter asks as to whether the rule requires a certain number of hours or specific outcomes.

One commenter suggests the rule is open-ended.

CAA Response: Again, any conflict between the parts will be resolved. Proving flights or tests would be required to demonstrate competence, not just for the logging of flight time. Suggested rewording can also be considered as open to interpretation.

119.57 Operational, Safety, and Maintenance Data

One commenter requested AC amplification of this rule.

CAA Response: This request will be met.

119.61 Internal quality assurance

Two commenters suggested that the use of *statistical analysis* in management review should be optional, not mandatory.

One commenter suggested some rewording and that the organisation's CEO should be able to use whosoever was deemed fit to undertake an internal audit.

CAA Response: The first suggestion is acceptable and the rule has been amended. The rewording suggested will be considered in the review of AC 120-01. In the third case, it is considered unlikely that the CEO would ask an untrained person to do the job. What is therefore in question is the interpretation of *trained*. This will again be addressed in either the Part 119 AC, or the revision of AC120-01.

119.63 Maintenance responsibilities

One commenter suggested that the rule should refer to the *continued* airworthiness.

CAA Response: The amendment has been accepted.

119.65 Approved maintenance programme

One commenter requested a definition of *maintenance programme*.

CAA Response: Refer to 119.3

119.67 Establishment of Operations Procedures (See also 119.113)

Two commenters had minor comments about numbering.

Two commenters suggested that the list may not include all and could therefore require frequent amending. It should be in the AC.

CAA Response: The numbering will be correct in the final rule. The rule specifically states "Procedures ...are required for, *but not necessarily limited to*, the following--". This was done both to show that the list is not limiting and also to show that, for the examples listed, procedures are required. There is a tendency to regard ACs as not authoritative.

119.71 Air Operator Exposition

One commenter expressed the view that it is unreasonable to ask the Chief Executive to sign a statement that the requirements of the Exposition *will be complied with at all times*. It was suggested that there will always be non-compliance with humans involved. The commenter also seek clarification as to the interpretation of .71(a)(4), regarding *personnel are based*.

CAA Response: The rule has been amended so that the statement signed by the CEO is that it is company policy that the exposition will be complied with, rather than the current wording. The second matter will be clarified, probably in the AC.

Subpart C — Restricted Air Operator - Certification Requirements

One commenter expressed the view that this subpart should be deleted, allowing standardisation across industry.

CAA Response: Several other major regulatory authorities have provision for alternative and acceptable standards, such as the FAA, the Australian CASA and the UK CAA. Industry has called for such a provision and the idea has been found acceptable by management and the Authority.

119.107 Maintenance responsibilities

One commenter raised the same issues as were dealt with under 119.63. The response is the same.

119.111 Approved maintenance programme

One commenter suggested re-wording suggested

CAA Response: For consideration by Maintenance Specialist

119.113 Establishment of Operations Procedures

One commenter made the same comment as for .67. The commenter requested that an operator should advise the air traffic services provider with respect to any operating differences established under 121.159 or 135.159.

CAA Response: Same response to first comment. We will establish with operators whether there is a need for the service provider to know whether an operator is operating to different DH or MDA from those published. If there is a need for the service provider to have this information, then they will get the information.

Subpart D — Operating Requirements

119.151 Continued Compliance

Two commenters requested provision be made for electronic or computer coverage.

CAA Response: The rule doesn't preclude this. However, this option will be specifically included, as appropriate, and clarified.

119.153 Flight Operation Requirements

One commenter had the view that the imposition of the Part 121 requirements on operations by aircraft with 10 or more passenger seats (as against the current more than 30 seats) would not be acceptable, but that commenter has changed their view.

CAA Response: The view has been noted, and no further action taken at this time.

119.155 Flight Authorisation and Control

One commenter stated their interpretation of the rule.

One commenter defined *authorisation*, suggested implications of the rule, and thought the words could be better.

CAA Response: The commenter's interpretation is correct.

119.157 Flight Following System

One commenter stated that 30 minutes was not feasible on some longhaul international flights. One commenter said it is not in the FAR and provides no enhancement to flight safety.

CAA Response: The commenter has been asked what figure is acceptable for longhaul international flights, and the rule has been amended to provide for them and other in a similar situation. For the commenter, the specific requirement as such is not in the FAR. However, the FARs do have flight dispatch and flight locating requirements at Part 121 Subpart U and Part 135.79 respectively. These effectively require a level of watch over any air transport flight that will ensure timely notification if an aircraft is overdue or missing.

119.159 Limitations on use of services

One commenter believes that it should not be a requirement for a flight crew member on air transport operations to actually have their licence and medical certificate in their possession.

CAA Response: The current New Zealand requirement is only for international operations. The rule has been amended to reflect this.

119.161 Records – Personnel

One commenter suggests that the records should be retained for a period of two years (as against one in the NPRM).

Response: It is presumed that this would be to reflect the longer period over which the commenter is approved to conduct a recurrency training program. The rule will be amended to add *, or such longer period may be required by the Director, in consideration of their specific approvals* or words to that effect.

119.163 Records – Resources

Notwithstanding the comment on page 3 of the NPRM, one commenter asked for the rule to be specific or deleted.

CAA Response: The AC will be used to give examples of what can be considered a *safety critical resource*. Existing operators seeking initial certification under Part 119, and new operators, should seek clarification during their initial discussions regarding certification, or should, with specific examples, seek clarification from the Rules and Standards Group.

119.165 Charter, cross-hire, and leasing of New Zealand registered aircraft

One commenter believes that .165(b) is superfluous.

One commenter does not see retention of lease agreements as a safety issue.

CAA Response: Whilst the rule may appear superfluous, its inclusion removes any doubt or ambiguity. Retention of any lease details will enable clear identification of responsibilities that were put in place for the term of the lease.

119.167 Use of Non-New Zealand Registered Aircraft

One commenter believes that the rule should not contain any timeframe.

One commenter suggests that the timeframe is too rigid and should have a degree of flexibility.

One commenter wants a rule similar to 121.151 or 135.25 of the FAR.

Response: The timeframe has been included in all similar rules. But it will be amended to reflect the above concerns. The FAR rules are contrary to existing practice and policy.

119.169 Business or Trading Name

One commenter seeks clarification of the wording and intent, particularly in relation to *Air New Zealand Link* services.

One commenter had some similar difficulties.

One commenter believed there would be difficulties where common boarding passes are used.

One commenter also had some difficulty regarding codeshare flights and branded aircraft.

One commenter suggested that the matter was not a safety issue.

One commenter suggested that compliance with .169(c) would be complex and there were no safety implications.

CAA Response: Air New Zealand and Ansett New Zealand will have no problems regarding the business or trading name. Ansett Regional and Air New Zealand Link operators should indicate, in the application, their trading names in addition to their legal business name. Their certificates will show both names. The regional operators' business names can be shown on boarding passes and the services they operate can be identified by flight number groups (e.g. NZ5xxx = Mount Cook, NZ8xxx = Air Nelson). Many States now require a passenger to be informed of the identity of the operator when a flight operates as a codeshare. The public have also clearly indicated that they wish to know the operator's identity. It does appear that the public consider that the operator's identity can give them an indication of the level of safety for the conduct of their intended flight.

119.171 Privileges and Limitations of Certificate Holder

One commenter suggested additional wording - *(a)(2)(iv) test or check, validation or proving flights following maintenance*. One commenter sought clarification in regard to the restricted certificate holder.

CAA Response: The rule will be clarified. The restricted certificate holder will be able to nominate only one pilot, and there will be a limit on the amount of flying able to be performed by any relief pilot.

119.173 Changes to Certificate Holder's Organisation

One commenter suggested that items (b)(3) and (b)(6) were unnecessary.

CAA Response: The establishment of a base, or an additional base, would probably require the appointment of an additional senior person, above those listed in (b)(2), and is thus justified. Additionally, it may also require consideration under Part 157 or for planning audit schedules. There may be a

need for, in effect, *entry control* over any additional operation or change of provision of maintenance or training.

Appendix A — Qualifications and experience of senior persons – standard certificate holder

One commenter suggested specific wording.

One commenter suggested there should be provision for those who held a licence, now expired, before lifetime licences were introduced, and for those who had acceptable military or other experience.

One commenter suggested clarification in the Part 135 multi-crew area. The commenter suggested rewording that was very non-specific and open to subjective decision making. They also suggested that the rule should not create a situation where personnel with the qualifications to fill a position needed to be sourced from outside the organisation.

Two commenters suggested that some requirements were too stringent and would put some operators out of business. They also had concerns about the requirements for a Maintenance Controller.

CAA Response: The wording suggested by one commenter was the same as that in the rule. One commenter's suggested requirement, for existing personnel, is met by transitional arrangements or by the statement under the table. It is unlikely that a person who does not hold a lifetime licence and is re-entering the industry would be acceptable for a senior person position. One commenter's argument was that provision needs to be made to accept senior persons with varying experience depending on the nature of the operation. Their example, however, was one that would have required, as per the table, persons of significantly different qualifications and experience. If an organisation is expanding the capability of its operations to one that requires greater knowledge or experience of its senior person(s), then it is reasonable to expect that such persons be available. If they are not available within the organisation, either due to attrition or due to organisational expansion, then the appropriately qualified and experienced personnel would have to be found outside the organisation. It is not acceptable to expect a standard to be lowered or not met in such circumstances. The requirements proposed are seen as a minimum for the new environment where industry has to accept a greater degree of responsibility for the oversight and safety of their operations. One commenter did not seem to realise that it will be possible for small organisations to contract this position, and it is highly likely that they will have to do so.

Appendix B — Qualifications and experience of senior persons – restricted certificate holder

Two commenters expressed the same views as to Appendix A. These views evoke the same responses.

Conclusion

The Authority concludes from this consultation that the majority of the aviation industry participants favour the direction of the new rules. Specific issues that were identified in the comments received from the consultative group have been addressed. The rules also meet New Zealand's international obligations under the applicable ICAO Annex. The comments and all the 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 1031.

Transitional arrangements

Part 119 contains a transition provision in 119.171. This provision will allow holders of air service certificates issued under the Civil Aviation Regulations 1953 to continue operating under those certificates provided certain conditions are met. The provision also contains a grandfather clause that allows persons holding certain positions within an organisation to continue to do so without holding the qualifications that are necessary under Part 119.

Regulatory activities

Part 119 replaces numerous requirements from the Civil Aviation Regulations 1953. It replaces the existing certification requirements under regulations 136, 136A, and 191 of the Civil Aviation Regulations 1953

Section 14(2) of the Civil Aviation Amendment Act 1991 (as amended by section 34 of 1996 No. 91) deems the Civil Aviation Regulations 1953 that are continued in force by section 8 of that Act to be revoked on the close of 31 March 1997.

Section 14(3) states that any order, notice, requirement, circular, or other publication continued in force by section 8 shall expire on the close of 31 March 1997.