

Interpretation of CAR 91.311(c)

Effective Date: This ruling is effective from September 2004

Catchwords: low flying
flight instruction and flight examining

Sponsoring area: Personnel Licensing and Aeronautical Services

Issue

The purpose of this bulletin is to state the CAA's position on the interpretation of CAR 91.311(c) with respect to flight training and examination activity conducted otherwise than in accordance with the exception to the low flying rule provided in 91.311(d).

Background

The "low flying rule", CAR 91.311(a), provides as follows:

- (a) A pilot-in-command of an aircraft must not operate the aircraft under VFR—
 - (1) over any congested area of a city, town, or settlement, or over any open air assembly of persons at a height of less than 1000 feet above the surface or any obstacle that is within a horizontal radius of 600 metres from the point immediately below the aircraft; or
 - (2) over any other area—
 - (i) at a height of less than 500 feet above the surface; or
 - (ii) at a height of less than 500 feet above any obstacle, person, vehicle, vessel, or structure that is within a horizontal radius of 150 metres from the point immediately below the aircraft; and
 - (3) for any operation, at a height less than that required to execute an emergency landing in the event of engine failure without hazard to persons or property on the surface.

Exceptions are provided to the rule in CAR 91.311(b), (c) and (d).

- (b) Paragraph (a) does not apply to a pilot-in-command of an aircraft—
 - (1) conducting a take-off or landing; or
 - (2) conducting a balked landing or discontinued approach; or
 - (3) taxiing.

- (c) Paragraph (a)(2) does not apply to a pilot-in-command of an aircraft if the *bona fide* purpose of the flight requires the aircraft to be flown at a height lower than that prescribed in paragraph (a)(2), but only if—
 - (1) the flight is performed without hazard to persons or property on the surface; and
 - (2) only persons performing an essential function associated with the flight are carried on the aircraft; and
 - (3) the aircraft is not flown at a height lower than that required for the purpose of the flight; and
 - (4) the horizontal distance that the aircraft is flown from any obstacle, person, vessel, vehicle, or structure is not less than that necessary for the purpose of the flight, except that in the case of an aeroplane, the aeroplane remains outside a horizontal radius of 150 metres from any person, vessel, vehicle, or structure that is not associated with the operation.

- (d) Paragraph (a)(2) does not apply to a pilot-in-command—
 - (1) who is the holder of, or authorised by the holder of, a current instructor rating issued under Part 61 and who is conducting flight training or practice flights consisting of—
 - (i) simulated engine failure after take-off commencing below 1000 feet above the surface; or
 - (ii) simulated engine failure commencing above 1000 feet above the surface provided that descent below 500 feet above the surface is conducted within a low flying zone in accordance with 91.131; or
 - (2) who is the holder of a current instrument rating issued under Part 61 and who is conducting IFR training, testing, or practice flights under VFR, but only if the pilot-in-command conducts the flight in accordance with 91.413, 91.423 and 91.425; or
 - (3) operating an aircraft within a low flying zone in accordance with 91.131; or

- (4) operating an aircraft at an aviation event in accordance with 91.703.

CAA Position

The exceptions to the low flying rule listed in 91.311 are not expressed as applying exclusively to the situation described in each exception. Accordingly, the rule does not preclude pilots engaged in flying training activities from relying on the exception in 91.311(c) despite the express reference to flight training in 91.311(d).

Where the bona fide purpose of the flight is dual flight training or during a flight examination in the exercise of forced landings without power which may require an aircraft to be operated at height lower than that described in 91.311(a)(2), the pilot-in-command may rely on the exception provided in 91.311(c) as long as the requirements in that rule are complied with.