

Part 108 Air Operator Security Programme: Summary of changes

Alongside the standard changes outlined in Section 3.1 of the Overview of Rules Realignment for the Civil Aviation Act 2023 document, this Rule Part also contains the following changes.

Airside security area

To align with changes in the 2023 Act relating to the types of security areas at aerodromes, references to “security areas” has been changed to “airside security areas” in the following rules:

- 108.53(b)(4) and
- 108.55(b)(4).

Searching

To align with language changes in the 2023 Act, references to “screening”, “screened”, or “screen” have been changed to “searching”, “searched”, or “search” in the following rules:

- 108.53(b)(8);
- 108.53(b)(9);
- 108.55(b)(9)(i);
- 108.55(d)(3); and
- 108.63.

Part 108

Air Operator Security Programme

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Subpart A General

108.1 Applicability

This Part prescribes rules governing the air operator security programme required by Part 119, Part 129, and for operations conducted under an Australian AOC with ANZA privileges.

Subpart B — Air Operator Security Programme Requirements

108.51 Air operator security programme

Each air operator security programme must contain—

- (1) where any work relating to compliance with this Part is intended to be contracted out to any other organisation, the contractual provisions by which the applicant for an air operator certificate or a foreign air operator certificate ensures that any such contractor or other agent complies with the requirements of the applicant's air operator security programme; and
- (2) details of the person responsible for training personnel in accordance with the procedures required by 108.59; and
- (3) details of the procedures required by—
 - (i) 108.53 regarding domestic security requirements; and
 - (ii) 108.55 regarding international security requirements; and
 - (iii) 108.57 regarding the clearance of aircraft flights; and
 - (iv) 108.59 regarding the training of personnel; and
 - (v) 108.61 regarding incident notification and reporting.

108.53 Security requirements — domestic

(a) An air operator security programme for a domestic regular air transport passenger service must have security procedures for flights within New Zealand to safeguard passengers, crew, ground personnel, aircraft, and facilities, against an act of unlawful interference.

(b) The security procedures required in paragraph (a) must set out the means by which—

- (1) the requirements of rule 91.9 are complied with in relation to the carriage of firearms on board an aircraft; and
- (2) danger to the air operator's passengers, crew, and ground personnel is minimised if a hijacking, bomb threat, or any other threat of unlawful interference occurs; and
- (3) access to the air operator's unattended aircraft is controlled at all times to prevent unlawful interference with the aircraft; and
- (4) access to an airside security area or security enhanced area of a security designated aerodrome and to an operational area at any other aerodrome within New Zealand that is through the air operator's facilities or through any other access used by the air operator for passengers, personnel, baggage, cargo, freight or aircraft supplies is controlled; and
- (5) appropriate security controls are applied to baggage, cargo, courier, and mail, aircraft supplies, stores, and air operator's supplies intended for carriage on the air operator's aircraft; and
- (6) the safe conduct of a flight is achieved and the pilot-in-command notified, if 1 or more persons on board the aircraft are required to travel on the aircraft because they are in lawful custody, or are subject to other judicial or administrative proceedings, whether or not they are required to be escorted; and
- (7) the air operator and the pilot-in-command are to assess the risk and decide whether a passenger's baggage that is on board an aircraft is to be carried on the flight if the passenger has failed to board the aircraft; and
- (8) before boarding an air operator's aircraft, every passenger, crew member, and the carry-on baggage of the passengers and crew members is searched in accordance with rule 108.63 if the Minister or the Director requires searching in order to prevent a weapon, explosive, or other dangerous device, article or substance

that may be used to commit an act of unlawful interference being taken onto the air operator's aircraft; and

- (9) before being loaded onto an air operator's aircraft, all baggage that is not carry-on baggage is searched in accordance with rule 108.63 if the Minister or the Director requires searching in order to prevent a weapon, explosive, or other dangerous device, article or substance that may be used to commit an act of unlawful interference being loaded onto the air operator's aircraft; and
 - (10) temporary security measures will be implemented to upgrade the security of the air operator's services if the Director finds or suspects an increased level of security risk to a person on an aircraft, or to an aircraft or an aerodrome and requires the additional security measures for a domestic operation; and
 - (11) an unauthorised person is prevented from entering the flight crew compartment of the air operator's aircraft during flight.
- (c) The procedures required by paragraph (b)(6) must include procedures for ensuring that in relation to the carriage of a person in lawful custody on a regular air transport passenger service—
- (1) the person is escorted; and
 - (2) the escort confirms that the person is not carrying any item that may be used as a weapon; and
 - (3) the escort is equipped with adequate devices for restraining the person; and
 - (4) the pilot-in-command and senior flight attendant are notified of the location of, and the security arrangements for, the person; and
 - (5) alcoholic beverages are not served to the person or the person's escort; and
 - (6) metal utensils are not provided for the person's use; and
 - (7) the person is not seated in a seat or seat row next to an emergency exit; and

- (8) the person is seated appropriately to ensure safe conduct of the flight is achieved; and
- (9) not more than 1 person in custody is carried on an aircraft with a certificated passenger seating capacity of 29 seats or less and no more than 1 additional person in custody is carried for each additional 25 seats of certificated passenger seating capacity.

108.55 Security requirements – international

(a) An air operator security programme for an international regular air transport passenger service must have security procedures for flights within or from New Zealand for safeguarding passengers, crew, ground personnel, aircraft, and facilities, against an act of unlawful interference.

(b) The security procedures required by paragraph (a) must set out the means by which—

- (1) the requirements of rule 91.9 are complied with in relation to the carriage of firearms on board an aircraft; and
- (2) danger to the air operator's passengers, crew, and ground personnel is minimised in the event of a hijacking, bomb threat, or any other threat of unlawful interference; and
- (3) access to the air operator's unattended aircraft is controlled at all times to prevent unlawful interference with the aircraft; and
- (4) access to an airside security area or security enhanced area of a security designated aerodrome and to an operational area at any other aerodrome within New Zealand that is through the air operator's facilities or through any other access used by the air operator for passengers, personnel, baggage, cargo, freight, or aircraft supplies is controlled; and
- (5) temporary security measures are implemented to upgrade the security of the air operator's services within and from New Zealand if the Director finds or suspects an increased level of security risk to a person on an aircraft, or to an aircraft or an aerodrome and requires additional security measures; and

- (6) subject to paragraph (c), appropriate security controls are applied to baggage, cargo, courier parcels and mail intended for carriage on the air operator's aircraft; and
- (7) the safe conduct of a flight is achieved and the pilot-in-command notified, if 1 or more persons on board are required to travel on that aircraft because they are in lawful custody, or subject to other judicial or administrative proceedings, whether or not they are required to be escorted; and
- (8) a transit or transfer passenger and the passenger's carry-on baggage is controlled to prevent an unauthorised article being taken on board the air operator's aircraft by the passenger; and
- (9) carry-on items left in the cabin by a passenger disembarking from a transit flight are removed from the aircraft or otherwise dealt with in an appropriate manner before the flight departs unless—
 - (i) the passenger searching process of the flight's originating State is acceptable to the Director; or
 - (ii) the flight is making an unscheduled stop; and
- (10) appropriate security controls are applied to cargo, baggage, mail, aircraft supplies, stores, and air operator's supplies which are moved within an aerodrome for carriage on the air operator's aircraft; and
- (11) every consignment of a package that is not cargo or mail but is intended for carriage on an air operator's aircraft, (whether unaccompanied or using commercial courier services) is searched; and
- (12) before boarding an air operator's aircraft, every passenger, crew member, and the carry-on baggage of the passengers and crew members is searched in accordance with rule 108.63 in order to prevent a weapon, explosive, or other dangerous article or substance that may be used to commit an act of unlawful interference being taken onto the air operator's aircraft; and

- (13) baggage from a passenger who is not on the aircraft is prevented from being carried unless the baggage is authorised as required by paragraph (17); and
 - (14) pre-flight checks of originating aircraft are undertaken, including procedures for discovering any suspicious object or anomaly that can conceal a weapon, explosive, or any other dangerous article or substance that may be used to commit an act of unlawful interference; and
 - (15) security control is provided for baggage from the point where it is checked in until it is placed on board the air operator's aircraft, if the baggage is for carriage on a passenger flight and has originated from a place other than an airport check-in counter; and
 - (16) except as provided for in paragraph (h), before being loaded onto an air operator's aircraft, every item of baggage that is not carry-on baggage is searched in accordance with rule 108.63 in order to prevent a weapon, explosive, or other dangerous article or substance that may be used to commit an act of unlawful interference being loaded onto the air operator's aircraft; and
 - (17) only baggage that is authorised by the air operator is carried; and
 - (18) an unauthorised person is prevented from entering the flight crew compartment of the air operator's aircraft during flight.
- (c) An air operator must not allow cargo or mail to be loaded onto an aircraft carrying passengers unless—
- (1) the cargo or mail is received from a regulated air cargo agent and the consignment of cargo or mail is—
 - (i) accompanied by a declaration of security issued by the regulated air cargo agent; and
 - (ii) checked by the air operator to ensure that the consignment has not been tampered with; or
 - (2) if the air operator accepts the cargo or mail from a person who is not a regulated air cargo agent, the cargo or mail is subjected to

appropriate security controls, in accordance with paragraph (d);
or

- (3) despite paragraphs (1) and (2), if the cargo or mail is subject to a direction to search made by the Minister or the Director under sections 152 or 154 of the Act respectively, the cargo or mail has been searched in accordance with the direction and has been maintained in a secure state.
- (d) If the air operator is to accept cargo or mail from a person who is not a regulated air cargo agent, the air operator must establish appropriate facilities and procedures that are equivalent to those required under the following rules for ensuring that the security controls required in paragraph (c)(2) meet the requirements of Part 109:
- (1) rule 109.53 (Facility requirements):
 - (2) rule 109.55 (Cargo and mail security control procedures):
 - (3) rule 109.57 (Searching procedures):
 - (4) rule 109.59 (Authorisation procedures):
 - (5) rule 109.61 (Procedures and register for a known customer):
 - (6) rule 109.63 (Training of personnel):
 - (7) rule 109.65 (Cargo security incidents):
 - (8) rule 109.67 (Records).
- (e) Details of the facilities and procedures required by paragraph (d) must be included in the air operator's security programme required by rule 108.65, Part 119 or Part 129.
- (f) The procedures required by paragraph (b)(7) must include procedures for ensuring that in relation to the carriage of a person in lawful custody on a regular air transport passenger service—
- (1) the person is escorted; and

- (2) the escort confirms that the person is not carrying any item that may be used as a weapon; and
 - (3) the escort is equipped with adequate devices for restraining the person; and
 - (4) the pilot-in-command and senior flight attendant are notified of the location of, and the security arrangements for, the person; and
 - (5) alcoholic beverages are not served to the person or the person's escort; and
 - (6) metal utensils are not provided for the person's use; and
 - (7) the person is not seated in a seat or seat row next to an emergency exit; and
 - (8) the person is seated appropriately to ensure safe conduct of the flight is achieved; and
 - (9) not more than 1 person in custody is carried on an aircraft with a certificated passenger seating capacity of 29 seats or less and not more than 1 additional person in custody is carried for each additional 25 seats of certificated passenger seating capacity.
- (g) If a domestic air operator undertakes passenger or baggage check-in on behalf of an international air operator, or for transshipment onto an international regular air transport passenger service, the international air operator must ensure that the domestic air operator complies with the international air operator's security programme.
- (h) Paragraph (b)(16) does not apply to international transfer and transit baggage unless the Minister or the Director requires such baggage to be searched.
- (i) The requirements of paragraph (c)(1) and (2) do not apply to—
- (1) diplomatic mail that is carried in a diplomatic bag that is externally marked to identify its character and is accompanied by signed documentation from an official of the dispatching diplomatic agency; or

- (2) international transfer and transit cargo or mail.

108.57 Security clearance of flights

Each air operator security programme must have a procedure to ensure that the security programme applicable to the flight is complied with before an aircraft is permitted to depart on an air transport operation from any New Zealand aerodrome.

108.59 Training of personnel

(a) An air operator security programme must have procedures for ensuring that—

- (1) personnel responsible for carrying out security procedures detailed in the security programme are sufficiently trained to competently perform their tasks; and
- (2) all other personnel employed in the maintenance and servicing of the aircraft have a basic awareness of air operator and aviation security; and
- (3) training is conducted in a structured and coordinated manner by a person authorised by the air operator; and
- (4) every person who is required to be trained undertakes the recurrent training segment of the training programme at an interval of not more than 3 years.

(b) The procedures required by paragraph (a) must contain—

- (1) applicable segments for initial training and recurrent training; and
- (2) knowledge testing or competency assessment as appropriate for the training conducted; and
- (3) syllabi for each applicable security control function.

108.60 Records

(a) An air operator security programme must have procedures for identifying, collecting, indexing, storing, maintaining, and disposing of the records that are necessary to provide an accurate record for every person who is required to be trained under rule 108.59, including details of—

- (1) each segment of training that is undertaken; and
- (2) knowledge testing or competency assessment as appropriate for the training conducted.

108.61 Incident notification

Each air operator security programme must have a procedure for notifying, and where applicable reporting, any security incident involving the air operator's aircraft to the Director in accordance with Part 12.

108.63 Searching

The searching of passengers, crew members, and baggage as required by rules 108.53 and 108.55 must be conducted—

- (1) in the case of aircraft operating from or within New Zealand, by, or under the direct supervision of, the Aviation Security Service, or the holder of an aviation security service certificate issued in accordance with Part 140; and
- (2) in the case of New Zealand registered aircraft operating from aerodromes outside New Zealand, by an organisation authorised by the appropriate authority of the state of departure to conduct searching.

108.65 Air security programme required

- (a) A holder of an Australian AOC with ANZA privileges must establish and implement an air operator security programme that meets the relevant requirements of this Part.
- (b) The security programme required by paragraph (a) must—
 - (1) identify the person or persons in New Zealand who are responsible for compliance with this Part; and
 - (2) specify the responsibilities of the person or persons referred to in paragraph (1), including the matters for which that person or persons would deal directly with the Director on behalf of the AOC holder.
- (c) A holder of an Australian AOC with ANZA privileges must—

- (1) ensure that the holder's security programme is amended so as to remain a current description of the holder's operations to, from, or within New Zealand; and
 - (2) ensure that each amendment made to the holder's security programme meets the applicable requirements of this Part and complies with the amendment procedures contained in the holder's security programme.
- (d) A holder of an Australian AOC with ANZA privileges must notify the Director in writing within 7 days of a change to any of the following:
- (1) the AOC holder's security programme:
 - (2) the person or persons referred to in paragraph (b):
 - (3) the responsibilities of the person or persons referred to in paragraph (b).