



PURSUANT to Section 28 of the Civil Aviation Act 1990

I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *16th* day of *May* 2006

by **HARRY JAMES DUYNHOVEN**


Minister for Transport Safety

Civil Aviation Rules

Part 12, Amendment 2

Accidents, Incidents, and Statistics

Docket 3/CAR/4

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Rule objective

The objective of Amendment 2 to Part 12 is to make editorial and minor technical changes as part of a general rule fix up project.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 05-07, containing the proposed changes to Part 12 was issued for public consultation under Docket 3/CAR/4 on 23 June 2005.

The publication of this NPRM was notified in the *Gazette* on 23 June 2005 and advertised in the daily newspapers in the five main provincial centres on 25 June 2005. The NPRM was published on the CAA web site and mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 37 days was allowed for comment on the proposed rule.

New Zealand Transport Strategy

The development of the NPRM and the proposed rule changes takes into account the objectives of the New Zealand Transport Strategy (NZTS) and the provisions of the Civil Aviation Amendment Act (No 2) 2004.

Summary of submissions

Nine written submissions were received on the NPRM. One submission was received on the proposed amendments to Part 12 from Air New Zealand. The Air New Zealand submission was in regard to the incident reporting and incident investigation times for RNP and RVSM airspace incidents.

The CAA reviewed the proposed requirements for RNP and RVSM reporting and decided to remove the proposed amendments in rule 12.57 and rule 12.59. Revision of Part 12 requirements for RVSM and RNP incident reporting is to be included in the Part 91\121 RVSM Rule Project currently under development by the CAA.

These changes were notified in the Summary of Public Submissions which was published on the CAA web site on 25 October 2005.

The rule as amended was then referred to Parliament's Regulations Review Committee before being signed by the Minister for Transport Safety.

Examination of submissions

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

Insertion of Amendments

The amendments to the rules in this Part are reflected by the revocation of the existing rule and the substitution of the new rule.

Effective date of rule

Amendment 2 to Part 12 comes into force on 22 June 2006.

Availability of rules

Civil Aviation Rules are available from—

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

Freephone: 0800 GET RULES (0800 438 785)

Part 12 Accidents, Incidents, and Statistics

Subpart A — General

Rule 12.1 is revoked and the following new rule is substituted:

12.1 Purpose

- (a) Subject to paragraph (b), this Part prescribes rules for the—
- (1) notification, investigation, and reporting of accidents and incidents; and
 - (2) preservation of aircraft, aircraft contents, and aircraft records following an accident or serious incident; and
 - (3) reporting of aircraft operating and statistical data.
- (b) This Part does not apply to an incident that is associated with any of the following operations:
- (1) gyrogliders and parasails, unmanned balloons, kites, rockets, and model aircraft operated under Part 101;
 - (2) microlight aircraft operated under Part 103;
 - (3) gliders operated under Part 104;
 - (4) parachutes operated under Part 105;
 - (5) hang gliders operated under Part 106.

Rule 12.3 is revoked and the following new rule is substituted:

12.3 Definitions

In this Part—

Aircraft incident means any incident, not otherwise classified, associated with the operation of an aircraft:

Aerodrome incident means an incident involving an aircraft operation and—

- (1) an obstruction either on the aerodrome operational area or protruding into the aerodrome obstacle limitation surfaces; or
- (2) a defective visual aid; or
- (3) a defective surface of a manoeuvring area; or
- (4) any other defective aerodrome facility:

Airspace incident means an incident involving deviation from, or shortcomings of, the procedures or rules for—

- (1) avoiding a collision between aircraft; or
- (2) avoiding a collision between aircraft and other obstacles when an aircraft is being provided with an Air Traffic Service:

Bird incident means an incident where—

- (1) there is a collision between an aircraft and one or more birds; or
- (2) when one or more birds pass sufficiently close to an aircraft in flight to cause alarm to the pilot:

Dangerous goods incident means an incident associated with and related to the carriage of dangerous goods by air after acceptance by the operator, that—

- (1) results in injury to a person, property damage, fire, breakage, spillage, leakage of fluid or radiation, or other evidence that the integrity of the packaging has not been maintained; or
- (2) involves dangerous goods incorrectly declared, packaged, labelled, marked, or documented:

Defect incident means an incident that involves failure or malfunction of an aircraft or aircraft component, whether found in flight or on the ground:

Fatal injury means any injury which results in death within 30 days of the accident:

Flight crew member means a pilot or flight engineer assigned to duty in an aircraft during flight time:

Facility malfunction incident means an incident that involves an aeronautical facility:

Occurrence means an accident or incident:

Promulgated information incident means an incident that involves significantly incorrect, inadequate, or misleading information promulgated in any aeronautical information publication, map, or chart:

Prosecution investigation means an investigation carried out to establish whether an offence against the Act has been committed:

Security incident means an incident that involves unlawful interference:

Serious incident means an incident involving circumstances indicating that an accident nearly occurred:

Serious injury means any injury that is sustained by a person in an accident and that—

- (1) requires hospitalisation for more than 48 hours, commencing within 7 days from the date the injury was received; or
- (2) results in a fracture of any bone, except simple fractures of fingers, toes, or nose; or
- (3) involves lacerations which cause severe haemorrhage, nerve, muscle, or tendon damage; or
- (4) involves injury to an internal organ; or
- (5) involves second or third degree burns, or any burns affecting more than 5% of the body surface; or

- (6) involves verified exposure to infectious substances or injurious radiation:

TAIC means the Transport Accident Investigation Commission, which is established by section 3 of the Transport Accident Investigation Commission Act 1990.

Subpart B – Notification, Investigation, and Reporting of Occurrences.

Rule 12.55 is revoked and the following new rule is substituted:

12.55 Notification of incident

(a) A holder of a certificate issued in accordance with the following Parts must notify the Authority as soon as practicable of any associated incident if the certificate holder is involved in the incident and the incident is a serious incident or is an immediate hazard to the safety of an aircraft operation:

- (1) Parts 119, 129, and 137 – aircraft incident, or dangerous goods incident:
- (2) Part 172 – airspace incident:
- (3) Parts 171 and 174 – facility malfunction incident:
- (4) Parts 19, 47, 119, 129, 137, 145, 146, and 148 – defect incident:
- (5) Parts 119, 129, 139, 140, 171, and 172 – security incident:
- (6) Part 139 – aerodrome incident:
- (7) Parts 139, 171, 174, and 175 – promulgated information incident.

(b) A person who is involved in an incident that is a serious incident or an immediate hazard to the safety of an aircraft operation must notify the Authority of the incident as soon as practicable if the person—

- (1) operates, maintains, services, or does any other act in respect of an aircraft, aeronautical product, or aviation related service; and
- (2) is not employed by, or associated with, the holder of a certificate referred to in paragraph (a).

(c) A pilot-in-command of an aircraft that is involved in an airspace incident or a bird incident must notify the Authority of the incident as soon as practicable.

(d) The notification of an incident required by paragraphs (a), (b), and (c) must be conveyed by a means acceptable to the Authority and contain, where ascertainable, information in accordance with the following:

- (1) for airspace incidents, Appendix A(a):
- (2) for defect incidents, Appendix A(b):
- (3) for facility malfunction incidents, Appendix A(c):
- (4) for aircraft incidents, Appendix A(d):
- (5) for security incidents, Appendix A(e):
- (6) for promulgated information incidents, Appendix A(f):
- (7) for aerodrome incidents, Appendix A(g):
- (8) for dangerous goods incidents, bird incidents, or any other incident, Appendix A(h).

Rule 12.57 is revoked and the following new rule is substituted:

12.57 Details of incident

(a) Notwithstanding the notification of a serious incident or an immediate hazard to the safety of an aircraft operation under rule 12.55, the following persons who are involved in an incident must provide the Authority with the applicable details of the incident in accordance with information requested on the applicable form specified in paragraph (b)(1) or (b)(2):

- (1) a holder of a certificate referred to in rule 12.55(a);
- (2) a person referred to in rule 12.55(b);
- (3) a pilot-in-command referred to in rule 12.55(c).

(b) A person who is required under paragraph (a) to provide the Authority with details of an incident must provide those details within 14 days of the incident—

- (1) on form CA005; or
- (2) on form CA005D for a defect incident; or
- (3) by another means that is acceptable to the Authority.

Rule 12.59 is revoked and the following new rule is substituted:

12.59 Investigation and reporting

A holder of a certificate referred to in rule 12.55(a) who is required to provide details of an incident to the Authority under rule 12.57 must, unless otherwise notified by the Authority,—

- (1) subject to section 14 of the Transport Accident Investigation Commission Act 1990, conduct an investigation to identify the facts relating to its involvement in the incident and establish, so far as those facts allow, the cause or causes of the incident; and

- (2) on completion of the investigation, submit a report of the investigation to the Authority no later than 90 days after the incident—
 - (i) on form CA005; or
 - (ii) on form CA005D for a defect incident; or
 - (iii) by a means acceptable to the Authority; and
- (3) advise the Authority of any actions taken to prevent recurrence of a similar incident.

Subpart C – Preservation of Aircraft, its Contents, and Records

Rule 12.105 is revoked and the following new rule is substituted:

12.105 Retention of defective products and components

A holder of a certificate of registration for an aircraft, and a holder of a certificate issued in accordance with Part 145, Part 146, or Part 148 who is required to submit a defect incident report to the Authority under rule 12.59(2) must retain the defective product or component that is associated with the defect incident for a period of at least 14 days after submitting the report unless otherwise notified by the Authority.

Consultation Details

(This statement does not form part of the rules contained in Part 12. It provides details of the consultation undertaken in making the rules.)

Comments arising from the NPRM

The rule amendment was developed under docket 3/CAR/4 and published as NPRM 05-07. Nine written submissions were received on the NPRM and one commented on the proposed amendments to Part 12.

Comment on Rule 12.59. Air NZ submits that there is a large difference between the reporting times after an incident between rule 12.59(a)(2) at 90 days and rule 12.59(b) at 14 days. Air NZ states it is difficult to see how an investigation into an airspace incident can be completed within the 14 days as required in rule 12.59(b) given the foreign regulatory bodies and air traffic agencies involved.

Air NZ recommends that the reporting requirements following the completion of an investigation for both rule 12.59(a)(2) and 12.59(b) be the same at 90 days.

CAA comment: The proposed requirement for the reporting of RNP and RVSM were developed in accordance with the letter of agreement between Airservices Australia, Airways Corporation of New Zealand, Civil Aviation Authority of New Zealand and Civil Aviation Safety Authority of Australia signed in 1998. The CAA has reviewed this requirement and has decided to remove the proposed amendments in regard to specific reporting requirements for RNP and RVSM operations. The Part 12 requirements for RVSM and RNP incident reporting will be included in the Part 91\121 RVSM Project currently under development by the CAA.

The comments and all background material used in developing these rules are held on the docket. The docket is available for public inspection at Aviation House, 10 Hutt Road. Persons wishing to view the docket should contact the Docket Clerk on Phone 64-4-560-9603 and ask for docket 3/CAR/4.