

Legal Information Bulletin Number 2:

Interpretation of CAR 137

Effective Date: This ruling is effective from 17 December 2004

Catchwords: “Third Party Risk”
“Risk”

Sponsoring area: General Aviation - Agricultural Operations & Personnel Licensing

Issue

The meaning of the phrase “Third Party Risk” as it is used in rule 61.705 of the Civil Aviation Rules.

Background

The phrase as defined in Appendix A of Rule Part 137, is restricted to the use of the phrase in that Rule part. It does not apply to the phrase “risk to any third party” used in rule 61.705. The phrase, as used in Part 61 is not defined and the principle of interpretation that applies in such a case is that the words are to be given their plain and ordinary meaning.

The Concise Oxford Dictionary (10th edition) defines **third party** as:

a person or group besides the two primarily involved in a situation, especially in a dispute.

Risk is defined as:

a situation involving exposure to danger > the possibility that something unpleasant will happen.

CAA Position

Determining who would fall into the definition in any given circumstance would often depend on the facts of that case and it is not advisable to try and draw any hard and fast rule from the Oxford definitions.

However, in essence what this means for a holder of a Grade 2 agricultural rating is that they should not act as a pilot-in-command of an aircraft on agricultural aircraft operations if any other person (ie. not the pilot) is exposed to the possibility of harm or danger. It is worth noting however, that this could include farm workers in a nearby paddock, or the neighbouring farmer.