Certification Policy - Organisations

Document Change History

This Change History log contains a record of changes made to this document:

Release Date	Version	Section / Nature of Change
5 June 2009	1.0	Initial publication on Cirrus2007
18 May 2010	2.0	Reissue as part of the Certification Improvement Project
1 Oct 2010	3.0	Amended for the official launch of the new CAA Certification Policy as an outcome of the Certification Improvement Project. Changes made to take into account the feedback received from running the certification training courses.
18 June 2013	4.0	Changes resulting from the Quick Wins Project and Regulatory Functions Steering Panel decisions, including: · Para 2: changed the document owner · Para 3.3: added Regulatory Operating Model and Use of Regulatory Tools Policy · Paragraphs moved and renumbered to align with L3 CAA Certification Procedures, as follows: - Previous Para 14 becomes 4. Records - Previous Para 5 to 13 moved into new Para 6. Order within

		new Para 6 altered for a more logical flow - New Para 7.2.3 and 7.2.4 swapped to match L3 logic order - Heading of the 'Appeal' section in new Para 7.5.4 dropped to align new Para 7.5.5 with L3 procedure
		· Para 6.2: added reference to the Regulatory Operating Model
		· Para 6.9 (previously Para 13): text amended to align with L2 Surveillance Policy
		· App. 1 and any group/unit references changed to reflect new organisational structure post Phase 2
		· Grammar and spelling
		Approved by Director 29 May 2013

Certification Policy - Organisations

1.   Purpose and Scope

The Director of Civil Aviation (Director) is required by the Civil Aviation Act 1990 to exercise control over entry into the civil aviation system through the granting of aviation documents. This policy is designed to provide overarching guidance for the granting of aviation documents to organisations by the CAA's operational groups. The policy applies to entry certification, certificate amendment, and certificate renewal (recertification). The focus of the policy is on the certification for organisations; it does not apply to the licensing of individuals or the certification of aircraft.

2.   Authority

The General Manager Organisational Development & Strategy is the owner of this document and is responsible for the regular review and maintenance of this document. The General Manager Organisational Development & Strategy is responsible for ensuring that this document follows and meets the Responsibility, Application, Accountability, Monitoring, Approval/Amendments and Availability criteria described in the [Development and Control of CAA Policies and Procedures](#).

3.   References

3.1   The Act

The Act prescribes the functions, duties and powers of the Director to conduct entry certification. The following sections of the Act are particularly important for the issue of aviation documents:

   (a)   Section 7   Requirement for aviation document;

   (b)   Section 9   Grant or renewal of aviation document;

   (c)   Section 10   Criteria for fit and proper person test; and

   (d)   Section 12   General requirements for participants in civil aviation system

3.2   The Civil Aviation Rules

The Act gives the Minister of Transport and, in some limited circumstances, the Director the power to make Civil Aviation Rules (the Rules). These rules set the standards and requirements for participants in the civil aviation system including the requirement to hold an aviation document.

3.3   Other Applicable Acts and References

There are a number of other Acts and legal principles that affect what information may be gathered during the entry certification process and how it may be considered and used. These include:

   a)   the Crimes Act 1961;

   b)   the Criminal Records (Clean Slate) Act 1994;

   c)   the Privacy Act 1993; and

   d)   the principles of administrative law.

The entry certification process must be conducted in accordance with CAA policy including the CAA's:

   a)   Safety Policy;

   b)   The Regulation of Aviation Safety in New Zealand Statement of Philosophy;

   c)   Regulatory Operating Model, and Use of Regulatory Tools Policy; and

   d)   Code of Conduct.

The legislation, policies and principles relating to the Director's certification functions need to be viewed and applied as a cohesive whole and not as a disparate body of isolated requirements.

4.   Records

All CAA certification decisions need to be properly documented and saved into the DMS for future reference. The documentation should be sufficiently detailed that a person not familiar with the task can understand how the decision was reached. As a minimum, this documentation should include:

a) The decision (including any conditions)

b) The relevant factors on which the decision was based

c) The rationale or reasoning used to arrive at the decision (including criteria, Act/Rule references, organisation's exposition or proposal)

d) Key evidence on which the decision was based

5.   Definitions

Certification– is the term used to cover all activities associated with the issuing of an aviation document. Certification also includes the process to renew or amend an existing aviation document.

Aviation document - is the term used to describe any licence, permit, certificate, or other document issued in accordance with the Civil Aviation Act 1990 (the Act) to any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation related service.

Note: for the avoidance of doubt, Airport Identity Cards and medical certificates are not aviation documents.

Organisation - is the term used to describe any organisation or operator that requires an aviation certificate to engage in activities covered by the Civil Aviation Act 1990 (the "Act") or New Zealand Civil Aviation Rules ("Rules").

6. General

6.1 The Life Cycle Approach

The Director's regulatory functions are part of a 'life cycle' approach to regulating the civil aviation system. This approach characterises aviation regulation as a 'closed cycle' system with the Act and Rules establishing the boundaries.
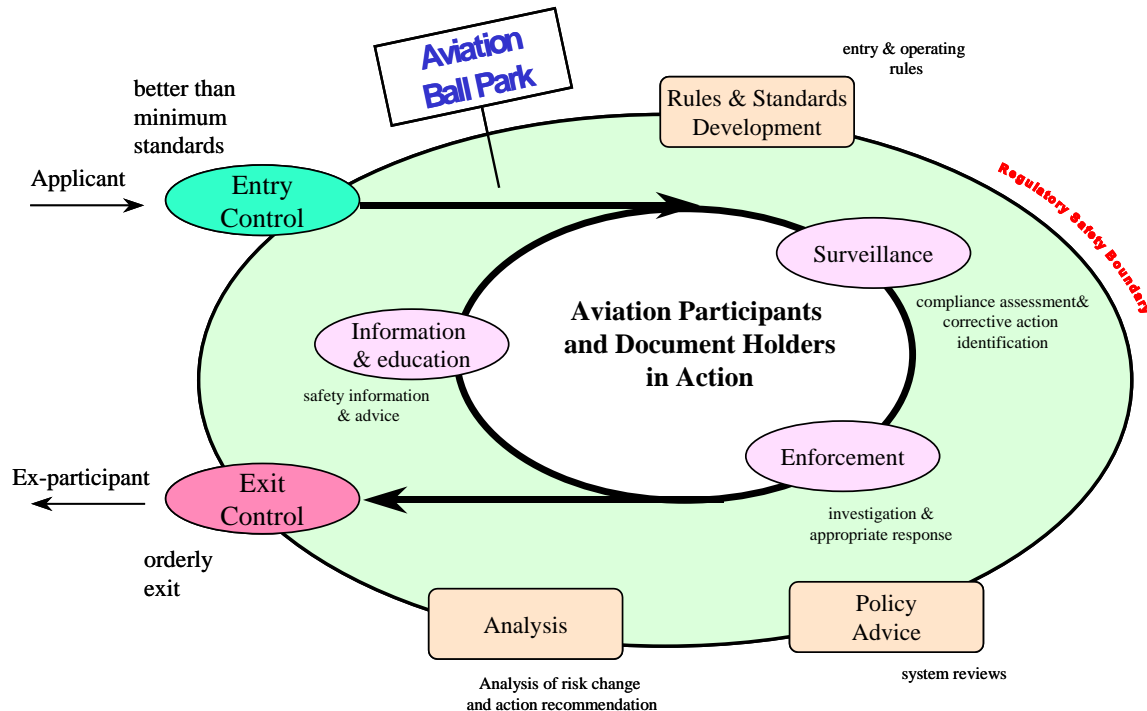
Within the system there are a number of intervention points:

a) *Entry control* – full compliance with the Act and Rules and the demonstrated ability to sustain compliance is required by participants at entry into the system.

b) *Continued operation* – industry participants must continue to operate safely and meet all relevant requirements while operating in the aviation system. The Director carries out surveillance, provides support to participants in the form of information and advice to maintain compliance, and initiates corrective action where necessary. This includes the investigation of breaches of Rules and enforcement action as necessary.

c) *Renewal* – organisations are required to renew their aviation document at least every five years. The Director may issue an aviation document for a shorter period. The nature of the renewal process and the frequency with which it occurs will depend on the organisation's risk profile and the conditions of its aviation document. The process may result in changes to the organisation's operating conditions. Renewal (also referred to as recertification) involves the same process as entry certification and is a complete reassessment of an organisation against the entry requirements.

d) *Exit control* – there are several reasons for a document holder to exit the aviation system. Participants will usually exit the system because their document has been revoked, suspended or simply expired. The document holder or the Director may initiate the exit process for a variety of reasons including safety related concerns, failure to comply with requirements, or simply because the organisation no longer wishes to continue to participate in the aviation system.

6.2   Purpose of Certification

The CAA's two core functions are certification and safety monitoring. Certification is critically important; it is at the entry control stage, more than any other, that the participant's, as well as the CAA's attitude to compliance is most clearly demonstrated and future behaviour is set.

The certification process ensures that applicants meet or exceed the required standards, expressed in civil aviation rules or the Act. Once an applicant has been assessed and granted a certificate, they may exercise privileges under the certificate while operating in the civil aviation system. Certification establishes whether an applicant has the competence and resources to conduct the proposed operation safely and in compliance with the relevant prescribed standards.

The CAA's safety philosophy is based on the premise that an acceptable level of safety is maintained only when participants fully comply with the applicable standards, and their own documented systems. It is crucial that the Director is satisfied, prior to issuing an aviation document, that the applicant meets the standards at the time of application, and is able to demonstrate how compliance will be achieved on an ongoing basis. If full compliance has not been shown the applicant is not ready to enter the system.

The CAA will carry out its certification functions by applying the regulatory principles, approach, and attributes outlined in its Regulatory Operating Model.

6.3   Responsibility for Safety

The Act places the responsibility for the safety of air operations, or other activities conducted under an aviation document, on the aviation document holders. Document holders must ensure that they have management systems in place and sufficient resources to discharge their safety responsibilities. While operating within the aviation system, a document holder is able to exercise certain privileges described in the aviation document.

In practice, the Director and document holders both have responsibility for safety. Among other things, the Director is responsible for certification and safety oversight. The document holder is responsible for the safe conduct of operations, compliance with the Act and Rules, and conformance with their exposition / procedures. During the certification process it is the applicants' responsibility to satisfy the Director that they meet or exceed the requirements in the Act and Rules to enter and operate within the system.

6.4   Delegations

Within certain restrictions, the Director has the authority to delegate most of his/her powers including part or all of the certification process to other persons. Delegates are acting as the Director when they exercise their delegated powers. In the rest of this document any reference to the Director or to "certification personnel" should be considered to include reference to any person delegated to exercise the Director's powers and authorised to perform those tasks.

6.5   Independence

The Act requires the Director, when issuing aviation documents in a particular case, to act independently and not be subject to direction from the Minister or the Authority. Any person exercising a delegation is similarly required to act independently of external influence, and in accordance with the limitations and conditions of the delegation.

6.6   Discretion

The Act places the onus on the Director to be satisfied that all relevant requirements have been met before issuing an aviation document. If the function is being exercised by a person with a delegation, then they have the responsibility to be satisfied. The policy is designed to ensure that any person exercising the Director's powers under a delegation, does so in a manner consistent with the principles and guidelines described herein. In particular, certification personnel need to be mindful of the Act requirement that: "All things in respect of which the document is sought meet the relevant prescribed requirements".

Notwithstanding the above, it is acknowledged that not all certification matters are expressly covered by rules, CAA policy and procedure, or approved guidance material. CAA certification personnel are permitted to exercise proper discretion within the boundaries of established procedure and their delegation. In doing so it is incumbent upon certification personnel to research the matter, and to seek assistance from CAA specialists as appropriate. Research may include standards or guidance material from ICAO, FAA, CASA, etc. There may also be a need to take a risk based approach when reviewing an application. In all cases, this use of discretion must be consistent with the goal of a safe and secure civil aviation system.

6.7   Advice and Consultation

The CAA may provide support and advice to participants to assist and promote safety and compliance with the Rules. These actions do not alleviate a participant's responsibilities for managing the safety of their operation. CAA staff are to refrain from giving any advice that could be interpreted as affecting an organisation's business decision-making or responsibilities.

CAA staff can provide information, direction and guidance on:

a) CAA's position on the rules, via the appropriate certification matrix or legal interpretation bulletin;

b) means of compliance with a rule that are acceptable to the Director including referral to appropriate advisory circular;

c) CAA processes leading to the granting or renewal of aviation documents or the approval of amendments to certificates and procedures; and

d) other CAA processes and activities, including other information sources (e.g. the CAA website), and access to them.

CAA staff should refrain from providing:

a) informal opinions on the interpretation of a Rule;

b) advice on which means of compliance should be selected or suggestions of an alternative that may acceptable; and

c) opinions or commitments with respect to the CAA outcome on certification, renewal, or amendment prior to the completion of the certification process.

Situations where the division of responsibility between the organisation and the CAA are unclear must be handled carefully and in consultation with appropriate general manager(s) and the Chief Legal Counsel.

6.8   Certification Procedures and Process

The entry certification process is administered by the operational groups: Operations & Airworthiness (OA) and Aviation Infrastructure & Personnel (AIP) groups. Within these groups are units which have specific areas of responsibility.

Appendix 1 shows which certificates are managed by operational units.

CAA certification procedures have been established for the approval, issue, renewal or amendment of aviation documents. These procedures are available on CAA's intranet (CIRRUS). These CAA certification procedures must be applied consistently by all units involved in the certification of aviation organisations.

Certification process tools such as Entry Processes Sheets (EPs), rules matrices, forms, and checklists provide for tailored application at the group/unit level. These tools are available to assist CAA personnel to compile objective evidence that can be used to support or make a certification decision. Certification must be clear and transparent, and must also be applied consistently across

all operators and sectors. Therefore the use of these group/unit processes and tools must be consistent with overall CAA certification policy and procedure.

6.9 Qualification and Authorisation of CAA Certification Personnel

6.9.1 Training and Qualification

CAA personnel must be trained and qualified in order to effectively carry out their safety oversight role. With regards to certification, training will address the competencies (application of applicable skills, knowledge and attributes) that are required for effective entry control. These requirements and competencies are based on the following best practice standards:

a) Objectives of certification

b) Business process for certification

c) Certification procedures

d) Certification processes and tools for each certification task

e) Criteria and decision making

f) Documentation Standards

CAA personnel will also be required to demonstrate that they have met the required level of competency for each certification task before they are deemed "qualified."

6.9.2 Authorisation Scheme

It is essential that only those personnel that are properly qualified for a certification task are assigned to that duty. The process for the training, assessment, authorisation and documentation thereof is referred to as an "authorisation scheme".

Managers of operational units are to maintain a "skills matrix" for their unit which captures all the competency requirements for the unit and identifies the number of unit personnel required to have each competency based on work demands and succession principles. By conducting a gap analysis, managers will be able to develop a training plan for their unit in order to achieve the desired number of personnel with those competencies.

Managers will also maintain a formal record for each staff member of their:

· Training and experience

· Qualifications and competencies

· Assessment and authorisations (including supporting documentation for the assessment and/or a training certificate)

· Warrant of authority and instrument of delegation

Managers are only to authorise or assign persons to a certification task if they have been assessed as having the necessary qualifications/competencies and hold the appropriate warrants and delegations. The only exception will be personnel undergoing on-the-job training (OJT) and paired with a suitably qualified CAA employee.

7. Initial Issue of Certificate

7.1 General

The entry process is applied when an applicant requests:

a) an aviation document for the purposes of conducting specific operations and/or activities within New Zealand;

b) an aviation document for the purposes of conducting specific activities outside New Zealand (e.g. foreign organisation requesting NZ Part 145 MOC);

c) an aviation document for the purposes of conducting specific operations to/from New Zealand (e.g. foreign air operator requesting a NZ Part 129 AOC); or

d) renewal of their certificate.

The same process also applies when an applicant seeks to make changes to their operations that require notification under the rules. Changes to operations that require notification and approval include:

a) a new CEO or nominated senior persons;

b) new location or facilities;

c) new scope of operations; or

d) new operating systems and procedures that require prior approval by the Director.

There are several phases in the certification process. They are:

a) application;

b) assessment;

c) inspection and demonstration; and

d) certification.

7.2 Application

If an enquiry is received with regard to certification, in the first instance, the applicant should be referred to the appropriate rule or advisory circular. These can be found on the CAA website. Once the applicant has familiarised themselves with the documents they should be encouraged to discuss the certification requirements with the CAA in advance of the latest submission date identified below.

In most cases the application for certification (new entrant) should be forwarded to the CAA at least 90 calendar days before operations are proposed to start. The application is required to be completed correctly, in full, and contain all required information before the assessment period begins. An application for the renewal of an air operator certificate must be forwarded to the Director at least 60 calendar days before the certificate expires.

There is no legal requirement on the Director to reach a decision on the issue of an aviation document within the 60- or 90-day time period. However, it would be expected that a decision would be made on most applications within the time frame, based on a complete and compliant application. The complexity and/or quality of the applicant's submission may affect the processing time. Applications with a proposed start date less than 60 or 90 days (as applicable) from receipt will be considered but the applicant should be advised of the ordinary time period it takes to process an application and that they have no entitlement to priority based on their urgency.

Organisations expressing interest in obtaining or amending a certificate should be informed that early consultation with the CAA will help reduce potential obstacles or delays during the certification process.

7.2.1 Pre-certification Meeting

Before the formal assessment takes place the CAA may need to meet or discuss the application with the applicant and the nominated senior persons in the organisation. The purpose of this discussion is to establish a certification plan. The discussion may include:

a) the scope of the certification process;

b) the privileges the certificate may convey;

c) the necessary expertise and resources required to hold the aviation document;

d) training requirements for first of type aircraft induction;

e) the responsibilities of key personnel in the organisation;

f) any documents that will need to accompany the formal application;

g) issues surrounding the monitoring of any services that will be outsourced; and

h) the fees and charges relating to the application.

7.2.2 Certification Plan

The certification plan may vary in complexity to match the scope of the application and may include:

a) Entry Processes (EPs), customised matrices and checklists;

b) the assignment of CAA personnel; and

c) a timeline for the certification process.

Responsibility for approval of the certification plan will be assigned to the unit manager with primary interest. If any doubt exists, the operational group general manager will assign this responsibility.

7.2.3 Certification Team

Depending on the size and complexity of the assessment task and the type of aviation document being sought, the certification assessment may be conducted by a certification team. A member of the team must be designated as team leader. The operational unit manager will designate team members and team leader. The composition of the team will depend on the type of certificate being sought. Only those authorised to perform the certification task may be assigned (see "Qualification and Authorisation of CAA Certification Personnel" section of this policy). The assessment is to be conducted using the appropriate entry process sheets, check lists and/or rule matrices.

The team leader will formulate or review the certification plan prior to the commencement of the certification assessment process. The team leader will also ensure all aspects of the certification activities are addressed prior to making a recommendation that the aviation document being issued. The certification team will conduct the necessary technical assessment in compliance with the Act, rules, CAA policies and procedures.

7.2.4 Certification Entry Process Sheets (EPs)

Entry Process sheets (EPs) have been developed to capture all CAA certification processes associated with each type of certificate. These EPs are numbered based on the Rule Part applicable to the certificate. In some cases generic EPs have been developed to cover requirements applicable to all organisations (e.g. acceptance of senior persons).

The required EPs should be identified as part of the Certification Plan. Procedures related to the employment of the EPs are documented in the "CAA Certification Procedures – Organisations" document located on Cirrus.

7.3 Assessment

7.3.1 Requirements for Assessment

The Act and rules place certain obligations on the Director when issuing aviation documents. These include being satisfied:

a) all things in respect of which the document is sought meet the relevant prescribed requirements;

b) that the applicant and nominated senior persons are fit and proper persons to exercise the privileges of the document;

c) that facilities and equipment are appropriate to the privileges of the aviation document and they are maintained adequately;

d) the applicant meets the applicable requirements in respect of qualifications and experience;

e) that the exposition includes procedures detailing the organisation's methods of compliance with the relevant rules;

f) that the organisation has sufficient resources to ensure compliance with the relevant prescribed safety standards and the conditions attached to the document; and

g) that granting the certificate is not contrary to the interests of aviation safety.

The specific requirements that applicants must meet will depend on the type of aviation document and scope of activities or operations they are seeking.

7.3.2 Acceptable Means of Compliance

Advisory circulars provide guidance for the industry on how it can comply with a rule. Some CAA advisory circulars contain information about the practices and procedures that the Director has found to be an Acceptable Means of Compliance (AMC) with the associated rule. If an advisory circular contains an AMC the relevant heading will identify the section as an AMC. An applicant who is able to satisfactorily demonstrate to the Director that they have met the requirements of the Act and relevant rules is deemed to be in compliance.

An AMC is not intended to be the only means of compliance with a rule. Consideration will be given to other methods of compliance that may be presented to the Director. When new practices or procedures are found to be acceptable they may be added to the appropriate advisory circular.

The onus is on the applicant to advise the Director how they intend to comply with a rule. In most cases the rules require an organisation to have a document through which an organisation informs the Director about how they intend to meet the requirements. This is referred to as the organisation's exposition.

7.3.3 Expositions

The rules and advisory circulars are intended to provide the regulatory framework within which certificated organisations develop their own instructions and internal requirements necessary for the safe operation of their business.

The primary means used by a certificated organisation to promulgate these operating instructions or procedures is through the organisation's exposition. The exposition describes an organisation's means and methods for ensuring ongoing compliance with the rules. The exposition also contains the names and titles of the senior person or persons, their duties and responsibilities. These operating instructions or procedures must be consistent with the Act and rules. The rules require most certificated organisations to have an exposition. An exposition may only be acceptable to the Director if it meets all the applicable rule requirements. A certificate cannot be issued until the Director accepts the exposition. Once accepted the organisation must comply with the methods outlined in its exposition.

The CAA has produced rule matrices to facilitate the process of certification. CAA certification staff should engage with industry applicants at an early stage in the certification process and ensure they are aware of the requirement to accurately complete a rules matrix applicable to the certificate or privileges being sought. The matrix contains a list of the rules that the organisation is required to meet before being issued a certificate, and allows the operator to identify their

exposition reference for each rule. The certification team can then use the matrix as a reference tool to ensure all the requirements of the certificate have been assessed.

7.3.4 Quality Management

Section 12 of the Act provides that, if required by the rules, participants must establish and follow a management system that will ensure compliance with the relevant prescribed safety standards and the conditions attached to the document. It is the responsibility of the document holder to develop the system and to ensure that they provide satisfactory levels of training, supervision and resources in order to support the system and to ensure compliance with the relevant conditions and safety standards. A key part of the entry certification process is ensuring that the quality management system is established and capable of being implemented. The Director, or his delegate, must be satisfied that the organisation has provided the minimum level of quality assurance required by the rules during the entry certification process.

7.3.5 Safety Management

Although the requirement for Safety Management Systems (SMS) has not yet been incorporated into most New Zealand Civil Aviation Rules, many aviation organisations have already implemented some or all aspects of SMS. This voluntary adoption of SMS is positive and should be encouraged. However, where SMS methodologies, such as risk management, are used by the organisation as a basis for decisions affecting safety, these need to be carefully reviewed by CAA certification personnel. Risk management can be used to reduce or mitigate risk, but it can also be used as the basis to make a change to the operation. In these cases, CAA certification personnel will need to evaluate an organisation's risk assessment to determine if it properly supports the proposed course of action. Section 12 of the Act provides a sound basis for CAA involvement or intervention when it comes to assessing organisation actions based on SMS not yet provided for in rules.

7.3.6 Senior Person Requirement

During the certification process the organisation must identify a Chief Executive (CE) and other key personnel if required by the relevant rules. The CE and nominated senior persons must be a natural person (a human being, not a body corporate) and must be employed, contracted or otherwise engaged to work sufficient hours such that the individual can fulfil the senior person functions associated with the size and scope of the organisation's business.

The rules identify senior members of an organisation in safety critical roles who will exercise an appropriate level of control, direction, and responsibility, to ensure the continued safety of the operation. The titles and names of the senior persons within the organisation must be listed in the exposition. Their duties and responsibilities must also be clearly defined.

The nomination of key senior persons is an important part of the entry control process. Nominated senior persons will normally be interviewed to establish their competence to perform their designated role(s) and to ensure the continued safety of the operation.

7.3.7 Fit and Proper Person

Under the provisions of the Act, the Director must be satisfied that an applicant and any person likely to have control over the privileges of an aviation document is fit and proper to hold and exercise the privileges of the document, and every aviation document holder for which a FPP test is required must continue to satisfy that test as long as their document is current.

When assessing whether a person is fit and proper the Director must consider the person's degree of involvement in the aviation system and:

a) the person's compliance history with transport (all modes) safety regulatory requirements;

b) the person's related experience (if any) within the transport industry;

c) the person's knowledge of the applicable civil aviation system regulatory requirements; and

d) any history of serious behavioural problems and physical or mental health;

The Director may also consider other matters and evidence as may be relevant. This may include information from any source. The Act provisions are broad and must be applied on a case-by-case basis.

The Director can use discretion when deciding what weight should be given to each matter when applying the FPP test. When considering if a person is fit and proper the Director must consider the credibility of evidence, its relevance, significance, the source of the evidence, and the degree and nature of the person's involvement in the NZ civil aviation system.

When someone acting with a delegation from the Director is considering if a person is 'fit and proper' they should follow the CAA certification procedures with respect to FPP assessments, with more detailed guidance from unit EPs as applicable.

7.4   Inspection and Demonstration

7.4.1   General

Other than senior person interviews, the application and assessment phases of certification can be largely conducted as a desktop exercise (i.e. review of exposition manuals). However, in order to confirm that all requirements for the certificate can be carried out effectively, CAA certification personnel must normally conduct a site visit and inspection. This will usually involve inspection of the organisation's facilities, equipment, processes, and documentation to ensure it has the systems in place to meet or exceed the requirements in the rules and their exposition.

As recommended by ICAO, certification should include a requirement for the applicant to demonstrate, as much as practicable, the ability to conduct operations safely and in compliance with requirements before the certificate is granted. These demonstrations will include actual performance of activities and/or operations while being observed by members of the CAA certification team in a safe and controlled environment.

The certification team should plan the site visit in advance to ensure that it is an effective and productive use of CAA time. It is necessary to coordinate the timing of this visit with the applicant to ensure key personnel are available. The inspection visit is also used as an opportunity to discuss any issues raised during the exposition review with the appropriate organisation representatives.

7.5   Certification

7.5.1   General

Following the completion of the assessment and inspection/demonstration programme, the assessment team will be in a position to recommend to the Director that the applicant:

a) is either properly equipped and capable in all aspects of conducting the proposed activity and/or operation safely, efficiently and reliably in accordance with the Act and rules; or

b) is not capable of conducting the proposed activity and/or operation in an acceptable manner or to the required standards.

If the Director considers that the applicant is not ready or capable of conducting the proposed activity and/or operation in the required manner, the application must be declined or granted with conditions, or granted only for those activities that the applicant is capable of conducting safely and effectively. Under the Act the Director must be satisfied that the applicant has satisfied all requirements before issuing an aviation document.

7.5.2 Exemptions

Applicants for a certificate are expected to meet all the requirements before being granted a certificate. However, the rules are not able to foresee every set of circumstances and in rare cases an exemption may be appropriate when an organisation is applying to enter the system. An exemption petition needs to be properly justified and if granted will be shown to meet one or more

of the grounds set out in s37 of the Act. Petitions for reasons of convenience are unlikely to be successful.

In accordance with section 37 of the Act the Director may exempt an applicant from certain specified requirements in the rules. An application for an exemption is the sole prerogative of the applicant. CAA staff should not provide advice to organisations to seek an exemption. If an applicant seeks an exemption they should be referred to Section 37 of the Act.

7.5.3 Natural Justice and Procedural Fairness

It is important to consider issues of natural justice and procedural fairness when making a decision. Decision makers must act in good faith. Decisions should also have regard to both substantive and procedural fairness including allowing the applicant:

a) the right to know the case to meet;

b) consideration of relevant factors and the exclusion of irrelevant factors; and

c) an opportunity to make representations.

The decision maker should ensure there is:

a) no consideration of irrelevant factors;

b) no actual bias;

c) no predetermination; or

d) a patently unreasonable decision.

It is important that any decision that is likely to be appealed is reviewed by the CAA's Legal Unit at the earliest stage possible. Legal advice should also be sought if the Director is proposing to consider any adverse information, make an adverse decision or decline an application.

7.5.4 Adverse Decision

It is important that if a delegation holder proposes to make an adverse decision that they closely follow the procedure set down in the Act and all appropriate CAA procedures. The Director has not delegated the power to revoke an aviation document or impose conditions. Before any CAA staff member makes a recommendation to the Director to make an adverse decision they must discuss it with the appropriate unit manager, have it approved by the appropriate general manager and reviewed by the Chief Legal Counsel.

Appeal

A person may appeal to a District Court a decision made under the Act where an appeal right is specified in the relevant sections. The decision to issue an aviation document to an applicant may also be the subject of a High Court Judicial Review. All entry certification process should be conducted in accordance with the CAA's legal obligations.

7.5.5 Period of Validity

If the applicant has met all the requirements for certification then a certificate will be issued. The Act and rules allow for a certificate to be issued for up to 5 years. If the applicant has no recent "record" with CAA (i.e. does not currently hold a certificate) then it is appropriate that a certificate is issued for less than the maximum allowable period of five years.

CAA policy is to issue a certificate with a two (2) year validity period for organisations that do not hold a current certificate with the CAA. If the applicant currently holds a CAA (organisational) certificate, then CAA policy is to issue a certificate with a five (5) year validity period.

Exceptions

The certificate validity period may be adjusted by the unit manager for appropriate CAA administrative reasons. For example, a suitable reason would be where there is a large number of applicants for a particular certificate and the CAA wishes to avoid a workload spike for future recertification. The policy allows for the validity period of the certificate for a new entrant to be 2 years ± 6 months (i.e. from 1.5 to 2.5 years) and for existing certificate holders to be from 4 to 5 years.

Note: The validity period of the certificate shall not be adjusted from the standard 2/5 years because of safety concerns (i.e. a certificate with a reduced validity period shall not be issued as way of motivating an organisation to correct shortcomings affecting safety). CAA certification personnel do not have discretion to grant an initial certificate, renew a certificate, or approve a requested amendment to a certificate if the organisation has not satisfactorily demonstrated that they have met all the requirements applicable to that certificate.

8.   Amendment of Certificate

Amendments to an organisation's certificate or associated approvals document (i.e. Operations Specifications, Approvals Specification, Schedule of Conditions or Exposition Acceptance (as applicable)) are considered certification. There is a requirement for the CAA to confirm that the proposed amendments, and any consequential changes, meet the same criteria as would be applied during initial certification.

Aviation document holders should be encouraged to apply as early as possible to the CAA if they wish to make any changes to their operation requiring prior CAA acceptance. The applicable CAA unit manager will assess the scope of the change, and review personnel resources available before providing an estimate to the applicant on the length of time required to complete the CAA certification assessment. It should always be made clear that the processing time is just an estimate and is conditional on the quality and completeness of the submission. Also, CAA management and staff should not offer opinions or commitments with respect to the CAA outcome on certification prior to the completion of the certification process (see "Advice and Consultation" section of this document).

Based on the size and scope of the application, the certification plan should take into consideration which aspects of the certification process are applicable. For example, the addition of a new location to a Maintenance Organisation Certificate may require a site inspection, while the change to an Air Operator's flight and duty scheme may not require an inspection.

Amendments to an organisation's certificate or associated approvals document (i.e. Operations Specifications, Approvals Specification, Schedule of Conditions or Exposition Acceptance (as applicable)) must meet the same requirement as initial certification. That is, all things in respect of which the document is sought must meet the relevant prescribed requirements before the amendment is accepted/approved and revised document issued. Even though the organisation has a valid certificate and is subject to on-going surveillance, the same robust certification must be applied.

9.   Renewal of Certificate

When an aviation document is required to be renewed because the time period for which it was issued has expired or is about to expire, the certification process will be applied. This is alternatively referred to as "renewal" or "recertification'' or "re-entry".

Although the organisation has been a participant in the sector leading up to renewal, this does not lessen the requirement for full certification. It is important to note that this process is different from on-going surveillance and monitoring. Surveillance involves checking that the organisation's activities are conducted in accordance with their exposition and are safe and effective, while certification involves checking that the organisation's exposition, management, and facilities are in

compliance with the rules. A number of things can change over the life of the certificate (e.g. size and scope of operations, operating environment, rules, etc.) and it is important for the CAA to confirm that there is 100 percent compliance with all applicable rule requirements. This certification process (recertification) provides the CAA the opportunity to review the organisation's entire exposition to ensure it accurately reflects the current structure and systems, and that these are consistent with rule requirements.

The recertification process also includes a requirement for reassessment of senior persons' FPP status and their continuing suitability. These senior person interviews should test the candidate's knowledge of any organisational or rule changes, their awareness of risk, and their attitude towards safety. Senior persons are required to submit appropriate forms on application for renewal.

The recertification process is similar to the initial entry certification process. However, the assessment phase should also include a review of historical data (audit reports, compliance history, organisational changes, occurrences). This review, along with a compliance inspection will allow certification personnel to determine a more complete picture of the organisation to help focus certification efforts and assist with decision making.

In most cases the application for recertification should be forwarded to the CAA at least 60 days before the certificate expires. Larger organisations should be encouraged to submit their application for certificate renewal and associated supporting documentation in advance of the 60 day requirement because of the amount of assessment work involved. This provides for better opportunity to address any issues raised during the certification process before the certificate expires.

The onus is on the organisation to provide a complete and compliant submission for renewal at least 60 calendar days in advance. Any deviations from this requirement may place the renewal of the certificate by the expiry date in jeopardy. Applications received inside the 60 requirement will be considered but the applicant should be advised of the normal time period it takes to process an application and that they have no entitlement to priority based on their urgency. CAA certification personnel should closely monitor the progress of recertification keeping in mind the certificate expiry date. If there are issues which may affect the granting of a new certificate within the required time period then CAA certification personnel should highlight these concerns to the organisation's senior management as soon as possible to allow opportunity for them to address. These concerns should also be elevated to CAA management in accordance with "no surprises" doctrine. This situation needs to be closely managed and should be well documented.

If the Director is satisfied that all the requirements of the certificate have been met, then a new certificate may be issued. The conditions of the new certificate do not necessarily have to be the same as the conditions as the original certificate. This will depend on the application and the CAA assessment.

10.   Continued Compliance

Aviation document holders will be subjected to the Director's on-going monitoring and surveillance. The certificate holder is responsible for continued compliance with the rules, authorisations, limitations, and provisions of its certificate and attaching specifications.

Refer to CAA Surveillance Policy for further details.

11.   Appendix 1 – Organisation Certification Structure

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This certification structure shows the lines of authority,
responsibility and allocation of functions for organisation
certification throughout the CAA operational groups and units
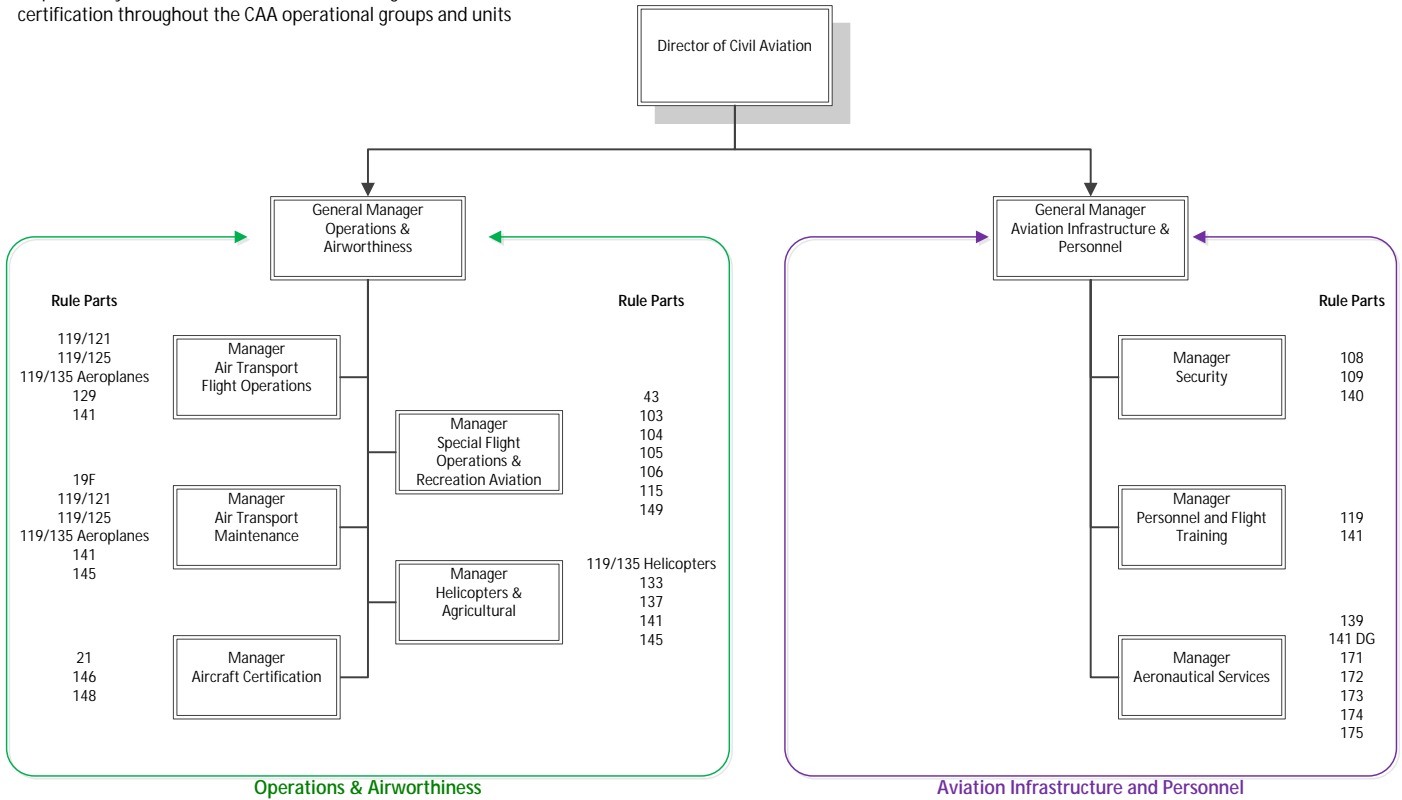
References:
Civil Aviation Act 1990
Civil Aviation Rules