

OC220339

26 May 2022



Tēnā koe 

I refer to your email dated 5 May 2022 requesting the following documents under the Official Information Act 1982 (the Act):

- *The March 4, 2022 document “Independent Review into Auckland Metro Rail System Issues”, reference number OC220057*
- *The March 14, 2022 document “Official Information Act request from [name withheld] for information relating to Amendment 8 to Part 21 of the Civil Aviation Rules”, reference number OC220052*
- *The March 14, 2022 document “Taking action on fuel prices - reducing petrol excise duty and road user charges for three months and supporting the uptake of public transport”, reference number OC220179*
- *The March 17, 2022 document “Reducing Road User Charge Rates”, reference number OC220166*
- *The March 11, 2022 document “Background information and talking points: Temporarily reversing increases to petrol excise duty and road user charges for six months due to heightened fuel prices”, reference number OC220178*
- *The March 21, 2022 document “Talking points: reducing the rates of road user charges and public transport fares”, reference number OC221080*
- *The March 31, 2022 document “Proactive Release of Hīkina Te Kohupara - Pathways To Net Zero By 2050 Cabinet Paper”, reference number OC220185.*

Of the seven documents you requested, I am releasing two with some information withheld and refused, and am refusing five. The following sections of the Act have been used:

9(2)(a)	to protect the privacy of natural persons
18(d)	the information requested is or will soon be publicly available.

The above information is detailed in the document schedule attached as Annex 1.

With regard to the information that has been withheld under section 9 of the Act, I am satisfied that the reasons for withholding the information at this time are not outweighed by public interest considerations that would make it desirable to make the information available.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website www.ombudsman.parliament.nz

The Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on the Ministry's website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā



Hilary Penman
Manager, Ministerial Services

Annex 1 - Document Schedule

Doc #	Reference number	Title of Document	Decision on request
1	OC220057	Independent Review into Auckland Metro Rail System Issues – Final Report	Refused under Section 18(d). The document will soon be available at: www.transport.govt.nz/area-of-interest/infrastructure-and-investment/the-new-zealand-rail-plan/
2	OC220052	Official Information Request from [withheld] for information relating to Amendment 8 to Part 21 of the Civil Aviation Rules	Some information is withheld under Section 9(2)(a).
3	OC220179	Taking action on fuel prices: reducing petrol excise duty and road user charges for three months and supporting the uptake of public transport	Refused under Section 18(d). The document will soon be available at: www.transport.govt.nz/area-of-interest/revenue/rates-of-petrol-excise-duty-and-road-user-charges/
4	OC220166	Reducing Road User Charges Rates	Refused under Section 18(d). The document will soon be available at: www.transport.govt.nz/area-of-interest/revenue/rates-of-petrol-excise-duty-and-road-user-charges/
5	OC220178	Background information and talking points. Topic: Temporarily reversing increases to petrol excise duty and road user charges for six months due to heightened fuel prices	Refused under Section 18(d). The document will soon be available at: www.transport.govt.nz/area-of-interest/revenue/rates-of-petrol-excise-duty-and-road-user-charges/
6	OC221080	Cabinet Background Information and Speaking Points. Putting in place reduced rates of road user charges and reduced public transport fares	Refused under Section 18(d). The document will soon be available at: www.transport.govt.nz/area-of-interest/revenue/rates-of-petrol-excise-duty-and-road-user-charges/
7	OC220185	Proactive release of Hīkina Te Kohupara – Pathways to Net Zero by 2050 Cabinet Paper	Some information is withheld under Section 9(2)(a). Additionally, the attachments to the briefing are refused under Section 18(d), and can be found at: www.transport.govt.nz/assets/Uploads/Hikina te Kohupara Kia mauri ora ai te iwi- Transport Emissions- Pathways to Net Zero by 2050 - Cabinet Paper - For release.docx.pdf



OIA BRIEFING

14 March 2022

OC220052

Hon Michael Wood
Minister of Transport

Action required by: Thursday, 17 March 2022

**OFFICIAL INFORMATION REQUEST FROM s 9(2)(a) FOR INFORMATION
RELATING TO AMENDMENT 8 TO PART 21 OF THE CIVIL AVIATION RULES**

Purpose

Seek your agreement to the proposed response to an Official Information Act 1982 request.

Name of Requester	s 9(2)(a)
Request	<p><i>“Civil Aviation Rule Part 21 – Amendment 8</i></p> <p><i>On the 2nd of November 2009, the Minister of Transport made Amendment 8 to Part 21 of the Civil Aviation Rules (copy attached). Please supply the following information under the Official Information Act (OIA): I request all information relating to this rule amendment from the time the draft final rule was received from the Civil Aviation Authority until the above referenced signing by the Minister.</i></p> <p><i>For the avoidance of doubt, this request includes all information associated with the referral to Parliament’s Regulations Review Committee as mentioned on Page 5 of the attached document.”</i></p>
Statutory deadline	Thursday, 17 March 2022
Risks	No risks have been identified with this response

Recommendations

We recommend you:

1 **consider** the proposed response to the request under the Official Information Act 1982

2 **sign** the attached letter to s 9(2)(a) Yes / No



Tom Forster
Manager, Economic Regulation
14 / March / 2022

Hon Michael Wood
Minister of Transport
..... / /

Minister's office to complete:

- Approved Declined
- Seen by Minister Not seen by Minister
- Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Tom Forster, Manager Economic Regulation	s 9(2)(a)	✓
Shrutika Shrivastava, Policy Adviser	s 9(2)(a)	

OFFICIAL INFORMATION ACT 1982

OFFICIAL INFORMATION REQUEST FROM QWILTON BIEL FOR INFORMATION RELATING TO AMENDMENT 8 TO PART 21 OF THE CIVIL AVIATION RULES

41 documents fall within the scope of the request

- 1 The Table below sets out the documents that fall within the scope of request and our proposed response.
- 2 Certain information is withheld under section 9(2)(a) of the Act to protect the privacy of natural persons.
- 3 We do not foresee any risks with the proposed response.

Doc#	Date	Document	Decision on release
1	2 nd November 2009	Email: CAR Part 21	Some information withheld under Section 9(2)(a).
2	7 th November 2009	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	Released in full.
3	7 th November 2009	Report: seeking agreement to amend Civil Aviation Rule Part 21	Released in full.
4	n/a	Paper: to Cabinet Economic Growth and Infrastructure Committee	Released in full.
5	n/a	Regulatory Impact Statement	Released in full.
6	n/a	Minister's talking points for EGI	Released in full.
7	29 th November 2009	Handwritten notes	Released in full.
8	27 th November 2009	Correspondence from CAA: Goatskin Documents – Part 21 Special Category Aircraft with rule 21 attached	Released in full.
9	19 th November 2009	Email: Civil Aviation Paper for EGI on Wednesday	Some information withheld under Section 9(2)(a).
10	19 th November 2009	Email: Copies of Rule Parts – Civil Aviation Rule Part 21 Certification of Products and Parts – Special Category Aircraft	Some information withheld under Section 9(2)(a).
11	19 th November 2009	Email: Copies of Rule Parts – Civil Aviation Rule Part 21 Certification of Products	Some information withheld under Section 9(2)(a).

		and Parts – Special Category Aircraft	
12	16 th November 2009 – 14 th November 2009	Email: Part 21 need revised legal memo	Some information withheld under Section 9(2)(a).
13	7 th November 2009	Email: Part 21 need revised legal memo	Released in full.
14	7 th November 2009	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	Released in full.
15	31 st August 2009 – 20 th August 2009	Email: Part 21 Special Category Aircraft Part 121 EDTO: 90-minute rule	Released in full.
16	August 2009	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	Released in full.
17	26 th August 2009 – 25 th August 2009	Email: Part 121 EDTO: 90-minute rule	Released in full.
18	28 th May 2009 - 8 th August 2008	Email: Part 21 Draft Final Rule Part 21 Final Draft Rules – Additional Amendments to Parts 47 and 91	Released in full.
19	24 th March 2009	Correspondence: Restricted Category Ex-Military Helicopters	Released in full.
20	n/a	Incident report by CAA	Released in full.
21	23 rd April 2009	Email: Part 21 Cabinet Papers - Timings	Released in full.
22	23 rd April 2009	Email: Part 21 Cabinet Papers - Timings	Released in full.
23	8 th April 2009	Correspondence: acknowledgement from Regulation Review Committee	Released in full.
24	15 th April 2009	Email: CAR Part 21	Released in full.
25	15 th April 2009	Email: CAR Part 21	Released in full.
26	April 2009	Draft Memorandum: Recommending signing of Ordinary Civil Aviation Rules	Released in full.
27	8 th April 2009	Correspondence: acknowledgement from Regulation Review Committee	Released in full.

28	10 th March 2009 – 23 rd February 2009	Email: Part 21 Special Category Aircraft PWG	Released in full.
29	2 nd March 2009 – 13 th February 2009	Email: Part 21	Released in full.
30	23 rd February 2009	Email: Part 21	Released in full.
31	23 rd February 2009	Email: Draft Civil Aviation Rule – Pat 21 project	Released in full.
32	23 rd February 2009	Email: Part 21 Special Category Aircraft PWG	Released in full.
33	23 rd February 2009	Part 21 Special Category Aircraft PWG	Released in full.
34	20 th February 2009	Correspondence: Referral of draft Civil Aviation Rules: Part 21 Amendment – Special Category Aircraft	Released in full.
35	n/a	Part 21 Amendment 8, Certification of products and parts	Released in full.
36	17 th February 2009	Correspondence: Part 21 Special Category Draft Final Rules	Released in full.
37	2 nd February 2009 29 th September 2008 – 17 th February 2009	Email: Rule Part 21 Special Category Aircraft : Part 21 cabinet paper package – for your info	Some information withheld under Section 9(2)(a).
38	n/a	Report: seeking agreement to amend Civil Aviation Rule Part 21	Released in full.
39	n/a	Regulatory Impact Statement	Released in full.
40	n/a	Paper: to Cabinet Economic Growth and Infrastructure Committee	Released in full.
41	n/a	Minister's talking points for EGI	Released in full.

Consultation

- 2 The Ministry consulted with the Civil Aviation Authority, the Office of the Leader of the Opposition through the Department of Prime Minister and Cabinet as one of the papers that is proposed to be released is a Cabinet paper from the previous government. The Ministry also consulted with Aviation New Zealand and Euro Flight International as the proposed package includes information relating to them.
- 3 All the parties consulted were happy for the information to be released.

s 9(2)(a)

s 9(2)(a)

I refer to your request dated 24 January 2022, pursuant to the Official Information Act 1982, seeking:

“...all information relating to this rule [Civil Aviation Rule Part 21 – Amendment 8] amendment from the time the draft final rule was received from the Civil Aviation Authority until the above referenced signing by the Minister.

For the avoidance of doubt, this request includes all information associated with the referral to Parliament’s Regulations Review Committee as mentioned on Page 5 of the attached document.”

The following 41 documents fall within the scope of your request and are enclosed:

	Document	Information Withheld	Date
1	Email: CAR Part 21	none	2 nd November 2009
2	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	none	7 th November 2009
3	Report: seeking agreement to amend Civil Aviation Rule Part 21	none	7 th November 2009
4	Paper: to Cabinet Economic Growth and Infrastructure Committee	none	n/a
5	Regulatory Impact Statement	none	n/a
6	Minister's talking points for EGI	none	n/a
7	Handwritten notes	none	29 th November 2009
8	Correspondence from CAA: Goatskin Documents – Part 21 Special Category Aircraft with rule 21 attached	none	27 th November 2009
9	Email: Civil Aviation Paper for EGI on Wednesday	none	19 th November 2009

	Document	Information Withheld	Date
10	Email: Copies of Rule Parts – Civil Aviation Rule Part 21 Certification of Products and Parts – Special Category Aircraft	none	19 th November 2009
11	Email: Copies of Rule Parts – Civil Aviation Rule Part 21 Certification of Products and Parts – Special Category Aircraft	none	19 th November 2009
12	Email: Part 21 need revised legal memo	none	16 th November 2009 – 14 th November 2009
13	Email: Part 21 need revised legal memo	none	7 th November 2009
14	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	none	7 th November 2009
15	Email: Part 21 Special Category Aircraft Part 121 EDTO: 90-minute rule	none	31 st August 2009 – 20 th August 2009
16	Memorandum: Recommending signing of Ordinary Civil Aviation Rules	none	August 2009
17	Email: Part 121 EDTO: 90-minute rule	none	26 th August 2009 – 25 th August 2009
18	Email: Part 21 Draft Final Rule Part 21 Final Draft Rules – Additional Amendments to Parts 47 and 91	none	28 th May 2009 - 8 th August 2008
19	Correspondence: Restricted Category Ex- Military Helicopters	none	24 th March 2009
20	Incident report by CAA	none	n/a
21	Email: Part 21 Cabinet Papers - Timings	none	23 rd April 2009
22	Email: Part 21 Cabinet Papers - Timings	none	23 rd April 2009
23	Correspondence: acknowledgement from Regulation Review Committee	none	8 th April 2009
24	Email: CAR Part 21	none	15 th April 2009
25	Email: CAR Part 21	none	15 th April 2009
26	Draft Memorandum: Recommending signing of Ordinary Civil Aviation Rules	none	April 2009
27	Correspondence: acknowledgement from Regulation Review Committee	none	8 th April 2009

	Document	Information Withheld	Date
28	Email: Part 21 Special Category Aircraft PWG	none	10 th March 2009 – 23 rd February 2009
29	Email: Part 21	none	2 nd March 2009 – 13 th February 2009
30	Email: Part 21	none	23 rd February 2009
31	Email: Draft Civil Aviation Rule – Pat 21 project	none	23 rd February 2009
32	Email: Part 21 Special Category Aircraft PWG	none	23 rd February 2009
33	Part 21 Special Category Aircraft PWG	none	23 rd February 2009
34	Correspondence: Referral of draft Civil Aviation Rules: Part 21 Amendment – Special Category Aircraft	none	20 th February 2009
35	Part 21 Amendment 8, Certification of products and parts	none	n/a
36	Correspondence: Part 21 Special Category Draft Final Rules	none	17 th February 2009
37	Email: Rule Part 21 Special Category Aircraft : Part 21 cabinet paper package – for your info	none	2 nd February 2009 29 th September 2008 – 17 th February 2009
38	Report: seeking agreement to amend Civil Aviation Rule Part 21	none	n/a
39	Regulatory Impact Statement	none	n/a
40	Paper: to Cabinet Economic Growth and Infrastructure Committee	none	n/a
41	Minister's talking points for EGI	none	n/a

Yours sincerely,

Hon. Michael Wood
Minister of Transport

Roblett

From: Amanda Albrecht (MIN) [Amanda.Albrecht@parliament.govt.nz]
Sent: Monday, 2 November 2009 09:36
To: Robert Spies
Cc: Chris Roblett
Subject: RE: CAR Part 21

Good Morning Robert
 Yes, these have been signed this morning (2/11). I will send them back in the bag to you this afternoon.
 Thanks
 Amanda

Amanda Albrecht | Private Secretary | Office of Hon Steven Joyce | Minister of Transport |
 5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
 T: 04 817 9802 | M: s 9(2)(a) | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz

From: Robert Spies [mailto:R.Spies@transport.govt.nz]
Sent: Monday, 2 November 2009 9:21 am
To: Amanda Albrecht (MIN)
Subject: RE: CAR Part 21

Hi Amanda, has the Minister signed the Part 21 rules yet? Thanks, Robert

From: Amanda Albrecht (MIN) [mailto:Amanda.Albrecht@parliament.govt.nz]
Sent: Wednesday, 28 October 2009 4:26 p.m.
To: Chris Roblett; Robert Spies
Subject: CAR Part 21

Hi Chris/Robert
 I have not yet seen the Cabinet minute, but I checked with Cabinet Office and they confirmed that this was approved by Cabinet on Monday. The Minister returns tomorrow, so will be available to sign the rule as soon as it comes to us.
 Thanks
 Amanda

Amanda Albrecht | Private Secretary | Office of Hon Steven Joyce | Minister of Transport |
 5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
 T: 04 817 9802 | M: s 9(2)(a) | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

MINISTRY OF TRANSPORT
 Wellington (Head Office) | 89 The Terrace | PO Box 3175 | Wellington 6140 | NEW ZEALAND | Tel: +64 4 439 9900
 9900 | Fax: +64 4 439 9901
 Auckland | The Government Urban and Economic Development Office | 45 Queen Street | PO Box 106238 |
 Auckland City | Auckland 1143 | NEW ZEALAND | Tel: +64 9 9854827 | Fax: +64 9 9854849
 Christchurch | 98 Hereford Street | PO Box 3014 | Christchurch 8140 | NEW ZEALAND | Tel: +64 3 366 9304 |
 Fax: +64 3 366 9317

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Docmin Number WGTA10804
File Ref POAV16-89

7 October 2009

Minister of Transport

Civil Aviation Rule Part 21 - Certification of Products and Parts - Special Category Aircraft

Purpose

1. The purpose of this memorandum is to recommend that you sign the following ordinary civil aviation rules (the Rules) –
 - 1.1 Part 1, Definitions and Abbreviations, Amendment 41
 - 1.2 Part 21, Certification of Products and Parts, Amendment 8
 - 1.3 Part 43, General Maintenance Rules, Amendment 7
 - 1.4 Part 47, Aircraft Registration and Marking, Amendment 3
 - 1.5 Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3
 - 1.6 Part 91, General Operating and Flight Rules, Amendment 20
2. A copy of the Rules accompany this paper, which also addresses:
 - 2.1 the legal and other requirements relating to the development of the Rules that must be complied with
 - 2.2 the matters that you are required by law to consider when exercising your power to make ordinary civil aviation rules.
3. The Ministry of Transport (the Ministry) has assessed the Rules from legal and policy perspectives and considers that the Rules are in order for your signature.

Background/Issues

4. The Rules are part of the 2008/09 transport rules programme [CAB Min (08) 26/4 refers] and have been developed by the Civil Aviation Authority (the CAA) pursuant to an agreement for rules development services with the Ministry.
5. The Rules concern the airworthiness certification of aircraft that do not meet the requirements for standard or restricted category airworthiness certification. These aircraft are currently given a "special category – experimental" airworthiness certificate. The "special category – experimental" does not adequately differentiate between the types of aircraft placed in this category, which range from amateur-built to ex-military, or the types of operations undertaken by them.
6. The Rules provide for six sub-categories of special category airworthiness certificate:
 - 6.1 Experimental, specific to aircraft actually conducting flight test and evaluation

- 6.2 Exhibition, for aircraft engaged broadly in display flying
 - 6.3 Amateur-built, for amateur-built aircraft
 - 6.4 Primary, to provide a simplified method of gaining type certification for a small aircraft
 - 6.5 Light Sport aircraft, for aircraft that meet the technical definition of this type (weight, complexity, seating capacity)
 - 6.6 Limited, for ex-military and vintage aircraft (which can be approved for hire or reward operations).
7. Further details about the Rules can be found in your paper to the Cabinet Economic Growth and Infrastructure Committee, the accompanying Regulatory Impact Statement, and under the heading "Rule objective" in each of the Rules.

Contentious issues

8. Consequential amendments to Rule Part 91 would prohibit the performance of external load operations using helicopters in the exhibition, amateur-built, primary, or limited special airworthiness categories. A prohibition notice, issued by the Director of Civil Aviation (the Director) in March 2006 currently prohibits external load operations using special category helicopters. This activity has been a contentious issue in the past. The prohibition notice was issued due to safety concerns that the CAA has over external load activities being conducted by aircraft not specifically designed for such purposes. In particular, this has affected operators of ex-military helicopters registered in the special category wishing to conduct repetitive heavy lifting operations, such as in heli-logging.
9. While it may be arguable that in some circumstances the performance of certain external load operations is not inherently hazardous, if some limited operation were to be permitted by the Rules, it would be difficult for the CAA to monitor what operations were being conducted and to ensure that they were being conducted appropriately. It is therefore appropriate that the Rules contain a total prohibition leaving the Director to permit and monitor specific external load operations for special category helicopters on a case-by-case basis through the exemption process.

Timing

10. The Rule is drafted to come into force on 3 December 2009.
 - 10.1 Section 34(4) of the Civil Aviation Act 1990 (the Act) states that rules must be *Gazetted* at least 28 days before they come into force. Therefore, the Rules must be *Gazetted* no later than 5 November 2009.
 - 10.2 "Goatskin" signature copies of the Rules will be provided for signature by you following the Cabinet meeting on 27 October 2009, at which your intention to make the Rules will be noted. You will need to sign the Rules prior to 3 November 2009 to enable the *Gazette* notice to be confirmed.

Consequential changes to legislation

11. Amendments will be required to Schedule 1 of the Civil Aviation (Offences) Regulations 2006, to reflect the amendments to civil aviation rules and the rule references that are contained in the Rules.
12. These amendments will be the subject of a separate paper to the Cabinet Legislation Committee.

Legal authority

13. The legal authority for you to make these Rules is contained in the following provisions in the Act:
- 13.1 section 28(1)(c), which empowers you to make rules assisting aviation safety and security, including (but not limited to) personal security
 - 13.2 section 29(c), which empowers you to make general operating rules, air traffic rules, and flight rules, including but not limited to, the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft and the prevention of aircraft endangering persons or property
 - 13.3 section 30(a), which empowers you to make rules for the designation, classification, and certification of aircraft, aircraft pilots, aircraft maintenance personnel, aircraft design, manufacture and maintenance organisations or any other person who provides services in the civil aviation system
 - 13.4 section 30(b), which empowers you to make rules for the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in section 30(a), including but not limited to the specification of the privileges, limitations, and ratings associated with licences or other forms of approval and the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products
 - 13.5 section 30(d) which empowers you to make rules for the specification of definitions, abbreviations, and units of measurement to apply within the civil aviation system.

Matters for your consideration

14. Section 33 of the Act sets out the matters that you are required to take into account in exercising your power to make rules. These matters have been taken into account in developing the Rules and are discussed below. Consideration of these matters by you cannot be delegated.
15. Under section 33(1) of the Act ordinary rules shall not be inconsistent with the standards of the International Civil Aviation Organization (ICAO) relating to aviation safety and security, to the extent adopted by New Zealand or with New Zealand's international obligations relating to aviation safety and security. The Rules are not inconsistent with the standards in the relevant annexes to the Convention on International Civil Aviation (the Convention) or with New Zealand's international obligations for safety and security.
16. Under section 33(2) of the Act, in making any rule, you must have regard to, and give such weight as you consider appropriate in each case to, the following:

Section 33(2)(a) - The recommended practices of ICAO relating to aviation safety and security, to the extent adopted by New Zealand

- 16.1 The Rules are consistent with the standards in Annex 8 of the Convention relating to the issue of airworthiness certificates for aircraft that are entered on the New Zealand Register of Aircraft.

Section 33(2)(b) - The level of risk existing to aviation safety in each proposed activity or service

- 16.2 Currently all certificated aircraft that do not qualify for the issue of a standard category or restricted category airworthiness certificate are issued with a special category – experimental airworthiness certificate. The term “experimental” is misleading and

inappropriate for many of these aircraft, which range from amateur built aircraft to high performance ex-military aircraft and which may be operated for various purposes, excluding the carriage of persons and goods for hire or reward. The Rules provide for the separation of special category aircraft into six sub-categories, with defined limitations on the use of aircraft in each sub-category. The better classification of the various types of special category aircraft that are operating in New Zealand will enhance aviation safety.

Section 33(2)(c) - The nature of the particular activity or service for which the rule is being established

16.3 Currently all aircraft other than microlight aircraft and hang gliders are required to be operated in accordance with an airworthiness certificate. However, Part 21 of the civil aviation rules only provides for three types of airworthiness certificate:

- (a) a standard category certificate for aircraft that are designed and built to approved civil aviation airworthiness design standards
- (b) a restricted category certificate for standard category aircraft that have been permanently modified for agricultural aircraft operations and which are unsuitable for carrying passengers
- (c) a special category certificate for all those aircraft that do not meet the standards for the issue of a special or a restricted category certificate. These types of aircraft range from:
 - amateur (home built) aircraft, to
 - vintage aircraft that were originally designed and manufactured to an approved airworthiness standard, but which are no longer supported by continuing airworthiness information from the manufacturer or state of design, to
 - high performance ex-military aircraft.

16.4 As noted above, currently all special category aircraft are issued with a "special category – experimental" airworthiness certificate. This "one size fits all approach" does not adequately identify the various types of special category aircraft, nor does it allow for the various types of operations that some of these special category aircraft may be safely used for. The Rules establish six sub-categories of special category aircraft to more appropriately identify the various types of special category aircraft and to allow appropriate requirements and operational limitations to be imposed in respect of each sub-category. This will include additional operating and maintenance requirements for ex-military aircraft.

Section 33(2)(d) - The level of risk existing to aviation safety and security in New Zealand in general

16.5 The amendments made by the Rules will enhance aviation safety with an improved classification system for the various types of special category aircraft that are operating in New Zealand, and with the additional operating and maintenance requirements that are being introduced for ex-military and other aircraft in the special category. The Rules will not affect the level of risk existing to aviation security in New Zealand.

Section 33(2)(e) - The need to maintain and improve aviation safety and security, including (but not limited to) personal security

16.6 The amendments made by the Rules will enhance aviation safety, but will not impact on aviation security.

Section 33(2)(f) - Whether the proposed rule assists economic development, improves access and mobility, protects and promotes public health or ensures environmental sustainability

16.7 The Rules are unlikely to significantly affect economic development, or have any effect on access and mobility, public health, or environmental sustainability.

Section 33(2)(fa) - The costs of implementing such measures for which the rule is being proposed

16.8 There will be an initial cost resulting from the CAA reissuing airworthiness certificates in the appropriate sub-categories for existing special category aircraft. This will be charged to operators at the usual CAA charging rate of \$133 per hour. It is estimated that the time involved will range from one hour for an existing amateur-built aircraft to five hours for ex-military and vintage aircraft.

16.9 The Rules may involve a small initial cost for operators of existing special category aircraft that are re-certificated in the "exhibition" or "limited" sub-categories as the operator will be required to provide an operator statement for these aircraft at a likely cost of \$100 to \$200 per aircraft and the maintenance programme for the aircraft may have to be amended to include the matters required under the proposed rule 91.607(d) at a likely cost of \$200 per aircraft.

16.10 The move from an annual review of airworthiness to a biannual review of airworthiness will reduce ongoing maintenance costs by approximately \$240 per annum for each special category aircraft.

Section 33(2)(g)(i) - The international circumstances in respect of aviation safety and security

16.11 The Rules will not affect or be affected by international circumstances in respect to aviation safety and security.

Section 33(2)(g)(ii) - The international circumstances in respect of mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements

16.12 The Rules do not affect and are not affected by ANZA mutual recognition agreements, which are concerned with commercial operations.

Section 33(2)(h) - Such other matters as you consider appropriate in the circumstances

16.13 The Rules include provision for the Director of Civil Aviation to approve "hire or reward" operations using special category – limited aircraft. The position of operators of special category aircraft, who wish to undertake hire and reward operations, will be further addressed in the upcoming Part 115 "Adventure Aviation" rule project.

Incorporation by reference

16.14 Under section 36(1)(b) of the Act, rules may incorporate by reference standards, requirements, or rules prescribed under law by any other contracting State of ICAO.

- (a) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category – primary aircraft, incorporate by reference Federal Aviation Regulation (FAR) 21.24, which is the US Federal Aviation Authority airworthiness standard for primary category aircraft.
- (b) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category – light sport aircraft, incorporate by reference FAR 21.190, which specifies the standards for seat and torso restraints.

Compliance

17. The Rules comply with the principles of the Treaty of Waitangi, both the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, the principles and guidelines set out in the Privacy Act 1993, the relevant international standards and the Legislation Advisory Committee's guidelines.

Public notification of draft rule and consultation

18. Section 34 of the Act requires you to undertake public notification and consultation in relation to proposed rules. This has been conducted by the CAA on your behalf, pursuant to an instrument of delegation made by Hon Maurice Williamson in 1998, the terms of the Agreement for Rules Development Services made between the Director of Civil Aviation and the Chief Executive of the Ministry of Transport, and section 34 of the Act.

19. The statutory requirements are:

19.1 Under section 34(1)(a) of the Act, to publish public notification of your intention to make proposed rules in the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, respectively, and in the *Gazette*.

(a) The Notice of Proposed Rule Making (NPRM) for the proposed amendment to Part 21 and consequential amendments to Parts 1, 43, 66 and 91 was notified in the *Gazette* and in the specified newspapers on 26 October 2006.

(b) The NPRM did not include a draft of the proposed consequential amendment to Part 47 – Aircraft Registration and Marking as at the time it was proposed to address the substantive issue, operator statements, in the context of the proposed amendments to Part 91 – General Operating and Flight Rules.

19.2 Under section 34(1)(b) of the Act, to give interested persons a reasonable time, which must be specified in the notice, to make submissions on the NPRM.

(a) Submissions closed on 8 December 2006, a period of 41 days from publication of the notice.

(b) The Ministry believes that you can conclude that this was a reasonable period in which to make submissions on the draft Rules.

19.3 Under section 34(1)(c) of the Act, to consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as you in each case consider appropriate.

(a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included the Royal New Zealand Aero Club, the Recreational Aircraft Association of

New Zealand, the Sport Aircraft Association of New Zealand, Gliding New Zealand, the NZ Warbirds Association, the NZ Sport and Vintage Aviation Society, operators of special category aircraft, and manufacturers and restorers of special category aircraft.

- (b) The CAA received seven submissions on the NPRM. The submissions and comments were considered and taken into account in finalising the Rules. A summary of the submissions and the CAA responses to the original NPRM is appended to rule Part 21.
- 19.4 Under section 34(1)(d) of the Act, to consult with the Environmental Risk Management Authority, established under the Hazardous Substances and New Organisms Act 1996, about the contents of any rules that relate to the transportation of hazardous substances as defined in section 2 of that Act. As the CAA considered that the Rules do not relate to the transportation of hazardous substances they concluded that consultation with the Environmental Risk Management Authority was not required.
- 19.5 The Ministry considers that you can be satisfied that the consultation on the draft Rules met the requirements of section 34 of the Act.

Regulations Review Committee

20. Ordinary rules are regulations for the purpose of the Regulations (Disallowance) Act 1989 and under section 4 of that Act must be laid before the House of Representatives not later than the sixteenth sitting day after they are made.
- 20.1 On 20 February 2009 drafts of the Rules were referred to the Regulations Review Committee on your behalf under Standing Order 309(2).
- 20.2 The Chair of the Regulations Review Committee responded to the Secretary of Transport on 13 March 2009, advising that they had no issues with the Rules.
- 20.3 There do not appear to be any grounds for the Regulations Review Committee to draw the Rules to the attention of the House under Standing Order 310(2).

Publicity

21. The CAA will notify the making of the Rules in the *Gazette* as required by Section 34(4) of the Act. The CAA will also publicise the Rules in its publications and on its website.

Recommendation

22. I recommend that you:

- (a) **note** the contents of this memorandum;
- (b) **sign** Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and Part 91, General Operating and Flight Rules, Amendment 20;
- (c) **authorise** notification of Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and

Part 91, General Operating and Flight Rules, Amendment 20, in the *New Zealand Gazette*; and

- (d) **authorise** the laying of Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and Part 91, General Operating and Flight Rules, Amendment 20, before the House of Representatives.



Chris Roblett
Senior Solicitor

Noted / agreed



Steven Joyce
Minister of Transport

Dated: 1 / 11 / 09

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MINISTRY OF TRANSPORT REPORT

Subject: CIVIL AVIATION RULE PART 21: CERTIFICATION OF PRODUCTS AND PARTS - SPECIAL CATEGORY AIRCRAFT

Date: 7 October 2009 **Docmin No.:** WGTA10804 **File Ref.:** POAV16-78

Attention: Hon Steven Joyce (Minister of Transport)

Purpose of Report

1. This report seeks your agreement to amend Civil Aviation Rule Part 21: Certification of Products and Parts (Part 21); and to make consequential amendments to other Rules, pursuant to the Civil Aviation Act 1990.

Background

2. This report covers:
 - (a) Cabinet Process:
 - your paper to the Cabinet Economic Growth and Infrastructure Committee (EGI), including a Regulatory Impact Statement, asking Cabinet to note your intention to sign the above Rules; and
 - talking points for EGI.
 - (b) Rule-making following Cabinet notation:
 - a legal memorandum recommending that you sign the Rules, taking you through the legal requirements for the development of the Rules and matters that you are required to consider when making rules; and
 - a copy of the Rules.

Executive Summary

3. The key objective of amending Part 21 is to expand the types of 'special category' airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, amateur-built, ex-military and other non-type certificated aircraft that are currently all certificated as special category 'experimental' aircraft (including both aeroplanes and helicopters).
4. The proposed changes to special category airworthiness certifications will enable the various aircraft types that are currently certificated as 'experimental' to be more appropriately certificated into new special category sub-groups in accordance with their design standards and intended use. As a result, aviation safety will be improved. The changes will also provide a platform to enable certain special category aircraft without type certificates to engage in hire or reward activities for the carriage of passengers under a separate proposed project, Part 115 Adventure Aviation, which is currently being developed by the Civil Aviation Authority.

Recommendations

The recommendations are that you:

- (a) **Sign** and lodge the attached Cabinet paper; Yes/No
- (b) **Note** the contents of the attached legal memorandum;
- (c) **Agree** to sign the amendment to Civil Aviation Rule Part 21: Certification of Products and Parts; and to make consequential amendments to other Rules, subject to Cabinet notation. Yes/No

Priority Routine **Security Level** In-confidence **Deadline**

Contact for telephone discussion (if required)

Name	Position	Telephone		Suggested First Contact
		Direct Line Hours	After	
Robert Spies	Principal Adviser	04 439 9379		✓
Glen-Marie Burns	Manager Aviation & Security	04 439 9331	9(2)(a)	
Chris Roblett	Solicitor	04 439 9362		For legal issues

Robert Spies
Principal Adviser

Bruce Johnson
General Manager, Aviation & Maritime

MINISTER'S COMMENTS:

MINISTER'S SIGNATURE:

DATE:

<input type="checkbox"/> <i>Noted</i>	<input type="checkbox"/> <i>Seen</i>	<input type="checkbox"/> <i>Approved</i>
<input type="checkbox"/> <i>Needs change</i>	<input type="checkbox"/> <i>Referred to</i>	
<input type="checkbox"/> <i>Withdrawn</i>	<input type="checkbox"/> <i>Not seen by Minister</i>	<input type="checkbox"/> <i>Overtaken by events</i>

Chair
Cabinet Economic Growth and Infrastructure Committee

CIVIL AVIATION RULE PART 21: CERTIFICATION OF PRODUCTS AND PARTS - SPECIAL CATEGORY AIRCRAFT

Proposal

1. This paper proposes that the Cabinet Economic Growth and Infrastructure Committee note my intention to amend Civil Aviation Rule Part 21: Certification of Products and Parts (Part 21); and to make consequential amendments to the following Civil Aviation Rule Parts (collectively the 'Rules'), pursuant to the Civil Aviation Act 1990 (the Act):
 - Part 1 - Definitions and Abbreviations
 - Part 43 - General Maintenance Rules
 - Part 47 - Aircraft Registration and Marking
 - Part 66 - Aircraft Maintenance Personnel Licensing
 - Part 91 - General Operating and Flight Rules.

Executive summary

2. Under Part 21, the existing airworthiness certificate issued to 'special category' aircraft does not adequately reflect the wide range of special category aircraft types now operating in New Zealand. Part 21 is also limiting the potential for certain special category aircraft to engage in hire or reward commercial activities (specifically flight and conversion training).
3. The key objective of amending Part 21, therefore, is to expand the types of 'special category' airworthiness certificates that may be issued under Part 21, to adequately cover the range of vintage, amateur-built, ex-military and other non-type certificated aircraft that are currently all certificated as special category aircraft – 'experimental' (including both aeroplanes and helicopters).
4. The proposed changes to special category airworthiness certifications will enable the various aircraft types that are currently certificated as 'experimental' to be more appropriately certificated into new special category sub-groups in accordance with their design standards and intended use. As a result, aviation safety will be improved. The changes will also provide a platform to enable certain special category aircraft without type certificates to engage in hire or reward activities for the carriage of passengers under a separate proposed rule project, Part 115 Adventure Aviation, which is being developed by the Civil Aviation Authority (the CAA).
5. The existing special category will be expanded into six sub-categories – Experimental (revised), Exhibition, Amateur-built, Primary, Light Sport Aircraft and Limited – enabling an aircraft to be placed in the most suitable sub-category (refer to the Appendix to this paper for more detail).

Background

6. With certain exceptions, a person must not operate an aircraft unless that aircraft has a current airworthiness certificate. Part 21 currently lists three categories of airworthiness certificates for registered aircraft in New Zealand: standard, restricted and special.
7. The special category is for those aircraft that do not qualify for the more demanding airworthiness design requirements under the standard or restricted categories. Special category aircraft may not presently be used for the carriage of persons or goods for hire or reward.
8. Aircraft that do not qualify for either a standard or restricted category airworthiness certificate are currently certified as special category 'experimental'.
9. The Rules are part of the 2008/09 transport rules programme [CAB Min (08) 26/4 refers].

Comment

10. The current single level of special category airworthiness certification does not adequately reflect the design standards or the intended and permitted use of the various aircraft types that are currently certificated as experimental, even though most of them are not experimental aircraft, as the word implies. Apart from the few aircraft that are truly experimental (ie, those undergoing development or flight testing) most of the aircraft that are currently certificated as experimental can be operated for various purposes, except for the carriage of passengers or goods for hire or reward.
11. The term 'experimental' is therefore misleading and inappropriate for many of these aircraft, which range from amateur-built aircraft to high-performance, ex-military aircraft. The proposed Rules provide for the separation of special category aircraft into six sub-categories, with defined limitations on the use of aircraft in each sub-category. The better classification of the various types of special category aircraft operating in New Zealand will improve aviation safety.
12. It is therefore desirable that more appropriate sub-categories of airworthiness certification be established to clearly define the certification requirements and design standards for the various types of special category aircraft. Safety will be further improved by having these requirements and standards prescribed in the proposed Rules as mandatory requirements rather than as voluntary compliance standards in CAA procedures and Advisory Circulars.
13. To accommodate the various types of aircraft in the special category, the proposed amendment to Part 21 will establish six special category airworthiness certificate sub-categories. The aim is to prescribe design and certification standards in the Rules to enable industry and the CAA to clearly identify where a particular aircraft lies in the airworthiness certification system, its certification standard and its end use.
14. By establishing these appropriate sub-categories, some special category aircraft will be able to be used for flight and conversion training purposes. It is anticipated that when

Part 115 for Adventure Aviation comes into force by about late 2010, the carriage of passengers for hire or reward will be allowed under certain sub-categories.

15. The associated amendment to Part 91 will also prohibit the use of special category aircraft, such as ex-military helicopters, for external load operations under Part 133 (Helicopter External Load Operations) and Part 137 (Agricultural Aircraft Operations) because of safety concerns, unless granted an exemption by the Director of Civil Aviation. This limitation reflects the intent of a prohibition notice issued by the CAA in 2006, which remains in force.

Consultation

16. A Notice of Proposed Rule Making (NPRM) containing the proposed changes to Part 21 and consequential changes to the other rule Parts, was issued for public consultation in 2006. Seven written submissions were received on the NPRM and, as a result, some minor changes were made to the proposed Rules.
17. The CAA, the Ministry of Economic Development, the Treasury and the officials' committee for the Cabinet Economic Growth and Infrastructure Committee have been consulted on this paper. The Department of the Prime Minister and Cabinet has been informed.

Financial Implications

18. There are no financial implications for Government arising from this paper. There will be no significant change to Government administrative costs as a result of the proposed amendments to the Rules.
19. Compliance costs to the industry will be minimal. The amendment to Part 21 will affect approximately 320 aircraft currently registered in New Zealand with special category airworthiness certificates, and any special category aircraft that will enter the aviation system after the amendments come into force. Transition provisions in the proposed Rules will provide a twelve-month period for the operators of existing special category experimental aircraft to obtain new airworthiness certificates in the appropriate new sub-category for their aircraft. There is no prescribed requirement for existing experimental aircraft to be re-certificated in an appropriate new sub-category. However, if the aircraft is not re-certificated and remains classed as experimental, then the use of the aircraft will be restricted after the transition period.
20. The CAA estimates the cost of compliance to range from \$133 to \$665 per aircraft. This will be a one-off cost to owners of existing experimental aircraft if their aircraft needs to be re-certificated into an appropriate new sub-category. This will range from about 1 hour at \$133 per person hour¹ for an administrative re-issue of an airworthiness certificate for an amateur-built aircraft (which make up about two-thirds of special category aircraft numbers) to a more in-depth assessment of up to 5 hours to determine an appropriate sub-category for an ex-military or vintage aircraft.

¹ The \$133 per person hour cost is a fixed charge prescribed in the Civil Aviation Charges Regulations (No 2) 1991 for the CAA's assessment of manuals, programmes or approvals for continued compliance with the conditions of air operators' Air Operators Certificates.

21. There may also be a small initial cost for operators of existing special category aircraft that are re-certificated in the 'exhibition' or 'limited' sub-categories, as the operator of such aircraft will be required to provide an operator statement at a likely cost of \$100 to \$200 per aircraft, and the maintenance programme for the aircraft may have to be amended to include additional requirements, under Part 91, at a likely cost of \$200 per aircraft.
22. There will be a reduction in inspection costs for those aircraft not involved in hire or reward operations when the annual airworthiness inspection becomes biannual. This will reduce ongoing maintenance costs by about \$240 per annum for each aircraft.

Human rights, gender and disability implications

23. There are no human rights, gender or disability implications arising from this paper.

Legislative implications

24. Amendments will be required to the Civil Aviation (Offences) Regulations 2006 to include references to offence provisions.

Regulatory impact analysis

25. The principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements have been complied with. A Regulatory Impact Statement (RIS) was prepared and the Ministry of Transport considers it to be adequate. The final RIS was circulated with the Cabinet paper for departmental consultation and is attached to this paper.

Publicity

26. The Minister of Transport will sign the Rules following the noting of this paper by Cabinet and in accordance with the Act. The Rules will come into force not less than 28 days after they have been notified in the *New Zealand Gazette*.
27. Hard copies of the Rules will be available for purchase through the CAA and at no charge on the CAA website. The CAA will publicise the Rules, including notification in the Civil Aviation Rules Register Information Leaflet, on the CAA website and in the CAA Vector magazine.

Recommendations

28. It is recommended that the Committee:

- 1) **note** my intention to amend Civil Aviation Rule Part 21: Certification of Products and Parts, which is part of the 2008/09 Transport Rules programme [CAB Min (08) 26/4 refers]; and to make consequential amendments to other Civil Aviation Rules Parts; and
- 2) **note** the contents of the Rules.

Steven Joyce
Minister of Transport

Dated: _____

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Appendix

Proposed Special Category airworthiness certificate subcategories:

- Experimental:** a revised category which limits aircraft to true experimental activities such as aircraft research and development, showing compliance with civil aviation rules or flight evaluation.
- Exhibition:** for aircraft which have been factory-built, but not to a specific design standard. The exhibition category will cater for those aircraft that are primarily operated for exhibition at aviation events, aerobatic competitions, film industry or private use.
- Amateur-built:** for aircraft that have been built by the owner for sport and recreational purposes and have successfully completed a period of flight evaluation under the Experimental sub-category.
- Primary:** for small aircraft, as a simplified method of gaining certification. If factory-built, an aircraft in the primary category may be operated for limited hire or reward (flight training only). This certification standard originates in the US and will allow for future imports.
- Light Sport Aircraft:** for aircraft that meet a unique set of design standards when constructed under factory conditions. Aircraft in this category may be operated for limited hire or reward (conversion training only).
- Limited:** for ex-military and vintage aircraft (including helicopters) that have been constructed in series, under factory conditions, in a controlled design environment, with a provision for aircraft to be eligible for limited hire or reward (conversion training only). They will normally be multi-seat aircraft used for private, or the proposed adventure aviation, operations. As passengers may be carried, the associated amendment to civil aviation rule Part 91 concerning the operation of special category aircraft seeks to mitigate risk by limiting the number of passengers in both aeroplanes and helicopters, issuing operations specifications to the operator, and ensuring that maintenance is controlled by a named principal maintenance provider.

REGULATORY IMPACT STATEMENT (RIS)

Part 21 Certification of Products and Parts: Special Category Aircraft

EXECUTIVE SUMMARY

Under Civil Aviation Rule Part 21—Certification of Products and Parts (Part 21), the existing airworthiness certificate issued to 'special category' aircraft does not adequately reflect the wide range of aircraft types operating in New Zealand. Part 21 is also limiting the potential for certain special category aircraft to engage in commercial activities.

The preferred solution is to introduce more types of special category airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, amateur-built, ex-military and other non-type certificated aircraft that are currently all certificated as special category 'experimental' aircraft (which includes aeroplanes and helicopters).

The proposed changes to airworthiness certification will also provide the necessary platform to enable more special category aircraft types to engage in hire or reward activities in the growing 'Adventure Aviation' sector, which is a key tourism market. This will be advanced under a separate rule project, Part 115 Adventure Aviation, which is being developed by the Civil Aviation Authority (the CAA).

ADEQUACY STATEMENT

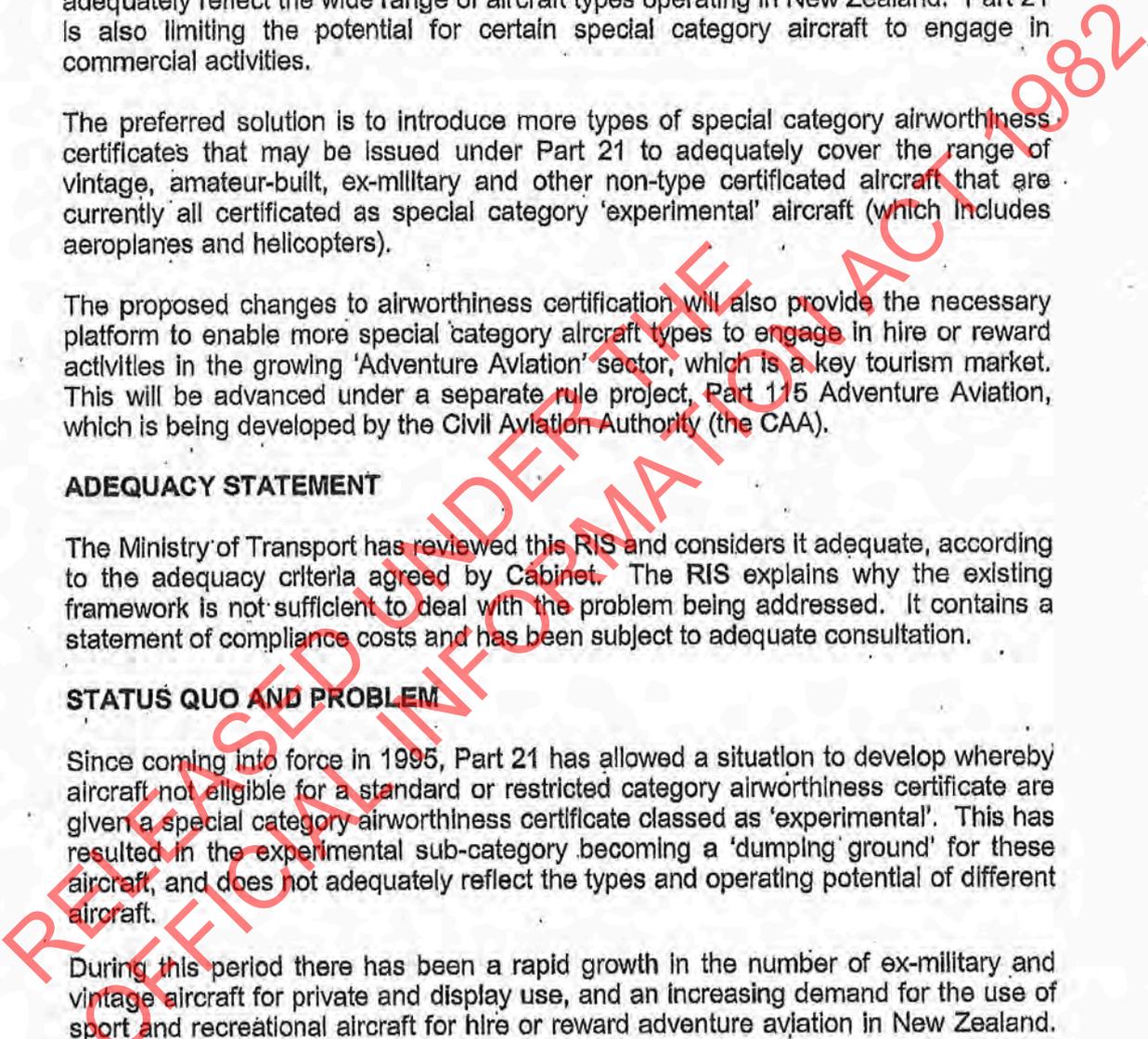
The Ministry of Transport has reviewed this RIS and considers it adequate, according to the adequacy criteria agreed by Cabinet. The RIS explains why the existing framework is not sufficient to deal with the problem being addressed. It contains a statement of compliance costs and has been subject to adequate consultation.

STATUS QUO AND PROBLEM

Since coming into force in 1995, Part 21 has allowed a situation to develop whereby aircraft not eligible for a standard or restricted category airworthiness certificate are given a special category airworthiness certificate classed as 'experimental'. This has resulted in the experimental sub-category becoming a 'dumping ground' for these aircraft, and does not adequately reflect the types and operating potential of different aircraft.

During this period there has been a rapid growth in the number of ex-military and vintage aircraft for private and display use, and an increasing demand for the use of sport and recreational aircraft for hire or reward adventure aviation in New Zealand. The greater majority of aircraft involved in these activities are certificated under the experimental category. As a result, Part 21 has become outdated, and it is evident from records that only a small number of aircraft certificated as experimental are actually involved in experimental operations.

Industry representatives petitioned the CAA in 1998 to create a new rule to provide for the unique certification and operating requirements of ex-military and vintage aircraft. The industry also holds the view that certain ex-military and vintage aircraft should be permitted to carry passengers for hire or reward to satisfy the increasing pressure from the public for adventure aviation experiences. Adventure aviation



operations would enable the public to experience the thrill of flying in aircraft that would be barred under normal conditions.

With the development of Light Sport Aircraft certification overseas and the inappropriate inclusion of amateur-built aircraft in the experimental subcategory, the need to amend Part 21 to provide more airworthiness certificate types was considered necessary by the CAA and the industry.

OBJECTIVES

The objective of amending Part 21¹ is to introduce more types of special category airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military and other non-type certificated aircraft that are presently certificated as special category aircraft.

The public policy objective is to maintain and improve aviation safety. It aims to identify when Part 21 special category aircraft may be operated, by creating specialised operational and maintenance rules that will ensure the continued operational and engineering safety of these aircraft and will enable certain special category aircraft to engage in hire or reward commercial activities.

ALTERNATIVE OPTIONS

There are no alternative options, other than to maintain the status quo.

PREFERRED OPTION

A comprehensive update of aircraft airworthiness classifications, maintenance and operational rules for aircraft certificated under Part 21 is the preferred option. The key feature of the proposed amendment to Part 21 is to divide the special category of airworthiness certification into the following six sub-categories to enable non-type certificated aircraft to be placed in the sub-category which best reflects the airworthiness certification status of the aircraft:

- Introducing a revised *Experimental* sub-category which limits aircraft to operational activities such as research and development, demonstrating compliance with rules or flight evaluation.
- Introducing an *Exhibition* sub-category to accommodate aircraft that are primarily operated for exhibition at air shows, aerobatics competitions or in the film industry.
- Introducing an *Amateur-built* sub-category to accommodate aircraft built by their owners for sport and recreational purposes once the aircraft has completed flight evaluation under the experimental sub-category.
- Introducing a *Primary* sub-category to accommodate aircraft that comply with certain US aviation rules. An aircraft certificated in this sub-category may be operated for hire or reward (flight training only).
- Introducing a *Light Sport Aircraft (LSA)* sub-category to accommodate aircraft that comply with certain standards notified by the US Federal Aviation Administration.

¹ Including consequential amendments to Rules Part 1 *Definitions and Abbreviations*, Part 43 *General Maintenance Rules*, Part 47 *Aircraft Registration and Marking*, Part 66 *Aircraft Maintenance Personnel Licensing* and Part 91 *General Operating and Flight Rules*.

- LSA aircraft, when constructed under factory conditions, may be operated for hire or reward (flight training only).
- Introducing a *Limited* sub-category to accommodate ex-military and vintage aircraft (including helicopters) which have been constructed in series, under factory conditions, and in a controlled design environment. Aircraft in this sub-category may be operated for hire or reward (conversion training only).

The amendment to Part 21 will affect approximately 320 aircraft registered in New Zealand with special category airworthiness certificates, and any aircraft that will enter the aviation system after the amendments come into force. Operators will be given 12 months to re-certify aircraft in the new sub-categories.

In the consultation phase, compliance costs were questioned by the industry. The CAA responded that it had considered the resources required for transferring certificates and that costs to operators would be subject to the normal hourly charge but kept to a minimum.

There will be minimal compliance costs to those persons operating their aircraft in a private capacity. Costs will be incurred when an aircraft that is presently 'pooled' in the experimental sub-category is required to be reclassified into the sub-category which best reflects its future operation. As CAA administration will be limited to an electronic transaction for existing amateur-built aircraft, a fee is estimated at \$133 per hour for 1 hour. Depending on an aircraft's original certification standard, CAA action on ex-military and vintage aircraft may need more time for assessment but will be limited to 5 hours at \$133 per hour (\$665 in total).

There may be a small initial cost for operators of existing special category aircraft that are re-certificated in the 'exhibition' or 'limited' sub-categories as the operator will be required to provide an operator statement for these aircraft at a likely cost of \$100 to \$200 per aircraft, and the maintenance programme for the aircraft may have to be amended to include additional requirements, under Part 91, at a likely cost of \$200 per aircraft.

There will be a reduction in inspection costs for those aircraft not involved in hire or reward operations when the annual review of airworthiness inspection becomes biannual. Currently, all special category aircraft have to undergo an Annual Review of Airworthiness. This is an industry inspection carried out by a licensed aircraft maintenance engineer. The cost for this is set by the industry and is typically about \$240 per inspection but this could vary depending on the inspector's prior knowledge of the aircraft, the airworthiness condition of the aircraft and on the state of the maintenance records provided by the owner/operator.

There is no significant change to Government administration costs as a result of the proposals. There is no significant change to CAA enforcement costs.

The net benefit of the proposal is to improve aviation safety as a result of the ability to target and control the operational activities and the maintenance of special category aircraft. Furthermore, the ability of certain special category aircraft to be considered for hire or reward operations will provide a commercial benefit to the operators of those aircraft and validates the restrictions and conditions being applied to them. This will ensure that these aircraft are operated and maintained to a higher safety standard in order to carry fare-paying passengers.

IMPLEMENTATION AND REVIEW

Subject to Cabinet notation, the Minister of Transport will sign the proposed amendments to Part 21 and consequential rule Parts to come into force 28 days after notification in the *New Zealand Gazette*.

Once signed, the Rules will be published on the CAA website, and affected parties will be notified of what they need to do to comply with the rules through an updated Advisory Circular to Part 21 which supports the rule by providing guidance material and information on Acceptable Means of Compliance.

Once in force, Part 21 will be monitored against the objectives by the CAA operational group responsible for implementing the proposed amendments.

CONSULTATION

Extensive consultation was undertaken with the aviation industry during the rule development phases for Part 21.

The proposed amendments have been in development since 1998, and a joint industry/CAA project working group was formed in 2005. A Notice of Proposed Rule Making (NPRM) containing the proposed changes to Part 21 and consequential rules was issued for public consultation in 2006 for a period of six weeks.

The NPRM was mailed to identified stakeholders, including representative organisations whose members were considered likely to have an interest in the proposal. These included the Royal New Zealand Aero Club, the Recreational Aircraft Association of New Zealand, the Sport Aircraft Association of New Zealand, Gliding New Zealand, the NZ Warbirds Association, the NZ Sport and Vintage Aviation Society, operators of special category aircraft, and manufacturers and restorers of special category aircraft.

A total of seven submissions were received on the NPRM from a helicopter operator, two aviation organisations, a regulatory authority, an engineering organisation and two individuals. As a result, some minor changes were made to the proposed rules where appropriate. Some editorial and drafting changes have also been made to clarify the rule requirements and to insert transition provisions for existing aircraft.

Submissions fell into the following general areas:

- Overall support for the proposed rule changes from an organisation that represents a significant number of recreational pilots.
- Objections to the limitation on the use of special category helicopters for agricultural and external load lifting operations, and comments on transition compliance costs.
- Other less significant comments relating to the transition of existing aircraft to the new sub-categories of special category certification, the certification requirements for some of the sub-categories, management of risk relating to limiting the number of passengers permitted on vintage and ex-military aircraft, and maintenance and equipment requirements.

6

Minister's Talking Points for EGI Civil Aviation Rule Part 21: Special Category Aircraft

- Aircraft are currently required to be operated in accordance with an airworthiness certificate that falls under one of three categories; Standard, Restricted or Special.
- Special category airworthiness certificates are granted for those aircraft that do not meet the more demanding standard or restricted category requirements. At present, special category aircraft may not be used for hire or reward operations; ie, to provide flight training or to carry fare-paying passengers.
- Examples of special category aircraft are: high-performance ex-military, vintage, aerobatic, and amateur (home-built) aircraft, including aeroplanes and helicopters.
- All special category aircraft are currently given a special category – 'experimental' airworthiness certificate. However, due to the proliferation of aircraft types that do not meet standard or restricted-category standards, the special category now constitutes what the Civil Aviation Authority characterises as a 'dumping ground' for a variety of aircraft.
- This 'one size fits all' approach does not adequately identify the various types of special category aircraft, nor does it allow for various operations that some special category aircraft may be safely used for, and are sought by operators. Some operators wish to conduct hire and reward activities with special category aircraft, such as flight training or Adventure Aviation.
- The rules amendments will improve aviation safety with an improved classification system for the various types of special category aircraft, and with the additional operating and maintenance requirements that will be introduced.
- Six sub-categories of special category airworthiness certificates are proposed:
 - **Experimental (revised):** specific to aircraft conducting flight tests and evaluation
 - **Exhibition:** for aircraft engaged in display flying
 - **Amateur-built:** for amateur-built aircraft
 - **Primary:** to provide a simplified method of gaining type certification for a small aircraft
 - **Light Sport aircraft:** for aircraft that meet the technical definition of this type
 - **Limited:** for ex-military and vintage aircraft.
- Operators will also be allowed to provide flight and conversion type training under the new rules. Once rule project Part 115 Adventure Aviation is completed (due late 2010), the rule amendments will provide the basis for special category aircraft to carry passengers for hire or reward.
- Owners will be given 12 months to reclassify their aircraft to the respective sub-category. Up to 320 special category aircraft could be affected but compliance costs are minimal.
- Ex-military helicopters registered in the special category will not be allowed to operate external load (eg sling, logging) or agricultural operations because of safety concerns, unless granted an exemption by the Director of Civil Aviation. There are currently no ex-military helicopters registered in the special category in New Zealand.

29 Oct 09 Civil Aviation Rule Part 21 et al.

Contacted CAA to check that references in 21.195(e), 21.197(e) & 21.203(d) to aircraft having or deemed to have a special category - experimental certificate valid on 3 Dec 09 were in fact correct and shouldn't be references to certificates that were valid immediately before 3 Dec 09.

Spoke to Polok who advised me to contact Peter Blocker @ home.

Peter advised that existing experimental certificates were not affected by the amendment. Noted that these provisions concern persons seeking to re categorise existing experimental sub category aircraft.

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CIVIL AVIATION AUTHORITY
OF NEW ZEALAND

S-R180-06 5/CAR/2/3 (DW1190368-0)

27 October 2009

Chris Roblett
Senior Solicitor
Ministry Of Transport
PO Box 3175
89 The Terrace
WELLINGTON 6140

Dear Chris

Goatskin Documents - Part 21 Special Category Aircraft

As discussed, the Goatskin document package for the Minister's signature for the Civil Aviation Rule Development project for amendments to Part 21 and associated Rules regarding the certification of special category aircraft.

The package includes the following goatskin documents:

- Part 1 -- Definitions and Abbreviations, Amendment 41
- Part 21 -- Certification of Products and Parts, Amendment 8
- Part 43 -- General Maintenance Rules, Amendment 7
- Part 47 -- Aircraft Registration and Marking, Amendment 3
- Part 66 -- Aircraft Maintenance Personnel Licensing, Amendment 3
- Part 91 -- General Operating and Flight Rules, Amendment 20

Once the Minister has signed the rules, please advise Rosemary Hughes. Tel 560 9603, of the date of signing so that she can finalise the Gazette Notice for publication on 5 November 2009.

Yours faithfully

A handwritten signature in black ink that reads 'Peter Blackler'.

Peter T Blackler
Technical Manager Rules



PURSUANT to Sections 28 and 30 of the Civil Aviation Act 1990

I, STEVEN JOYCE, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This day of 2009

by **STEVEN JOYCE**

Minister of Transport

Civil Aviation Rules

Part 21, Amendment 8

Certification of Products and Parts

Special Category Aircraft - Docket 5/CAR/2

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Rule objective

The objective of amendment 8 to Part 21 is to expand the types of *special category* airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military, and other non-type certificated aircraft that are presently certificated as special category aircraft.

Amendment 8 to Part 21 is associated with the following amendments to other Parts:

- Amendment 41 to Part 1
- Amendment 7 to Part 43
- Amendment 3 to Part 47
- Amendment 3 to Part 66
- Amendment 20 to Part 91

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 07-03, containing the proposed changes to Part 21 and consequential changes to other rules, was issued for public consultation under Docket 5/CAR/2 on 26 October 2006.

The publication of this NPRM was notified in the Gazette on 26 October 2006 and advertised in the daily newspapers in the five main provincial centres on 26 October 2006. 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 41 days was allowed for comment on the proposed rule.

Summary of submissions

Seven written submissions were received on the NPRM. These submissions have been considered and as a result some minor changes were made to the proposed rules. Some editorial and drafting changes

have also been made to the rules to clarify the rule requirements and insert some transition provisions for existing aircraft.

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

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 existing rules and replacement of new rules. A new Subpart has been created to capture all rules pertaining to Flight Permits.

Effective date of rule

Amendment 8 to Part 21 comes into force on 3 December 2009.

Availability of rules

Civil Aviation Rules are available from-

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

Freephone: 0800 GET RULES (0800 438 785)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Part 21 Amendments

Subpart H — Airworthiness Certificates

Rule 21.173 is revoked and replaced by the following new rule:

21.173 Certificate categories

The following airworthiness certificates for New Zealand registered aircraft are issued by the Director under section 9 of the Act in accordance with the applicable requirements of this Subpart:

- (1) *standard category:*
- (2) *restricted category:*
- (3) *special category — experimental:*
- (4) *special category — exhibition:*
- (5) *special category — amateur-built:*
- (6) *special category — primary:*
- (7) *special category — LSA:*
- (8) *special category — limited:*
- (9) *provisional category.*

Rule 21.175 is revoked and replaced by the following new rule:

21.175 Application for certificate

An applicant for the grant of an airworthiness certificate for an aircraft must complete the applicable form and submit it to the Director with a payment of the application fee prescribed by regulations made under the Act:

- (1) form CAA 24021/05 for *standard* or *restricted category*;
- (2) form CAA 24021/06 for *special category*;

- (3) form CAA 24021/14 for *provisional category*.

Rule 21.177 is revoked and replaced by the following new rule:

21.177 Special conditions for issue of certificate

(a) An airworthiness certificate for an aircraft may be issued in both the *standard category* and the *restricted category* if the Director is satisfied that—

- (1) the applicable certification requirements for each category under this Subpart are met when the aircraft is configured for the category; and
- (2) the aircraft can be converted from one configuration to the other by removing or adding equipment by simple mechanical means.

(b) Only a *restricted category* airworthiness certificate may be issued for an aircraft if the Director is satisfied that—

- (1) the aircraft is internally equipped for dispensing substances on an agricultural aircraft operation; and
- (2) the extent of the internal equipment makes the aircraft inappropriate for use in an air transport operation.

(c) An airworthiness certificate for an aircraft may only be issued in 1 of the *special categories* listed under rule 21.173 if the Director is satisfied that—

- (1) the applicable certification requirements under this Subpart are met in respect of the purposes for which the aircraft is to be operated; and
- (2) the aircraft is in a condition for safe operation.

(d) The Director may specify in an airworthiness certificate the purpose of the certificate and any associated conditions and limitations for the operation of the aircraft.

Rule 21.179 is revoked and replaced by the following new rule:

21.179 Duration of certificate

(a) The following airworthiness certificates for an aircraft remain in force if the maintenance on the aircraft is performed in accordance with the applicable requirements of Parts 91 and 43 unless the certificate has expired, or is suspended or revoked:

- (1) *standard category*;
- (2) *restricted category*;
- (3) *special category*.

(b) A *standard category* airworthiness certificate for an aircraft and a *restricted category* airworthiness certificate for an aircraft expire if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) the *type certificate* or the *type acceptance certificate*, as applicable, issued for the aircraft type, its engines, and propellers if applicable, ceases to remain in force; or
- (3) a new airworthiness certificate in the same category is issued for the aircraft.

(c) A *special category* airworthiness certificate for an aircraft expires if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) a new airworthiness certificate in the same category is issued for the aircraft.

(d) The holder of an airworthiness certificate that has expired under paragraphs (b) or (c) must surrender the certificate to the Director.

(e) The holder of a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate that has expired under paragraph (b)(2) may apply under rule 21.175 for the grant of an appropriate *special category* airworthiness certificate for the aircraft.

(f) A *provisional category* airworthiness certificate for an aircraft remains in force for the period specified in the certificate—

(1) if—

- (i) the maintenance on the aircraft is performed in accordance with the applicable requirements of Parts 91 and 43; and
- (ii) the aircraft remains a New Zealand registered aircraft; and
- (iii) the *provisional type certificate* issued under rule 21.145 for the aircraft type remains in force; and

(2) unless—

- (i) the *provisional category* airworthiness certificate is suspended or revoked; or
- (ii) a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate is issued for the aircraft.

Rule 21.181 is revoked and replaced by the following new rule:

21.181 Transfer of certificate

Despite rule 19.11, the holder of a New Zealand certificate of registration for an aircraft must transfer the following applicable airworthiness certificates with the aircraft if, in accordance with rule 47.57, the holder of the certificate of registration ceases to have lawful entitlement to possession of the aircraft:

- (1) *standard category*;
- (2) *restricted category*;
- (3) *special category*;
- (4) *provisional category*.

Certification Requirements

Rule 21.193 is revoked and replaced by the following new rule:

21.193 Special category—experimental certification requirements

An applicant for the grant of a *special category—experimental* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated, including—
 - (i) details of the proposed operation; and
 - (ii) the estimated duration or number of flights required for the operation; and
 - (iii) details of the areas over which the operation is to be conducted; and
- (2) sufficient data to identify the aircraft, including a three-view drawing of the aircraft, except for an aircraft converted from a previously certificated type without appreciable change in the external configuration; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any document relating to the operation of the aircraft as the Director may require; and
- (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
- (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or

- (ii) an approved identifiable paint scheme and markings; and
- (7) evidence that the aircraft is identified by the means specified in Subpart Q; and
- (8) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (9) evidence that the placard requirements prescribed in rule 21.205 are met.

Rule 21.195 is revoked and replaced by the following new rule:

21.195 Special category—exhibition certification requirements

(a) An applicant for the grant of a *special category—exhibition* airworthiness certificate for an aircraft, must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
- (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
 - (i) the nationality and registration marks; or

- (ii) an approved identifiable paint scheme and markings; and
 - (7) evidence that the holder of the certificate of registration for the aircraft holds a valid operator statement for the aircraft in accordance with rule 47.55(c); and
 - (8) evidence that the aircraft is identified by the means specified in Subpart Q; and
 - (9) evidence that a flight evaluation has been completed and that the aircraft—
 - (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
 - (10) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
 - (11) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
 - (12) data from a flight evaluation concerning—
 - (i) any operational limitations for the aircraft; and
 - (ii) any airworthiness limitations for the aircraft; and
 - (13) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) A flight evaluation required by paragraph (a)(9) must be conducted—
- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
 - (2) by a test pilot approved for the purpose under rule 19.405.

(c) An applicant for the grant of a *special category-exhibition* airworthiness certificate for an aircraft that has a *special category-experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(4) to (a)(6), (a)(8), (a)(9), (a)(11), and (a)(12) unless requested by the Director, if—

- (1) the information provided under paragraph (a)(2) includes the registration marks for the aircraft; and
- (2) the maintenance programme required under rule 91.605(b)(2) includes the details required under rule 91.607(d) and (e).

Rule 21.197 is revoked and replaced by the following new rule:

21.197 Special category—amateur-built certification requirements

(a) An applicant for the grant of a *special category—amateur-built* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance manuals and any documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that—
 - (i) the amateur constructor has built the major portion of the aircraft for their own education or recreation; or
 - (ii) the aircraft is a light sport aircraft designated by the manufacturer as an experimental – light sport aircraft; and

- (6) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
- (7) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (8) evidence that the aircraft is identified by the means specified in Subpart Q; and
- (9) evidence that a flight evaluation has been completed and that the aircraft—
- (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
- (10) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (11) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
- (12) data from a flight evaluation concerning—
- (i) any operational limitations for the aircraft; and
 - (ii) any airworthiness limitations for the aircraft; and
- (13) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) A flight evaluation required by paragraph (a)(12) must be conducted—

- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
 - (2) by a test pilot approved for the purpose under rule 19.405.
- (c) An applicant for the grant of a *special category—amateur-built* airworthiness certificate for an aircraft that has, or is deemed to have under Appendix A paragraph (g), a *special category—experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(4) to (a)(12) unless requested by the Director if the information provided under paragraph (a)(2) includes the registration marks for the aircraft.

The following new rule is inserted after rule 21.197.

21.199 Special category—primary certification requirements

An applicant for the grant of a *special category—primary* airworthiness certificate for an aircraft must provide the Director with—

- (1) a statement specifying the purpose for which the aircraft is to be operated; and
- (2) sufficient data to identify the aircraft make and model; and
- (3) any other information that the Director may request relating to the application; and
- (4) flight manuals, maintenance and repair manuals, parts manual, and any other documents relating to the operation of the aircraft as the Director may require; and
- (5) evidence that every modification and repair to the aircraft conforms to a design change approved in accordance with Subpart C; and
- (6) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and

- (7) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (8) evidence that the aircraft, its engines, propellers, and propeller hubs and blades are identified by the means specified in Subpart Q; and
- (9) evidence that a maintenance programme for the aircraft has been approved under rule 91.607; and
- (10) evidence that continuing airworthiness data relating to the aircraft and installed components is available from sources acceptable to the Director; and
- (11) evidence that the aircraft has, within 60 days prior to the application for the airworthiness certificate, undergone a 100-hour, or equivalent inspection in accordance with the manufacturer's maintenance schedule, or an equivalent inspection acceptable to the Director; and
- (12) for an imported aircraft—
- (i) evidence that the aircraft had been certificated as a primary category aircraft in accordance with FAR 21.24, or an equivalent certification acceptable to the Director, by the relevant authority for airworthiness in the country of export; and
 - (ii) evidence that the aircraft conforms to the requirements and airworthiness design standards for a primary category aircraft prescribed in FAR 21.24, or the requirements and airworthiness design standards for the equivalent certification accepted by the Director under paragraph (i); and

- (13) for a New Zealand manufactured aircraft—
- (i) evidence that the aircraft was manufactured under the authority of an aircraft manufacturing organisation certificate issued in accordance with Part 148; and
 - (ii) evidence that the aircraft conforms with the requirements and airworthiness design standards for a primary category aircraft prescribed in FAR 21.24, or conforms with an equivalent airworthiness design standard acceptable to the Director; and
- (14) evidence that the placard requirements prescribed in rule 21.205 are met.

The following new rule is inserted after new rule 21.199

21.201 Special category—LSA certification requirements

- (a) An applicant for the grant of a *special category—LSA* airworthiness certificate for an aircraft must provide the Director with—
- (1) a statement specifying the purpose for which the aircraft is to be operated; and
 - (2) sufficient data to identify the aircraft make and model; and
 - (3) any other information that the Director may request relating to the application; and
 - (4) flight manuals, the manufacturer's maintenance manual and inspection procedures, and any other documents relating to the operation of the aircraft as the Director may require; and
 - (5) evidence that the aircraft conforms with any design change necessary for the safe operation of the aircraft that the Director may require; and
 - (6) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—

- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (7) evidence that the aircraft is identified by the means specified in Subpart Q; and
- (8) evidence that a flight evaluation has been completed and that the aircraft—
- (i) is controllable throughout its range of speeds and throughout all the normal operating manoeuvres; and
 - (ii) does not have any hazardous operating characteristics or design features; and
- (9) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (10) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
- (11) for an imported aircraft—
- (i) evidence that the aircraft has been issued with, or is eligible for the issue of, a special airworthiness certificate in the light sport category in accordance with the requirements specified in FAR 21.190 or an equivalent standard acceptable to the Director; and
 - (ii) the aircraft manufacturer's signed statement of compliance for the aircraft, or a certified copy of the manufacturer's signed statement, that meets the requirements of paragraph (b); and.
- (12) for a New Zealand manufactured aircraft—
- (i) evidence that the aircraft was manufactured under the authority of an aircraft manufacturing

organisation certificate issued in accordance with Part 148; and

- (ii) the aircraft manufacturer's signed statement of compliance for the aircraft, or a certified copy of the manufacturer's signed statement, that meets the requirements of paragraph (b); and

- (13) evidence that the placard requirements prescribed in rule 21.205 are met.

(b) A manufacturer's statement of compliance required under paragraphs (a)(11) and (12) must include at least the following information:

- (1) details specifying the aircraft's make and model, serial number and date of manufacture;
- (2) technical details to show that the aircraft can be defined as a light sport aircraft;
- (3) the identification of the consensus standard that is applicable to the design and manufacture of the aircraft;
- (4) a statement certifying that—
 - (i) the manufacturer has a quality assurance system that meets the requirements of the consensus standard identified under paragraph (b)(3); and
 - (ii) the manufacturer's design data for the aircraft conforms with the consensus standard identified under paragraph (b)(3); and
 - (iii) based on the quality assurance system required under paragraph (b)(4)(i), the aircraft conforms with the manufacturer's design data for the aircraft and with the consensus standard identified under paragraph (b)(3); and
 - (iv) in accordance with a production acceptance test procedure established by the manufacturer in

accordance with the consensus standard identified under paragraph (b)(3)—

- (A) the manufacturer has ground-tested and flight-tested the aircraft; and
 - (B) the manufacturer is satisfied that the aircraft's performance during ground and flight testing meets the design requirements; and
 - (C) the aircraft is in a condition for safe operation; and
- (v) the manufacturer has a procedure to monitor the continuing airworthiness of the aircraft and to issue safety directives or requirements that comply with the consensus standard identified under paragraph (b)(3) to correct any unsafe condition.
- (c) A light sport aircraft that is built from a kitset and a light sport aircraft that is designated by the manufacturer as an experimental - light sport aircraft is not eligible for the issue of a *special category—LSA* airworthiness certificate.

The following new rule is inserted after new rule 21.201

21.203 Special category—limited certification requirements

- (a) An applicant for the grant of a *special category—limited* airworthiness certificate for an aircraft must provide the Director with—
- (1) a statement specifying the purpose for which the aircraft is to be operated; and
 - (2) sufficient data to identify the aircraft make and model; and
 - (3) evidence that the aircraft type was produced in a series and factory built in a controlled design environment; and
 - (4) evidence that the aircraft type has been previously accepted for civil or military operations; and

- (5) evidence that the aircraft—
- (i) is essentially unmodified from the original type design and operational configuration; or
 - (ii) has been extensively restored without significant variation to the original type design and operational configuration; or
 - (iii) essentially conforms with the original design standards and operational configuration in spite of having significant changes made which are subject to an appropriate design approval or are acceptable to the Director; and
- (6) evidence that every applicable airworthiness directive has been complied with in accordance with Part 39; and
- (7) evidence that a maintenance programme for the aircraft has been approved in accordance with rule 91.607; and
- (8) flight manual limitation data including the following:
- (i) speed parameters;
 - (ii) weight and loading information;
 - (iii) engine operating parameters;
 - (iv) fuel and oil specifications;
 - (v) fuel consumption data;
 - (vi) total usable fuel quantities;
 - (vii) eligibility for flight in known icing conditions;
 - (viii) critical and prohibited manoeuvres;
 - (ix) emergency procedures;
 - (x) maximum number of occupants;

- (xi) minimum flight crew members if more than one flight crew member is required;
 - (xii) recommended take-off and landing distances;
 - (xiii) if applicable, single engine climb performance; and
- (9) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and 1 of the following forms of marking—
- (i) the nationality and registration marks; or
 - (ii) an approved identifiable paint scheme and markings; and
- (10) evidence that the holder of the certificate of registration for the aircraft holds a valid operator statement for the aircraft in accordance with rule 47.55(c); and
- (11) evidence that the aircraft has undergone an inspection, equivalent to an annual or 100-hour inspection in accordance with the manufacturer's or a military maintenance schedule, or an equivalent inspection acceptable to the Director, within the 60 day period before the application for the airworthiness certificate was submitted to the Director; and
- (12) evidence that the aircraft has completed—
- (i) a flight evaluation to establish that the aircraft is controllable throughout its range of speeds and throughout all the normal operating manoeuvres if documented evidence of the aircraft's safety, integrity and reliability record is not available; or
 - (ii) a flight evaluation to establish known operating limitations or confirm changes to those limitations as a result of modification; or
 - (iii) a combination of paragraphs (i) and (ii); and

- (13) evidence that the aircraft is in a condition for safe operation; and
- (14) evidence that the placard requirements prescribed in rule 21.205 are met.
- (b) The flight manual limitation data required by paragraph (a)(8) must originate from—
- (1) the manufacturer's data or military operating manuals acceptable to the Director; or
 - (2) data accepted by a foreign civil airworthiness authority; or
 - (3) data generated from a flight evaluation conducted under a *special category—experimental* airworthiness certificate issued for the aircraft; or
 - (4) a combination of paragraphs (1), (2), and (3).
- (c) A flight evaluation required by paragraphs (a)(12), and (b)(3) must be conducted—
- (1) in accordance with the limitations and conditions stated on a *special category—experimental* airworthiness certificate issued for the aircraft; and
 - (2) by a test pilot approved for the purpose under rule 19.405.
- (d) An applicant for the grant of a *special category—limited* airworthiness certificate for an aircraft that has a *special category—experimental* airworthiness certificate that is valid on 3 December 2009 is not required to provide the information required under paragraphs (a)(6), (a)(9), (a)(11), and (a)(12) unless requested by the Director, if—
- (1) the information provided under paragraph (a)(2) includes the registration marks for the aircraft; and
 - (2) the maintenance programme required under rule 91.605(b)(2) includes the details required under rule 91.607(d) and (e).

The following new rule is inserted after new rule 21.203

21.205 Placard for special category aircraft

An aircraft that is issued with a *special category* airworthiness certificate must have a legible placard with the following wording, or other similar wording acceptable to the Director, installed in the aircraft and in clear view of each passenger—

“Warning

This is a *Special Category* — (*Subcategory*) aircraft and does not meet the New Zealand Civil Aviation airworthiness standards for a standard category aircraft to carry passengers on an air transport operation.

Passengers fly in this aircraft at their own risk.”

The heading Subparts I and J — Reserved is revoked and the following new Subpart I is inserted

Subpart I — Special Flight Permits**21.251 Applicability**

This Subpart prescribes rules governing the issue of a special flight permit for an aircraft.

21.253 Special flight permit categories

The following special flight permits for an aircraft are granted by the Director under section 9 of the Act in accordance with the applicable requirements of this Subpart:

- (1) *special flight permit;*
- (2) *special flight permit—continuing authorisation.*

21.255 Application for special flight permit

An applicant for the grant of a special flight permit must complete 1 of the following forms as appropriate and submit it to the Director with a payment of the application fee prescribed by regulations made under the Act—

- (1) form CAA 24021/07 for a *special flight permit*;
- (2) form CAA 24021/15 for a *special flight permit—continuing authorisation*.

21.257 Conditions for issue of special flight permit

(a) The Director may issue a *special flight permit* for an aircraft if the Director is satisfied that—

- (1) the applicable certification requirements under this Subpart are met; and
- (2) in spite of any failure of the aircraft to meet applicable airworthiness and maintenance requirements prescribed in this Part or any other civil aviation rule, the level of safety is adequate for any of the following purposes:
 - (i) flying the aircraft to a base where maintenance is to be performed, or to a point of storage;
 - (ii) flight testing of a new aircraft by the holder of a manufacturing organisation certificate issued in accordance with Part 148;
 - (iii) evacuating the aircraft from an area of impending danger.

(b) The Director may issue a *special flight permit—continuing authorisation* for an aircraft type if the Director is satisfied that the applicable certification requirements under this Subpart are met and the level of safety is adequate for the purposes for which an aircraft is to be operated.

(c) The Director may specify in a special flight permit the purpose of the permit and any associated conditions and limitations for the operation of the aircraft.

21.259 Duration of special flight permit

(a) A *special flight permit* for an aircraft remains in force for the period specified in the permit if the aircraft remains a New Zealand registered aircraft, unless the permit is suspended or revoked by the Director.

(b) A *special flight permit—continuing authorisation* for an aircraft type remains in force for the period specified in the permit unless the permit is suspended or revoked by the Director.

Special Flight Permit Requirements

21.261 Application for special flight permit

An applicant for the grant of a *special flight permit* for an aircraft must provide the Director with —

- (1) details of —
 - (i) the purpose of the flight; and
 - (ii) the proposed itinerary; and
 - (iii) the crew members required to operate the aircraft and its equipment; and
 - (iv) any non-compliance with any applicable airworthiness or maintenance requirement; and
 - (v) any restriction that may be necessary for the safe operation of the aircraft; and
- (2) any other information the Director may require; and
- (3) evidence that the aircraft is a New Zealand registered aircraft and, in accordance with Part 47, displays an identification plate and an approved form of aircraft marking; and

- (4) evidence that the aircraft is identified by a means specified in Subpart Q.

21.263 Application for special flight permit—continuing authorisation

An applicant for the grant of a *special flight permit—continuing authorisation* for an aircraft type must provide the Director with—

- (1) a statement to confirm that the operation of any aircraft under the special flight permit is for the purpose of flight testing under a manufacturing organisation certificate issued in accordance with Part 148; and
- (2) details of the aircraft type; and
- (3) details of the manufacturing organisation's procedures for ensuring that each flight test is carried out safely; and
- (4) any other information the Director may require.

The following new heading, Subpart J — Reserved, is inserted after rule 21.263

Subpart J — Reserved

Appendix A is revoked and replaced by the following new Appendix A:

Appendix A

Transitional Arrangements

- (a) A certificate of type approval that was issued for a standard category aircraft under regulation 163 of the Civil Aviation Regulations 1953 before 1 July 1995, and is in force on 3 December 2009 is deemed to be a standard category type certificate for the purpose of this Part.
- (b) A certificate of type approval that was issued for an agricultural or restricted category aircraft under regulation 163 of the Civil Aviation Regulations 1953 before 1 July 1995, and is in force on 3 December 2009 is deemed to be a restricted category type certificate for the purpose of this Part.

(c) If approved by the Director, aircraft of a type and model issued with a certificate of airworthiness under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 is deemed to have a type acceptance certificate in the same category for the purpose of this Part.

(d) If approved by the Director, an engine type and model, and a propeller type and model that is fitted to a New Zealand registered aircraft that—

- (1) has a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate that was issued before 1 March 2007 and is valid on 3 December 2009; or
- (2) is deemed to have a *standard category* airworthiness certificate under paragraph (e), or a *restricted category* airworthiness certificate under paragraph (f) and the deemed certificate is valid on 3 December 2009—

is deemed to have a type acceptance certificate for the purpose of this Part.

(e) A standard category certificate of airworthiness for an aircraft that was issued under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a *standard category* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the certificate of airworthiness.

(f) An agricultural or restricted category certificate of airworthiness for an aircraft that was issued under regulation 161 of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a *restricted category* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the certificate of airworthiness.

(g) A permit to fly that was issued for an Amateur-built aircraft under regulation 161A of the Civil Aviation Regulations 1953 before 1 July 1995 and is in force on 3 December 2009 is—

- (1) deemed to be a special category—*experimental* airworthiness certificate for the purpose of the Civil Aviation Rules; and
- (2) subject to the same conditions and limitations prescribed on the permit to fly.

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Consultation Details

(This statement does not form part of the rules contained in Part 21. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 07-03 Special Category Aircraft, containing the proposed rules for Part 21 and other consequential rule amendments was issued for public consultation under Docket 5/CAR/2 on 26 October 2006.

A period of 41 days was allowed for comment on the proposed rule. A total of seven responses to the NPRM were received.

The purpose of NPRM 07-03 was to:

- Establish appropriate subcategories for special category airworthiness certificates.
- Amend Part 1 to include definitions and abbreviations used in the operating rules that are not currently included in Part 1.
- Amend Part 21 to mandate the change establishing subcategories to the special category airworthiness certificate.
- Amend Part 43 to reflect changes to maintenance requirements for aircraft certificated in the special category.
- Amend Part 66 to enable the holder of a certificate of maintenance approval to certify a release to service on aircraft with a special category airworthiness certificate.
- Amend Part 91 to incorporate the operating limitations for special category aircraft, VFR fuel requirements.
- Amend Part 91 to address ejection seats and explosive devices fitted to aircraft.
- Amend Part 91 to address maintenance programme requirements for special category aircraft.

- Amend Part 91 to introduce a Review of Airworthiness with conditions for special category aircraft.

A copy of the NPRM was sent to:

The Part 21 PWG industry group

Ministry of Transport.

The NPRM was also published on the CAA website.

Submissions were received from a helicopter operator, aviation organisations, a regulatory authority, an engineering organisation and individuals. A total of seven submissions were received. Of these, 5 submissions were from organisations, and 2 from individuals.

The submissions generally fell into four areas:

- Objections to the proposal to limit special category helicopters from being used for helicopter external load operations under Part 133 and for agricultural aircraft operations under Part 137.
- Comments on risk management.
- Comments on Transition costs.
- Comments on Special category certification requirements.

Summary of Submissions and CAA Responses

Limitation on Special category aircraft operating on Part 133 or Part 137 operations

Four submissions were received objecting to the proposal that certain special category aircraft would be prevented from carrying out Part 133 or Part 137 operations. The submissions were focused on the prohibition of helicopters.

One submitter commented on the NPRM proposal to prohibit the use of ex-military helicopters for helicopter external load operations under Part 133 and for agricultural aircraft operations under Part 137. The submitter makes the point that if the flight manual, operational limitations, and component history is available and understood by an

operator and an appropriate maintenance regime be established (preferably with OEM or other organisation able to provide qualified technical engineering data and support) that such operations could and should be permitted.

One submitter commented that instead of a blanket ban on Part 133 and Part 137 operations, the proposed use of an ex-military helicopter for these types of operation should be considered on its merits.

One submitter commented that the reasons outlined in the NPRM for prohibiting the use of ex-military helicopters for any operation under Part 133 or Part 137 appear to be based on airworthiness factors. The submitter commented that a blanket ban with no provision to approach the Director for approval did not seem to follow the general intent of the rule change. The submitter also commented "that any operation of an aircraft outside what is deemed to be acceptable to the CAA is not supported and CAA should consider the opportunity for operators to seek approval from the Director for Part 133 and Part 137 operations on a case-by-case basis".

One submitter was disappointed to see what they considered to be an arbitrary imposition of the operating limitations relating to operations under Part 133 and Part 137.

CAA Response

In March 2006 the Director issued a prohibition notice to prohibit the operation or use of New Zealand registered aircraft issued with a Special Category Airworthiness Certificate on external load operations.

The proposed rules reflect the intent of the Director's prohibition notice.

The CAA view is that Special Category aircraft are, by definition, not type certificated and, therefore, have not been shown to meet a comprehensive code of airworthiness as mandated by ICAO for the issue of an airworthiness certificate. Therefore, as in most other countries, operation of such aircraft in the Special Category or similar is a privilege. The CAA view is that the only legitimate purpose for Special category aircraft is for recreational use (other than the special case framework proposed under Part 115). Under rule 91.105 Special category aircraft have never been allowed to be used for the carriage of

persons or goods for hire or reward operations, and this was even more clearly spelled out in the previous Regulations. The CAA is not aware of any other recognised country which allows special category aircraft to be used for hire or reward operations (outside the specialised type of operation envisioned by Part 115).

Management of risk

Three submissions were received regarding the management of risk.

One submitter commented that there should be provision for a risk analysis to be carried out to allow an operator to present his or her aircraft's specifications and limitations together with the intended maintenance schedule.

One submitter suggested that if an aircraft is properly maintained and operated, this in itself will help to mitigate risk.

One submitter comments that the mitigation of risk, paralleling Part 135 and allowing fixed-wing aircraft to carry 10 people including the pilot is supported however, the figure for 5 persons for helicopters, instead of 10 persons as for fixed-wing, is curious. The submitter questions the decision for this lower figure and suggests that it might be better to use some form of individual risk assessment based on submissions from the operator.

CAA Response

In conjunction with the Proposed Part 115 Adventure Aviation Rule, substantial work has been done on determining the risk profile of Vintage and Ex-Military (includes Helicopters) aircraft over a 10 year period. The results of this exercise indicate that the risk and social cost of accidents is higher than previously thought. CAA has therefore elected to take a cautious approach when applying risk to Special Category Vintage and Ex-Military aircraft.

Regarding the figure of five people in a helicopter, CAA believes that helicopters with more than 5 seats bring the aircraft into a higher level of complexity. For private operations in a Special Category Helicopter the helicopter would be limited to types such as the Kiowa, Scout, Gazelle and Cayuse. For projected Part 115 Adventure Aviation operations the 2+2+1 seat configuration would seem the most practical.

Compliance Costs

One submitter commented that the NPRM makes reference to the costs associated with the administration of transferring certificates. The submitter questions whether any assessment has been made on the costs associated with the assessment and approval of maintenance programmes and the impact that would have on industry operators seeking to transfer certificates. The submitter also questions whether the CAA will have the necessary resources to complete the transfer actions within the nominated transitional period.

CAA Comment

CAA has considered the resources required for transferring certificates and costs will be held to a minimum and subject to the normal hourly charge. As all Special Category aircraft are currently required to have individual maintenance programmes approved by the Director under Part 91, compliance costs related to maintenance programmes will be mainly limited to those aircraft entering the Special category operations.

Special category certification

One submitter questioned whether the drafters of the rule had considered its applicability to aircraft formerly type certificated to civil airworthiness standards, but where the TC has subsequently been withdrawn and is no longer recognised as a valid type for standard or restricted category by a foreign airworthiness authority. The submitter queried whether such an aircraft would be eligible for a special category certificate e.g. 'limited certification' as they were probably manufactured in a controlled manufacturing environment.

CAA Comment

Any aircraft that is no longer eligible for Standard or Restricted Categories is eligible for the Special category. Each aircraft will then be assessed individually as to which subcategory it will be eligible for, and can be in the Limited Category if it meets the certification requirements for the Limited category.

Definitions and Abbreviations

The FAA Light Sport Aircraft Rule mentions accepting industry consensus standards. The proposed rule states that only aircraft meeting ASTM airworthiness standards would be accepted. The FAA commented that this statement could be limiting for the CAA as the FAA may elect to accept another standard developed by a different consensus standards organisation in the future.

CAA Comment

CAA agrees with the comment and will amend the proposed rule.

Aircraft Markings 21.193(a)(6), 21.195(a)(6), 21.197(a)(7), 21.199(a)(6), 21.201(e), and 21.203(b)(9)

Two submitters commented on proposed aircraft marking rules for Special category aircraft.

One submitter comments that aircraft markings should adhere to Part 47 to avoid confusion.

One submitter queried why special category aircraft should be eligible to be marked with Police marks and suggested that consideration should be given to removing this as a marking option especially for all special categories but at least 21.203 -- limited category.

CAA Comment:

The comments have been considered against the existing Rule Part 47 and it is considered that the current rule is robust enough. The proposed rules will be amended accordingly.

Primary and LSA certification requirements Part 21.199/21.201

One submitter commented that in both of these proposed rules relating to the importation and certification of aircraft to these standards, consideration should be given to a process similar to the 'Type Acceptance' process as per Part 21 Subpart B as these aircraft have, in fact, met identified and recognised airworthiness standards. The commenter considered that irrespective of the categorisation of the operating airworthiness certificate in a special category, it may be useful for CAA to consider a type acceptance process for the first of type and to publish those types certified to ease the future importation requirements for additional imported types. The submitter also

recommended that the Primary and LSA standards should be placed into Appendix C.

CAA Comment:

Special category aircraft under the new rule will be subject to a process similar to type acceptance of type certified aircraft. However this will be an internal process and does not need to be documented in the Rule.

Transitional Arrangements, Appendix A

One submitter expressed concern that CAA may not have the resources to be able to meet the tasks in Appendix A over a 12 month transitional period. A longer period is suggested. It is presumed that the overall intent is to place all aircraft (and any future aircraft) into one of the new subcategories.

CAA Comment

CAA believes it has the resources to carry out the tasks in Appendix A over a 12 month period from when the rule amendment comes into force. The Rule is clearly intended to transition all existing Special Category aircraft to the new rule. Unfortunately the Rule change does not affect those legacy aircraft which are still in the Restricted Category. However, with the new Limited subcategory, there will be an incentive to change over as they may now be eligible for Part 115 operations. With regard to the proposed dates of eligibility and compliance in paragraphs (h) and (i) of Appendix A, the proposed rule transition dates in the NPRM will be revised to provide a 12 month compliance period from the date these rule amendments come into force.

Aircraft markings Part 21.195(a)(6) and similar occurrences

One submitter suggested that the use of the digit '1' be replaced by the word 'one'.

CAA Comment:

Legal drafting requirements require the use of figures rather than words in some circumstances.

**Special Category Limited – Certification Requirements Part
21.203(b)(1)**

Three submitters commented on the proposed certification requirements.

One Submitter comments that the use of terms 'factory' and 'controlled design environment' may cause problematic interpretations. The submitter commented that it may be prudent to investigate other terminology associated with what is intended here regarding a properly designed, manufactured, and controlled product accepted for military service.

The submitter considered that it may be difficult to establish eligibility because some examples may not have been produced in great numbers, nor in a proper quality controlled environment.

One submitter suggests that the CAA may have to consider publishing clear guidance material on this "Limited" subcategory and the assessment procedures. The submitter considered that it will probably be the most contentious and difficult to assess area and will potentially be the category that operators will seek to use for hire or reward activities.

One submitter comments that rule 21.203(b)(5) requires the applicant to ensure continuing airworthiness data relative to the aircraft and installed components is available from a source acceptable to the Director. The submitter asks "what is continuing airworthiness data relative to the aircraft and what are sources acceptable to the Director?" As an example, the submitter comments that the Nanchang CJ-6a is unsupported by the manufacturer in terms of ongoing information, AD's etc. The submitter considers that that this matter of continuing airworthiness data needs more definition before the proposal is completely acceptable.

CAA Comment:

The CAA must be satisfied that it is aware of any limitations and mandatory maintenance actions applicable to an aircraft type before it can be permitted to fly in New Zealand. This does not necessarily mean direct manufacturer support, but does mean the availability of operating and maintenance documentation and possibly some overseas history. More detailed guidance will need to be provided in Advisory Circulars. The CAA is open to industry input for more specific wording which may

more clearly identify the underlying issues of defining the origins of a limited subcategory aircraft. CAA will consider any input received and determine if it would be more appropriate for inclusion in the rule.

Sport Aircraft Association of New Zealand Inc.

The organisation submitted that the proposed rules are acceptable without change and considered that:

- the revised 'Special Categories' will more suitably define the present general mix of applicable aircraft types, origins, and end user/operator requirements;
- the proposed application of the 'Experimental Category' is a much more applicable procedure for the use of this term;
- the improved level of compatibility with other countries regulatory definitions should assist when aircraft are relocated overseas and into New Zealand.

CAA Comment:

The CAA notes the Sport Aircraft Association's support for the proposed rules.

Maintenance required under Part 145 – Rule 43.54

One submitter commented on their support for the proposed amendment in new paragraph (c) to rule 43.54 regarding maintenance required under Part 145.

CAA Comment:

Noted.

Maintenance Records Part 43.307

One submitter commented on their support for the proposed new rule 43.307 regarding maintenance records for replacement parts, or components fitted to special category aircraft.

CAA Comment:

Noted.

Release to Service – pressurised and turbine powered aircraft Part 43.309(a)

One submitter believes that, regarding the certification of pressurised aircraft, if an engineer is rated on the aircraft he/she should be able to release it to service. A review of the word between paragraphs (2) and (3) should read 'or', not 'and'.

CAA Comment:

CAA does not agree with the comment. The requirement of this rule is that a person must firstly have a rating on a pressurised standard category aircraft AND then either a rating or a Certificate of Maintenance Approval on a special category aircraft.

Minimum Instruments and equipment Part 91.509(e)

One submitter commented that it is unclear why special category aircraft (which have certain hire or reward privileges and carry passengers and are subject to approved maintenance programmes) should be exempted from the requirement to have a time-in-service recorder. The submitter considers that these aircraft are subject to the same potential abuse of maintenance recording which gave rise to the requirement in rule 91.509(b) for specified aircraft to be fitted with time-in-service recorders, and that failure to conduct proper maintenance leading to an aircraft failure has no less significant consequences. The submitter considers that the exception should be deleted.

CAA Comment:

CAA does not agree. It appears that the submitter has misread the proposed rule. The rule only exempts Experimental and Amateur-built aircraft from the requirement and neither of which will be eligible for hire or reward operations.

Special Category airworthiness certificates – operating limitations Part 91.105

One submitter commented that "if the rule provides for some types of special category aircraft to be used for flight training with the Director's approval, then a similar provision should be made for the Director to approve, on a case-by-case basis, the use of special category helicopters for operations under Parts 133 and 137."

CAA Comment:

Refer to the previous comment on Special category Operating Limitations regarding Part 133 and Part 137 operations.

Part 91 Appendix A.3

That as Appendix 3 is proposed to be revised as a consequential amendment to add paragraph (b), applicable to ejection seats, ANZES D.E. would like to point out that paragraph (a) of Part 91 A.3 is deficient in that it does not include TSO C127 as an acceptable specification for seats. This specification incorporates the majority of airworthiness standards required to meet FAR 25.562, as required for more recently type certificated Part 25 aircraft. It is proposed that Part 91 A.3 is revised to include TSO C127. In addition, with the recent introduction of EASA, and hence ETSO's, it is proposed that ETSO-C39 and ETSO-C127 be included in Part 91 A.3.

CAA Comment:

The CAA has already accepted seats meeting ETSO-C39 as part of the Air New Zealand 747 upgrade STC. There is currently provision for the CAA to accept alternative specifications under rule 91.503(a). If Air New Zealand were to apply for the recognition of alternative seat standards, this would be assessed by CAA. If accepted, a formal letter of acceptance would be issued, and this would be automatically passed to the Rules Unit to be added at the next appropriate-rule amendment. Such an assessment, and therefore Air New Zealand's comment, is outside the scope of this current Part 21 Rule Project.

Appendix A List of Submitters

Air New Zealand Engineering Services
Aviation Industry Association
Federal Aviation Administration
J E McIntyre
J Remacha
Rural Aviation (1963) Ltd
Sport Aircraft Association of New Zealand Inc.

9

blett

From: Chris Roblett
 Sent: Monday, 19 October 2009 09:25
 To: 'Amanda Albrecht (MIN)'
 Cc: Robert Spies; Nigel Mouat
 Subject: RE: Civil Aviation paper for EGI on Wednesday

Hi Amanda,

s 9(2)(a) my knowledge of these rules and the rules process the revised rec's don't raise any problems.

Could you check with Cabinet Office at some point regarding their requirements for copy rules with EGI papers in the future?

We have had an arrangement going back to August 2006 that if the rule or rules are more than 30 pages in total, they will have a copy available for the meeting and not attempt to circulate copies with the papers. Below that size we can either supply 50 copies or wait for them to advise the actual number required (we have usually taken the former option as it avoids rushing around on the Monday before EGI).

If Cabinet Office now want to circulate copies of rules no matter how big the package can you let me know.

Chris

Chris Roblett
 Senior Solicitor
 Ministry of Transport - Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

-----Original Message-----

From: Amanda Albrecht (MIN) [<mailto:Amanda.Albrecht@parliament.govt.nz>]
 Sent: Monday, 19 October 2009 8:41 AM
 To: Robert Spies
 Cc: Chris Roblett
 Subject: FW: Civil Aviation paper for EGI on Wednesday

Hi Robert

Cabinet Office has tweaked the Recommendations for this paper - can you please let me know if these are ok (by 3pm please). They look fine to me.

Thanks
 Amanda

Amanda Albrecht | Private Secretary | Office of Hon Steven Joyce | Minister of Transport |
 5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
 T: 04 817 9802 | s 9(2)(a) | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz |

-----Original Message-----

From: Janine Harvey [mailto:Janine.Harvey@dpmc.govt.nz]
Sent: Monday, 19 October 2009 8:38 am
To: Amanda Albrecht (MIN)
Subject: Civil Aviation paper for EGI on Wednesday

[seemail]

Hi Amanda - as discussed, I'm proposing to tweak the recs for this paper, so that they "stand alone" and have a bit more context. Could you please get back to me (preferably today) on whether this looks ok to you:

- 1 note that Civil Aviation Rule Part 21: Certification of Products and Parts (Part 21) currently lists three categories of airworthiness certificates for registered aircraft in New Zealand (standard, restricted, and special);
- 2 note that under Part 21, the airworthiness certificate issued to special category aircraft does not adequately reflect the wide range of special category aircraft types now operating in New Zealand;
- 3 note that the Minister of Transport intends to amend Part 21 to expand the types of special category airworthiness certificates that may be issued under Part 21;
- 4 note that the proposed amendment will expand the special category into the following six sub-categories:
 - 4.1 experimental;
 - 4.2 exhibition;
 - 4.3 amateur-built;
 - 4.4 primary;
 - 4.5 light sport aircraft;
 - 4.6 limited;
- 5 note that the Minister of Transport also intends to make consequential amendments to other Civil Aviation Rule Parts;
- 6 note that Part 21 is part of the 2008/09 Transport Rules Programme [EDC Min (08) 12/3].

Is that ok?
cheers and thanks

Janine Harvey
Senior Adviser
Cabinet Office

DDI: (04) 817-9638
Fax: (04) 472-6332
Email: janine.harvey@dpmc.govt.nz

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Chris Roblett

From: Amanda Albrecht (MIN) [Amanda.Albrecht@parliament.govt.nz]
Sent: Monday, 19 October 2009 09:16
To: Chris Roblett; Peter Blackler; Chris Lamain
Cc: Nigel Mouat
Subject: RE: Copes of Rule Parts - Civil Aviation Rule Part 21 Certification of Products and Parts - Special Category Aircraft

Sorry for all the changes on this one.

Thanks
Amanda

Amanda Albrecht | Private Secretary | Office of Hon. Steven Joyce | Minister of Transport |
5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
T: 04 817 9802 | **s 9(2)(a)** | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz |

From: Chris Roblett [mailto:C.Roblett@transport.govt.nz]
Sent: Monday, 19 October 2009 9:13 am
To: Peter Blackler; Chris Lamain
Cc: Nigel Mouat; Amanda Albrecht (MIN)
Subject: RE: Copes of Rule Parts - Civil Aviation Rule Part 21 Certification of Products and Parts - Special Category Aircraft
Importance: High

Hi Peter,

The Minister won't be around to sign the Rule next week so we will have to revert to 'Plan A', *Gazette* 5 Nov 09 and in force 3 Dec 09. Can you either leave the commencement date in the copy rules for Cabinet as "[28th day after Gazetting]" or insert 3 December 2009.

Thanks,

Chris

Chris Roblett
Senior Solicitor
Ministry of Transport - Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Monday, 19 October 2009 9:07 AM
To: Chris Roblett; Chris Lamain
Cc: Nigel Mouat; Amanda.Albrecht@parliament.govt.nz
Subject: RE: Copes of Rule Parts - Civil Aviation Rule Part 21 Certification of Products and Parts - Special Category Aircraft

OK will get onto it.

Peter Blackler

MINISTRY OF DEFENCE

Wellington (Head Office) | 89 The Terrace | PO Box 3176 | Wellington 6140 | NEW ZEALAND | Tel: +64 4 399 9000 | Fax: +64 4 399 9001

Auckland | The Government Urban and Economic Development Office | 45 Queen Street | PO Box 103238 | Auckland City | Auckland 1143 | NEW ZEALAND | Tel: +64 9 9854827 | Fax: +64 9 9854849

Christchurch | 96 Hereford Street | PO Box 3014 | Christchurch 8140 | NEW ZEALAND | Tel: +64 3 366 9317 | Fax: +64 3 366 9317

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Chris Roblett

From: Chris Roblett
Sent: Monday, 19 October 2009 09:03
To: 'Peter Blackler'; 'Chris Lamain'
Cc: Nigel Mouat; 'Amanda Albrecht (MIN)'
Subject: FW: Copes of Rule Parts - Civil Aviation Rule Part 21 Certification of Products and Parts - Special Category Aircraft

Hi Peter / Chris

Can you oblige? The copies of the Rules should go to Amanda at the Minister's office – address as per her signature block below.

I will check to see if this is a change in the requirements of Cabinet Office. The arrangement was that if a rule / rule package was more than 30 pages they would have a copy available for inspection, rather than circulate copies with the papers.

Chris

Chris Roblett
Senior Solicitor
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Amanda Albrecht (MIN) [<mailto:Amanda.Albrecht@parliament.govt.nz>]
Sent: Monday, 19 October 2009 8:38 AM
To: Robert Sples
Cc: Chris Roblett
Subject: Copes of Rule Parts - Civil Aviation Rule Part 21 Certification of Products and Parts - Special Category Aircraft

Hi Robert

Cabinet Office has requested 40 copies of the Rule parts that accompany this Cabinet paper. Can you please get these to me by 3pm today?

Thanks
Amanda

Amanda Albrecht | **Private Secretary** | Office of Hon Steven Joyce | Minister of Transport |
5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
T: 04 817 9802 | [s9\(2\)\(a\)](mailto:s9(2)(a)@parliament.govt.nz) | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz |

12

Chris Roblett

From: Amanda Albrecht (MIN) [Amanda.Albrecht@parliament.govt.nz]
Sent: Friday, 16 October 2009 10:28
To: Chris Roblett; Peter Blackler; Robert Sples
Cc: Chris Lamain
Subject: RE: Part 21 - need revised legal memo. WGTA 10804

Hello All

I am sorry to put a spanner in the works at this late stage but I have just realised that Minister Joyce will be out of the country from the 26 - 28 of October, and therefore not available for Rule signing (Sorry this is a recent development). He may not be able to sign the Rule until the weekend, which would mean that I would not be able to get it back to you until Monday 2 Nov. I am not sure what this means in terms of gazetting, but assume that it will have to be delayed a week?

I am very sorry if this causes more work for everyone.

Kind regards

Amanda

Amanda Albrecht | Private Secretary | Office of Hon Steven Joyce | Minister of Transport |
5.1R Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand |
T: 04 817 9802 | [s 9\(2\)\(e\), s 9\(2\)\(a\)](#) | F: 04 817 6513 | E: amanda.albrecht@parliament.govt.nz |

From: Chris Roblett [mailto:C.Roblett@transport.govt.nz]
Sent: Wednesday, 14 October 2009 12:58 pm
To: Peter Blackler; Robert Sples
Cc: Chris Lamain; Amanda Albrecht (MIN)
Subject: RE: Part 21 - need revised legal memo. WGTA 10804

Hi Peter,

A 'heads up' that the Minister has indicated that he would like this rule to come into force as soon as possible.

In practical terms, this would be 26 November 2009, with *Gazetting* on 29 October 2009.

Due to Labour Day, the rule will be considered by the Cabinet meeting at 11.00 on Tuesday 27 October and so the rule is likely to be signed after the deadline for *Gazette* notices at 12.00 that day. I would suggest that CAA lodge the *Gazette* notice prior to then on the assumption that the Minister will sign the rule after Cabinet on the 27th.

We will then have until the 12.00 on the 28th deadline for withdrawing the notice to advise actual signature.

I'll confirm after EGI next Wednesday, but at this stage the in force date on the goatskin will be 26 November 2009.

Regards,

Chris Roblett
Senior Solicitor
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

MINISTRY OF TRANSPORT

Wellington (Head Office) | 89 The Terrace | PO Box 3175 | Wellington 6140 | NEW ZEALAND | Tel: +64 4 439 9000 | Fax: +64 4 439 9001
Auckland | The Government Urban and Economic Development Office | 45 Queen Street | PO Box 106238 | Auckland City | Auckland 1143 | NEW ZEALAND | Tel: +64 9 9854827 | Fax: +64 9 9854849
Christchurch | 53 Hereford Street | PO Box 3014 | Christchurch 8140 | NEW ZEALAND | Tel: +64 3 366 9304 | Fax: +64 3 366 9317

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Roblett

From: Chris Roblett
Sent: Wednesday, 7 October 2009 14:18
To: Robert Spies
Cc: 'Chris Lamain'; 'Peter Blackler'; Brian Farrell
Subject: RE: Part 21 - need revised legal memo. WGTA 10804

Hi Robert,

I have amended the Docmin to refer to an in force date of 3 Dec 09. That will require *Gazetting* on 5 Nov 09 and give the Minister from Cabinet on 27 Oct 09 (Mon 26th is Labour Day) to COP Monday 2 Nov 09 to sign the rules.

CAA - please note the revised dates. We will contact you after EGI on 21 Oct to confirm the in force date and request the goatskins.

Regards,

Chris Roblett
Senior Solicitor
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Robert Spies
Sent: Wednesday, 7 October 2009 1:28 PM
To: Chris Roblett
Cc: Hillary Zhang
Subject: Part 21 - need revised legal memo. WGTA 10804

Hi Chris,

Glen-Marie has signed the red sheet for Part 21. Can you provide a revised Legal memo with new dates please:

I'm going to give the package to Mark Batt to sign out as acting GM in Bruce's absence.

I aim to send the paperwork to OEGI on Thursday (tomorrow) for their meeting next week (Tuesday).

For the EGI meeting, can we aim for 21st October?

Thanks, Robert

Robert Spies
Principal Adviser
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9379 | www.transport.govt.nz

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Docmn Number WGTA10804
File Ref POAV16-89

7 October 2009

Minister of Transport

Civil Aviation Rule Part 21 - Certification of Products and Parts - Special Category Aircraft

Purpose

1. The purpose of this memorandum is to recommend that you sign the following ordinary civil aviation rules (the Rules) –
 - 1.1 Part 1, Definitions and Abbreviations, Amendment 41
 - 1.2 Part 21, Certification of Products and Parts, Amendment 8
 - 1.3 Part 43, General Maintenance Rules, Amendment 7
 - 1.4 Part 47, Aircraft Registration and Marking, Amendment 3
 - 1.5 Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3
 - 1.6 Part 91, General Operating and Flight Rules, Amendment 20
2. A copy of the Rules accompany this paper, which also addresses:
 - 2.1 the legal and other requirements relating to the development of the Rules that must be complied with
 - 2.2 the matters that you are required by law to consider when exercising your power to make ordinary civil aviation rules.
3. The Ministry of Transport (the Ministry) has assessed the Rules from legal and policy perspectives and considers that the Rules are in order for your signature.

Background/Issues

4. The Rules are part of the 2008/09 transport rules programme [CAB Min (08) 26/4 refers] and have been developed by the Civil Aviation Authority (the CAA) pursuant to an agreement for rules development services with the Ministry.
5. The Rules concern the airworthiness certification of aircraft that do not meet the requirements for standard or restricted category airworthiness certification. These aircraft are currently given a "special category – experimental" airworthiness certificate. The "special category – experimental" does not adequately differentiate between the types of aircraft placed in this category, which range from amateur-built to ex-military, or the types of operations undertaken by them.
6. The Rules provide for six sub-categories of special category airworthiness certificate:
 - 6.1 Experimental, specific to aircraft actually conducting flight test and evaluation

www.transport.govt.nz

HEAD OFFICE: PO Box 3175, Wellington, New Zealand. TEL: +64 4 439 9000, FAX: +64 4 439 9001

AUCKLAND OFFICE: The Government Economic and Urban Development Office, PO Box 106 238, Auckland City, New Zealand. TEL: +64 9 985 4827, FAX: +64 9 985 4849

CHRISTCHURCH OFFICE: PO Box 3014, Christchurch, New Zealand. TEL: +64 3 366 9304, FAX: +64 3 366 9317

- 6.2 Exhibition, for aircraft engaged broadly in display flying
 - 6.3 Amateur-built, for amateur-built aircraft
 - 6.4 Primary, to provide a simplified method of gaining type certification for a small aircraft
 - 6.5 Light Sport aircraft, for aircraft that meet the technical definition of this type (weight, complexity, seating capacity)
 - 6.6 Limited, for ex-military and vintage aircraft (which can be approved for hire or reward operations).
7. Further details about the Rules can be found in your paper to the Cabinet Economic Growth and Infrastructure Committee, the accompanying Regulatory Impact Statement, and under the heading "Rule objective" in each of the Rules.

Contentious issues

8. Consequential amendments to Rule Part 91 would prohibit the performance of external load operations using helicopters in the exhibition, amateur-built, primary, or limited special airworthiness categories. A prohibition notice, issued by the Director of Civil Aviation (the Director) in March 2006 currently prohibits external load operations using special category helicopters. This activity has been a contentious issue in the past. The prohibition notice was issued due to safety concerns that the CAA has over external load activities being conducted by aircraft not specifically designed for such purposes. In particular, this has affected operators of ex-military helicopters registered in the special category wishing to conduct repetitive heavy lifting operations, such as in hell-logging.
9. While it may be arguable that in some circumstances the performance of certain external load operations is not inherently hazardous, if some limited operation were to be permitted by the Rules, it would be difficult for the CAA to monitor what operations were being conducted and to ensure that they were being conducted appropriately. It is therefore appropriate that the Rules contain a total prohibition leaving the Director to permit and monitor specific external load operations for special category helicopters on a case-by-case basis through the exemption process.

Timing

10. The Rule is drafted to come into force on 3 December 2009.
 - 10.1 Section 34(4) of the Civil Aviation Act 1990 (the Act) states that rules must be *Gazetted* at least 28 days before they come into force. Therefore, the Rules must be *Gazetted* no later than 5 November 2009.
 - 10.2 "Goatskin" signature copies of the Rules will be provided for signature by you following the Cabinet meeting on 27 October 2009, at which your intention to make the Rules will be noted. You will need to sign the Rules prior to 3 November 2009 to enable the *Gazette* notice to be confirmed.

Consequential changes to legislation

11. Amendments will be required to Schedule 1 of the Civil Aviation (Offences) Regulations 2006, to reflect the amendments to civil aviation rules and the rule references that are contained in the Rules.
12. These amendments will be the subject of a separate paper to the Cabinet Legislation Committee.

Roblett

From: Chris Roblett
Date: Monday, 31 August 2009 11:49
To: Robert Spies
Cc: David Bowden
Subject: Part 21 - Special category aircraft

Hi Robert,

I've been through the Docmin and it looks OK to me, as do the dates (although I'll be at ICAO and unavailable for EGI on the 16th).

I've initialled it and passed it on to David, who is out of the office until Wednesday. I note that you want to get this to the Minister's office and official's committee on Thursday.

Do you want to take it back and pass it to OCU (on the basis that I've looked at and it just needs David to give the final OK when he's back)? Otherwise I can look at some other alternative to get legal sign out earlier.

Chris

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Robert Spies
Sent: Wednesday, 26 August 2009 3:47 PM
To: Chris Roblett; Glen-Marie Burns
Subject: FW: Part 121 EDTO: 90 minute rule

Chris, Glen-Marie – I've gone back to CAA asking when they are expecting the response from ANZ (see email below).

Given the potential for delay now to Part 121, I suggest we move ahead with Part 21 Special Category Aircraft on which I am going to start the red sheet today.

So amendment numbers will be:

- Part 1 – amendment 41
- Part 21 – amendment 8
- Part 43 – amendment 7
- Part 47 – amendment 3
- Part 66 – amendment 3
- Part 91 – amendment 20

Date wise:

- Draft papers to OEGI secretary – Thurs 3 Sept (next week)
- Papers to Minister's office – Thurs 3 Sept
- OEGI meets to discuss papers – Tues 8 Sept

- Papers submitted to Cabinet office – Thurs 10 Sept (copies of Rules required for this) – assuming there are no OEGI issues
- EGI considers papers – Wed 16 Sept (produce Goatskin following this)
- Cabinet – Mon 21 Sept
- Rules signed – 22 to 28 Sept
- Rules *Gazetted* – 1 Oct
- Rules in force – 29 Oct

Do these dates look alright?

Robert

From: Mark Hughes [mailto:HughesM@caa.govt.nz]
Sent: Wednesday, 26 August 2009 8:56 a.m.
To: Robert Spies
Cc: Chris Lamain; cleggs@caa.govt.nz
Subject: RE: Part 121 EDTO: 90 minute rule

Hi Robert,

Air NZ gave CAA a *draft* document on their EDTO implementation and asked for our feedback before their internal Air NZ meeting to finalise. I have provided considerable feedback to them in an email and am awaiting their response. I would prefer that we allow them the opportunity to address my comments before taking a position. To do otherwise could affect the good working relationship we have with this operator. Should their position not change on these issues then I would be happy to share the details with you so a decision can be made on the best way forward re Rule approval/amendment.

Regards,
Mark

From: Robert Spies [mailto:R.Spies@transport.govt.nz]
Sent: Tuesday, 25 August 2009 11:39 a.m.
To: Mark Hughes
Subject: FW: Part 121 EDTO: 90 minute rule

Mark,

For our end, we need some explanation, in simple terms, of what exactly are the CAA's safety concerns over Air NZ's proposed 90 mins non-EDTO flight paths that they have shown to the CAA.

Chris showed me two charts for B777-200s between HKG-LHR and LAX-LHR, and two charts for B737-300s for Tasman and South Pacific operations at TAS 400 & 375 kts. Can you give some explanation for each?

Chris said there was some surprise at the flight paths that ANZ have proposed, and that CAA was not sure what the rationale was? Does the CAA have any further thoughts?

Also, what is the CAA's preferred option to address the safety concerns? And the implications for ANZ and other operators if the rule is amended?

At this stage in the rules' development, we want to avoid pulling the Part 121 amendments altogether given the benefits EDTO is meant to deliver, but if there is an amendment some further consultation with affected parties may be required.

Thanks, Robert

From: Chris Lamain [mailto:LamainC@caa.govt.nz]
Sent: Thursday, 20 August 2009 10:39 p.m.
To: Mark Hughes
Cc: Robert Spies; Chris Roblett; Peter Blackler; Salote Raiwalu; Jeff Rees
Subject: Part 121 EDTO: 90 minute rule

Mark

Following on from our conversation today regarding the EDTO 90 minute rules, I discussed the ANZ proposal to use its twin-engine fleets on long-haul and Pacific Island routes non-EDTO using 90 minute range circles – and in some cases with high single engine inoperative cruise speeds.

There is a view that the rule could still be amended before being signed by the Minister although limited consultation would probably still be required.

Although not stated in NPRM 08-01, the 90 minute rule came about to meet an Australian requirement and was instituted in both Australian and New Zealand legislation to ensure standardisation between the two countries. This was seen as being necessary in the New Zealand legislation to provide a level playing field for NZ operators conducting Part 121 operations within Australia.

In this context, the 90 minute rules could be amended to reflect this intention by limiting the provision to operations within Australia. For example:

121.165 Route distance limitations

(c) For operations within Australia, a holder of an air operator certificate with ANZA privileges operating an aeroplane with 2 turbine powered engines that is certificated to type design specifications for operating more than 60 minutes flight time (calculated at the one engine inoperative cruise speed in still air and ISA conditions) from an adequate aerodrome may operate the aeroplane on an air operation to the limit of its type design certification, but not more than 90 minutes flight time (calculated at a one engine inoperative cruise speed in still air and ISA conditions) from an adequate aerodrome if—

- (1) the aeroplane is configured, maintained and operated in accordance with the relevant CMP for the applicable diversion time; and
- (2) the maintenance programme required under rule 119.63 for the aeroplane—
 - (i) incorporates the inspection and maintenance requirements specified in the CMP or type design document for the airframe and engine combination; and
 - (ii) includes procedures equivalent to the procedures and requirements prescribed in rule 121.407 regarding maintenance on multiple identical systems.

If you feel that this option is worthy of further consideration, can you please liaise directly with Robert Spies at the MoT in the first instance as I am on leave until 31 August 2009. Please note that the MoT is looking to get the rules to the Minister's office next week.

Regards
Chris

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MINISTRY OF TRANSPORT
Wellington (United Kingdom) | 39 The Terrace | PO Box 3175 | Wellington 6140 | NEW ZEALAND | Tel: +64 4 399 9000 | Fax: +64 4 399 9001
Auckland | The Government Urban and Economic Development Office | 45 Queen Street | PO Box 108238 | Auckland City | Auckland 1143 | NEW ZEALAND | Tel: +64 9 9854827 | Fax: +64 9 9854839
Christchurch | 95 Hereford Street | PO Box 3014 | Christchurch 8140 | NEW ZEALAND | Tel: +64 3 366 9304 | Fax: +64 3 366 9317

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Number WGTA10804
POAV16-89

August 2009

Minister of Transport

Civil Aviation Rule Part 21 - Certification of Products and Parts - Special Category Aircraft

Purpose

1. The purpose of this memorandum is to recommend that you sign the following ordinary civil aviation rules (the Rules) –
 - 1.1 Part 1, Definitions and Abbreviations, Amendment 41
 - 1.2 Part 21, Certification of Products and Parts, Amendment 8
 - 1.3 Part 43, General Maintenance Rules, Amendment 7
 - 1.4 Part 47, Aircraft Registration and Marking, Amendment 3
 - 1.5 Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3
 - 1.6 Part 91, General Operating and Flight Rules, Amendment 20
2. A copy of the Rules accompany this paper, which also addresses:
 - 2.1 the legal and other requirements relating to the development of the Rules that must be complied with
 - 2.2 the matters that you are required by law to consider when exercising your power to make ordinary civil aviation rules.
3. The Ministry of Transport (the Ministry) has assessed the Rules from legal and policy perspectives and considers that the Rules are in order for your signature.

Background/Issues

4. The Rules are part of the 2008/09 transport rules programme [CAB Min (08) 26/4 refers] and have been developed by the Civil Aviation Authority (the CAA) pursuant to an agreement for rules development services with the Ministry.
5. The Rules concern the airworthiness certification of aircraft that do not meet the requirements for standard or restricted category airworthiness certification. These aircraft are currently given a "special category – experimental" airworthiness certificate. The "special category – experimental" does not adequately differentiate between the types of aircraft placed in this category, which range from amateur-built to ex-military, or the types of operations undertaken by them.
6. The Rules provide for six sub-categories of special category airworthiness certificate:
 - 6.1 Experimental, specific to aircraft actually conducting flight test and evaluation

- 6.2 Exhibition, for aircraft engaged broadly in display flying
 - 6.3 Amateur-built, for amateur-built aircraft
 - 6.4 Primary, to provide a simplified method of gaining type certification for a small aircraft
 - 6.5 Light Sport aircraft, for aircraft that meet the technical definition of this type (weight, complexity, seating capacity)
 - 6.6 Limited, for ex-military and vintage aircraft (which can be approved for hire or reward operations).
7. Further details about the Rules can be found in your paper to the Cabinet Economic Growth and Infrastructure Committee, the accompanying Regulatory Impact Statement, and under the heading "Rule objective" in each of the Rules.

Contentious issues

8. Consequential amendments to Rule Part 91 would prohibit the performance of external load operations using helicopters in the exhibition, amateur-built, primary, or limited special airworthiness categories. A prohibition notice, issued by the Director of Civil Aviation (the Director) in March 2006 currently prohibits external load operations using special category helicopters. This activity has been a contentious issue in the past. The prohibition notice was issued due to safety concerns that the CAA has over external load activities being conducted by aircraft not specifically designed for such purposes. In particular, this has affected operators of ex-military helicopters registered in the special category wishing to conduct repetitive heavy lifting operations, such as in heli-logging.
9. While it may be arguable that in some circumstances the performance of certain external load operations is not inherently hazardous, if some limited operation were to be permitted by the Rules, it would be difficult for the CAA to monitor what operations were being conducted and to ensure that they were being conducted appropriately. It is therefore appropriate that the Rules contain a total prohibition leaving the Director to permit and monitor specific external load operations for special category helicopters on a case-by-case basis through the exemption process.

Timing

10. The Rule is drafted to come into force on 29 October 2009.
 - 10.1 Section 34(4) of the Civil Aviation Act 1990 (the Act) states that rules must be *Gazetted* at least 28 days before they come into force. Therefore, the Rules must be *Gazetted* no later than 1 October 2009.
 - 10.2 "Goatskin" signature copies of the Rules will be provided for signature by you following the Cabinet meeting on 21 September 2009, at which your intention to make the Rules will be noted. You will need to sign the Rules prior to 28 September 2009 to enable the *Gazette* notice to be confirmed.

Consequential changes to legislation

11. Amendments will be required to Schedule 1 of the Civil Aviation (Offences) Regulations 2006, to reflect the amendments to civil aviation rules and the rule references that are contained in the Rules.
12. These amendments will be the subject of a separate paper to the Cabinet Legislation Committee.

Legal authority

13. The legal authority for you to make these Rules is contained in the following provisions in the Act:
- 13.1 section 28(1)(c), which empowers you to make rules assisting aviation safety and security, including (but not limited to) personal security
 - 13.2 section 29(c), which empowers you to make general operating rules, air traffic rules, and flight rules, including but not limited to, the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft and the prevention of aircraft endangering persons or property
 - 13.3 section 30(a), which empowers you to make rules for the designation, classification, and certification of aircraft, aircraft pilots, aircraft maintenance personnel, aircraft design, manufacture and maintenance organisations or any other person who provides services in the civil aviation system
 - 13.4 section 30(b), which empowers you to make rules for the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in section 30(a), including but not limited to the specification of the privileges, limitations, and ratings associated with licences or other forms of approval and the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products
 - 13.5 section 30(d) which empowers you to make rules for the specification of definitions, abbreviations, and units of measurement to apply within the civil aviation system.

Matters for your consideration

14. Section 33 of the Act sets out the matters that you are required to take into account in exercising your power to make rules. These matters have been taken into account in developing the Rules and are discussed below. Consideration of these matters by you cannot be delegated.
15. Under section 33(1) of the Act ordinary rules shall not be inconsistent with the standards of the International Civil Aviation Organization (ICAO) relating to aviation safety and security, to the extent adopted by New Zealand or with New Zealand's international obligations relating to aviation safety and security. The Rules are not inconsistent with the standards in the relevant annexes to the Convention on International Civil Aviation (the Convention) or with New Zealand's international obligations for safety and security.
16. Under section 33(2) of the Act, in making any rule, you must have regard to, and give such weight as you consider appropriate in each case to, the following:

Section 33(2)(a) - The recommended practices of ICAO relating to aviation safety and security, to the extent adopted by New Zealand

- 16.1 The Rules are consistent with the standards in Annex 8 of the Convention relating to the issue of airworthiness certificates for aircraft that are entered on the New Zealand Register of Aircraft.

Section 33(2)(b) - The level of risk existing to aviation safety in each proposed activity or service

- 16.2 Currently all certificated aircraft that do not qualify for the issue of a standard category or restricted category airworthiness certificate are issued with a special category - experimental airworthiness certificate. The term "experimental" is misleading and

inappropriate for many of these aircraft, which range from amateur built aircraft to high performance ex-military aircraft and which may be operated for various purposes, excluding the carriage of persons and goods for hire or reward. The Rules provide for the separation of special category aircraft into six sub-categories, with defined limitations on the use of aircraft in each sub-category. The better classification of the various types of special category aircraft that are operating in New Zealand will enhance aviation safety.

Section 33(2)(c) - The nature of the particular activity or service for which the rule is being established

16.3 Currently all aircraft other than microlight aircraft and hang gliders are required to be operated in accordance with an airworthiness certificate. However, Part 21 of the civil aviation rules only provides for three types of airworthiness certificate:

- (a) a standard category certificate for aircraft that are designed and built to approved civil aviation airworthiness design standards
- (b) a restricted category certificate for standard category aircraft that have been permanently modified for agricultural aircraft operations and which are unsuitable for carrying passengers
- (c) a special category certificate for all those aircraft that do not meet the standards for the issue of a special or a restricted category certificate. These types of aircraft range from:
 - amateur (home built) aircraft, to
 - vintage aircraft that were originally designed and manufactured to an approved airworthiness standard, but which are no longer supported by continuing airworthiness information from the manufacturer or state of design, to
 - high performance ex-military aircraft.

16.4 As noted above, currently all special category aircraft are issued with a "special category – experimental" airworthiness certificate. This "one size fits all approach" does not adequately identify the various types of special category aircraft, nor does it allow for the various types of operations that some of these special category aircraft may be safely used for. The Rules establish six sub-categories of special category aircraft to more appropriately identify the various types of special category aircraft and to allow appropriate requirements and operational limitations to be imposed in respect of each sub-category. This will include additional operating and maintenance requirements for ex-military aircraft.

Section 33(2)(d) - The level of risk existing to aviation safety and security in New Zealand in general

16.5 The amendments made by the Rules will enhance aviation safety with an improved classification system for the various types of special category aircraft that are operating in New Zealand, and with the additional operating and maintenance requirements that are being introduced for ex-military and other aircraft in the special category. The Rules will not affect the level of risk existing to aviation security in New Zealand.

Section 33(2)(e) - The need to maintain and improve aviation safety and security, including (but not limited to) personal security

16.6 The amendments made by the Rules will enhance aviation safety, but will not impact on aviation security.

Section 33(2)(f) - Whether the proposed rule assists economic development, improves access and mobility, protects and promotes public health or ensures environmental sustainability

16.7 The Rules are unlikely to significantly affect economic development, or have any effect on access and mobility, public health, or environmental sustainability.

Section 33(2)(fa) - The costs of implementing such measures for which the rule is being proposed

16.8 There will be an initial cost resulting from the CAA reissuing airworthiness certificates in the appropriate sub-categories for existing special category aircraft. This will be charged to operators at the usual CAA charging rate of \$133 per hour. It is estimated that the time involved will range from one hour for an existing amateur-built aircraft to five hours for ex-military and vintage aircraft.

16.9 The Rules may involve a small initial cost for operators of existing special category aircraft that are re-certificated in the "exhibition" or "limited" sub-categories as the operator will be required to provide an operator statement for these aircraft at a likely cost of \$100 to \$200 per aircraft and the maintenance programme for the aircraft may have to be amended to include the matters required under the proposed rule 91.607(d) at a likely cost of \$200 per aircraft.

16.10 The move from an annual review of airworthiness to a biannual review of airworthiness will reduce ongoing maintenance costs by approximately \$240 per annum for each special category aircraft.

Section 33(2)(g)(i) - The international circumstances in respect of aviation safety and security

16.11 The Rules will not affect or be affected by international circumstances in respect to aviation safety and security.

Section 33(2)(g)(ii) - The international circumstances in respect of mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements

16.12 The Rules do not affect and are not affected by ANZA mutual recognition agreements, which are concerned with commercial operations.

Section 33(2)(h) - Such other matters as you consider appropriate in the circumstances

16.13 The Rules include provision for the Director of Civil Aviation to approve "hire or reward" operations using special category - limited aircraft. The position of operators of special category aircraft, who wish to undertake hire and reward operations, will be further addressed in the upcoming Part 115 "Adventure Aviation" rule project.

Incorporation by reference

16.14 Under section 36(1)(b) of the Act, rules may incorporate by reference standards, requirements, or rules prescribed under law by any other contracting State of ICAO.

- (a) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category – primary aircraft, incorporate by reference Federal Aviation Regulation (FAR) 21.24, which is the US Federal Aviation Authority airworthiness standard for primary category aircraft.
- (b) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category – light sport aircraft, incorporate by reference FAR 21.190, which specifies the standards for seat and torso restraints.

Compliance

- 17. The Rules comply with the principles of the Treaty of Waitangi, both the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, the principles and guidelines set out in the Privacy Act 1993, the relevant international standards and the Legislation Advisory Committee's guidelines.

Public notification of draft rule and consultation

- 18. Section 34 of the Act requires you to undertake public notification and consultation in relation to proposed rules. This has been conducted by the CAA on your behalf pursuant to an instrument of delegation made by Hon Maurice Williamson in 1998, the terms of the Agreement for Rules Development Services made between the Director of Civil Aviation and the Chief Executive of the Ministry of Transport, and section 34 of the Act.

- 19. The statutory requirements are:

- 19.1 Under section 34(1)(a) of the Act, to publish public notification of your intention to make proposed rules in the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, respectively, and in the *Gazette*.

- (a) The Notice of Proposed Rule Making (NPRM) for the proposed amendment to Part 21 and consequential amendments to Parts 1, 43, 66 and 91 was notified in the *Gazette* and in the specified newspapers on 26 October 2006.

- (b) The NPRM did not include a draft of the proposed consequential amendment to Part 47 – Aircraft Registration and Marking as at the time it was proposed to address the substantive issue, operator statements, in the context of the proposed amendments to Part 91 – General Operating and Flight Rules.

- 19.2 Under section 34(1)(b) of the Act, to give interested persons a reasonable time, which must be specified in the notice, to make submissions on the NPRM.

- (a) Submissions closed on 8 December 2006, a period of 41 days from publication of the notice.

- (b) The Ministry believes that you can conclude that this was a reasonable period in which to make submissions on the draft Rules.

- 19.3 Under section 34(1)(c) of the Act, to consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as you in each case consider appropriate.

- (a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included the Royal New Zealand Aero Club, the Recreational Aircraft Association of

New Zealand, the Sport Aircraft Association of New Zealand, Gliding New Zealand, the NZ Warbirds Association, the NZ Sport and Vintage Aviation Society, operators of special category aircraft, and manufacturers and restorers of special category aircraft.

- (b) The CAA received seven submissions on the NPRM. The submissions and comments were considered and taken into account in finalising the Rules. A summary of the submissions and the CAA responses to the original NPRM is appended to rule Part 21.

19.4 Under section 34(1)(d) of the Act, to consult with the Environmental Risk Management Authority, established under the Hazardous Substances and New Organisms Act 1996, about the contents of any rules that relate to the transportation of hazardous substances as defined in section 2 of that Act. As the CAA considered that the Rules do not relate to the transportation of hazardous substances they concluded that consultation with the Environmental Risk Management Authority was not required.

19.5 The Ministry considers that you can be satisfied that the consultation on the draft Rules met the requirements of section 34 of the Act.

Regulations Review Committee

20. Ordinary rules are regulations for the purpose of the Regulations (Disallowance) Act 1989 and under section 4 of that Act must be laid before the House of Representatives not later than the sixteenth sitting day after they are made.

20.1 On 20 February 2009 drafts of the Rules were referred to the Regulations Review Committee on your behalf under Standing Order 309(2).

20.2 The Chair of the Regulations Review Committee responded to the Secretary of Transport on 13 March 2009, advising that they had no issues with the Rules.

20.3 There do not appear to be any grounds for the Regulations Review Committee to draw the Rules to the attention of the House under Standing Order 310(2).

Publicity

21. The CAA will notify the making of the Rules in the *Gazette* as required by Section 34(4) of the Act. The CAA will also publicise the Rules in its publications and on its website.

Recommendation

22. I recommend that you:

(a) **note** the contents of this memorandum;

(b) **sign** Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and Part 91, General Operating and Flight Rules, Amendment 20;

(c) **authorise** notification of Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and

Part 91, General Operating and Flight Rules, Amendment 20, in the *New Zealand Gazette*; and

- (d) **authorise** the laying of Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 41; Part 21, Certification of Products and Parts, Amendment 8; Part 43, General Maintenance Rules, Amendment 7; Part 47, Aircraft Registration and Marking, Amendment 3; Part 66, Aircraft Maintenance Personnel Licensing, Amendment 3; and Part 91, General Operating and Flight Rules, Amendment 20, before the House of Representatives.



Chris Roblett
Senior Solicitor

Noted / agreed

Steven Joyce
Minister of Transport

Dated: ___ / ___ / ___

RELEASED UNDER THE
OFFICIAL INFORMATION ACT 1982

Robert Spies
Wednesday, 26 August 2009 15:47
Chris Roblett; Glen-Marie Burns
FW: Part 121 EDTO: 90 minute rule

Subject:

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- Rules Gazetted – 1 Oct
- Rules in force – 29 Oct

Do these dates look alright?

Robert

From: Mark Hughes [mailto:HughesM@caa.govt.nz]
Sent: Wednesday, 26 August 2009 8:56 a.m.
To: Robert Spies
Cc: Chris Lamain; cleggs@caa.govt.nz
Subject: RE: Part 121 EDTO: 90 minute rule

Hi Robert,

Air NZ gave CAA a draft document on their EDTO implementation and asked for our feedback before their internal Air NZ meeting to finalise. I have provided considerable feedback to them in an email and am awaiting

their response. I would prefer that we allow them the opportunity to address my comments before taking a position. To do otherwise could affect the good working relationship we have with this operator. Should their position not change on these issues then I would be happy to share the details with you so a decision can be made on the best way forward re Rule approval/amendment.

Regards,
Mark

From: Robert Spies [mailto:R.Spies@transport.govt.nz]
Sent: Tuesday, 25 August 2009 11:39 a.m.
To: Mark Hughes
Subject: FW: Part 121 EDTO: 90 minute rule

Mark,

For our end, we need some explanation, in simple terms, of what exactly are the CAA's safety concerns over Air NZ's proposed 90 mins non-EDTO flight paths that they have shown to the CAA.

Chris showed me two charts for B777-200s between HKG-LHR and LAX-LHR, and two charts for B737-300s for Tasman and South Pacific operations at TAS 400 & 375 kts. Can you give some explanation for each?

Chris said there was some surprise at the flight paths that ANZ have proposed, and that CAA was not sure what the rationale was? Does the CAA have any further thoughts?

Also, what is the CAA's preferred option to address the safety concerns? And the implications for ANZ and other operators if the rule is amended?

At this stage in the rules' development, we want to avoid pulling the Part 121 amendments altogether given the benefits EDTO is meant to deliver, but if there is an amendment some further consultation with affected parties may be required.

Thanks, Robert

From: Chris Lamain [mailto:lamainC@caa.govt.nz]
Sent: Thursday, 20 August 2009 10:39 p.m.
To: Mark Hughes
Cc: Robert Spies; Chris Roblett; Peter Blackler; Salote Raiwalui; Jeff Rees
Subject: Part 121 EDTO: 90 minute rule

Mark

Following on from our conversation today regarding the EDTO 90 minute rules, I discussed the ANZ proposal to use its twin-engine fleets on long-haul and Pacific Island routes non-EDTO using 90 minute range circles – and in some cases with high single engine inoperative cruise speeds.

There is a view that the rule could still be amended before being signed by the Minister although limited consultation would probably still be required.

Although not stated in NPRM 08-01, the 90 minute rule came about to meet an Australian requirement and was instituted in both Australian and New Zealand legislation to ensure standardisation between the two countries. This was seen as being necessary in the New Zealand legislation to provide a level playing field for NZ operators conducting Part 121 operations within Australia.

In this context, the 90 minute rules could be amended to reflect this intention by limiting the provision to operations within Australia. For example:

121.165 Route distance limitations

(c) For operations within Australia, aA holder of an air operator certificate with ANZA privileges operating an aeroplane with 2 turbine powered engines that is certificated to type design specifications for operating more than 60 minutes flight time (calculated at the one engine inoperative cruise speed in still air and ISA conditions) from an adequate aerodrome may operate the aeroplane on an air operation to the limit of its type design certification, but not more than 90 minutes flight time (calculated at a one engine inoperative cruise speed in still air and ISA conditions) from an adequate aerodrome if—

- (1) the aeroplane is configured, maintained and operated in accordance with the relevant CMP for the applicable diversion time; and
- (2) the maintenance programme required under rule 119.63 for the aeroplane—
 - (i) incorporates the inspection and maintenance requirements specified in the CMP or type design document for the airframe and engine combination; and
 - (ii) includes procedures equivalent to the procedures and requirements prescribed in rule 121.407 regarding maintenance on multiple identical systems.

If you feel that this option is worthy of further consideration, can you please liaise directly with Robert Spies at the MoT in the first instance as I am on leave until 31 August 2009. Please note that the MoT is looking to get the rules to the Minister's office next week.

Regards
Chris

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Chris Roblett

From: Chris Roblett
Sent: Thursday, 28 May 2009 09:26
To: Robert Sples
Cc: Glen-Marie Burns
Subject: RE: Part 21 Draft Final Rule

Thanks Robert,

This seems to support the view that there is not a particular safety issue in special category helicopters in undertaking external load operations within original design parameters.

I'm happy with the proposed changes to the legal memorandum, which I have accepted.

I have moved the timing about a month out, as follows:

'The Rule is drafted to come into force on 6 August 2009.

Section 34(4) of the Civil Aviation Act 1990 (the Act) states that rules must be *Gazetted* at least 28 days before they come into force. Therefore, the Rules must be *Gazetted* no later than 9 July 2009.

"Goatskin" signature copies of the Rules will be provided for signature by you following the Cabinet meeting on 30 June 2009, at which your intention to make the Rules will be noted. You will need to sign the Rules prior to 7 July 2009 to enable the *Gazette* notice to be confirmed.'

This would mean that the Minister would get the Docmin next week and need to lodge the EGI paper on 18 June for consideration on 24 June.

If that is OK I'll print out a hard copy of the legal memo and sign it for you.

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Robert Sples
Sent: Wednesday, 27 May 2009 4:21 PM
To: Chris Roblett
Cc: Glen-Marie Burns
Subject: Part 21 Draft Final Rule

Hi Chris,

Following up on Bruce's comments on the draft Legal memo for Part 21, I have attached the latest safety data from CAA...

This indicates that between 1992-2009 there have been 14 accidents involving ex-military helicopters (8 in the restricted category, 6 in the special category). This resulted in 7 fatalities overall.

Of those 14 accidents, if you look at the 6 special category accidents, 1 was involved in an agricultural operation, 3 in hell-logging and 2 not specified. Of the 8 restricted category accidents, 3 were agricultural operations, 2 hell-logging, 1 external load and 2 unknown.

Currently, there are 5 restricted ex-military helicopters registered in NZ. There are no special category registered.

Given the small size of the fleet, the accident rate is extremely high regardless of cause.

None of the CAA investigations as far as I can tell, indicate that performing the external load or hoisting operation contributed to the accident. In most cases, it was attributable to human error or a maintenance issue.

I have also attached the latest CAA letter sent to the AIA in March 2009 regarding the CAA's policy on restricted category ex-military helicopters. The CAA is pursuing a policy of reducing the restricted category fleet currently on the register through attrition. CAA are saying that they will consider potential new restricted category ex-military helicopters on a case-by-case basis. Since 2003, the CAA have not approved restricted category helicopters for repetitive lifting operations.

Going back to the Legal memo (WGTA 10804), I have tweaked the wording that Bruce highlighted — are you comfortable with the changes?

Robert

From: Chris Lamain [mailto:LamainC@caa.govt.nz]
Sent: Monday, 18 May 2009 7:05 a.m.
To: Robert Spies
Cc: Peter Blackler
Subject: FW: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

From: John Lanham
Sent: Friday, 15 May 2009 5:39 p.m.
To: Chris Lamain
Cc: Peter Blackler
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Chris

The attached letter to CE AIA spell out the current status of RCSM aircraft and the policy being following by the CAA.

Chrs JL

From: Chris Lamain
Sent: Thursday, 14 May 2009 12:19 p.m.
To: John Lanham
Cc: Peter Blackler
Subject: FW: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

John

Have you got an update on RCSM helos for the MoT?

Regards
Chris

From: Robert Spies [mailto:R.Spies@transport.govt.nz]
Sent: Thursday, 14 May 2009 11:25 a.m.
To: Peter Blackler

Cc: Chris Lamaln; Glen-Marie Burns

Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Peter, thank you for all the papers.

Michael Campbell has come back to me also indicating that at present there are only 5 restricted category and nil special category registered ex-military helicopters registered in NZ.

Following on from John Lanham's letter to industry in January 2008 can you tell me what is the current status of that policy review and what is the policy being following by the CAA with respect to ex-military helicopters i.e. the letter mentioned a range of options the CAA was considering in the section "The Way Ahead" ?

Regards, Robert

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]

Sent: Wednesday, 13 May 2009 5:18 p.m.

To: Robert Spies

Cc: Chris Lamaln

Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Robert

We have virtually exhausted our searches for the information you have been requesting.

John Lanham has not been able to provide me with a copy of any letter dated 5 March 2008 sent to industry but I have previously provided you with the letter dated 31 January 2008 that John says is the letter sent to industry. I have attached a copy of that letter.

Also attached are the terms of reference, June 2001, for the review of the Ex Military helicopters, and the Remacha report dated 8 August 2002 arising from those terms of reference.

The reference in the AIA communications to the review completed in May 2002 are likely to be referring to the actual review that was probably completed in May 2002 but the report not completed until the 8 August 2002.

I hope this satisfies your requirements.

Regards

Peter Blackler

Technical Manager Rules

From: Robert Spies [mailto:R.Spies@transport.govt.nz]

Sent: Wednesday, 13 May 2009 10:40 a.m.

To: Peter Blackler

Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Hi Peter,

I've seen two references on the AIA website to a letter John Lanham sent out on 5 March 2008 to industry. I have not been able to locate a copy - can you email to me please? (see <http://www.aia.org.nz/site/aianz/files/NZHA/OIA-SurplusMilitaryHelis%20inNZ.pdf>)

Thanks, Robert

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]

Sent: Tuesday, 8 July 2008 4:07 p.m.

To: Nick Taylor

Subject: FW: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Well this time I will attach the document.

Peter Blackler

From: Peter Blackler
Sent: Tuesday, 8 July 2008 3:58 p.m.
To: 'Nick Taylor'
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Nick

As far as I can find out there has not been any further assessment of the issues surrounding external load operations with special category helicopters. However there is ongoing work relating to the operation of restricted category surplus military helicopters in New Zealand and the concerns (restrictions or prohibitions) relating to external load operations (lifting operations) are the same. Under the new proposed amendments to Part 21 the surplus military helicopters, except those already certificated as restricted category, will remain as special category experimental or be certificated as special category limited.

I have attached a copy of a letter, sent to the operators of the restricted category surplus military helicopters, that sets out the CAA concerns about the operation of surplus military helicopters in New Zealand.

I hope this addresses your concerns.

Peter Blackler
Technical Manager Rules

From: Nick Taylor [mailto:N.Taylor@transport.govt.nz]
Sent: Monday, 7 July 2008 8:12 a.m.
To: Peter Blackler
Cc: Chris Roblett; Glen-Marie Burns; Chris Lamain
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Thanks for this Peter.

I see in David Gill's memo of 24 February 2006 that he recommends the prohibition action be put in place "until an airworthiness assessment of that type of operation has been made". Are you able to provide me with a copy of this subsequent investigation?

Regards,

Nick

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Wed 02/07/2008 10:01
To: Nick Taylor
Cc: Chris Roblett; Glen-Marie Burns; Chris Lamain
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Hi Nick

Attached are the back ground papers relating to the Director's section 21(2) prohibition on external loads for Special Category helicopters.

Will now work on the track change document for you.

Regards
Peter Blackler

From: Nick Taylor [mailto:N.Taylor@transport.govt.nz]
Sent: Wednesday, 25 June 2008 8:43 p.m.
To: Peter Blackler
Cc: Chris Roblett; Glen-Marie Burns
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

eter,

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Wed 25/06/2008 17:09
To: Nick Taylor
Cc: Chris Roblett
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Hi Nick and Chris

I have not yet been able to put my hand on a document that appears to directly relate to the Director's decision to issue the prohibition notice under section 21(2) regarding external load operations by special category helicopters. There are all sorts of papers dealing with the concerns and issues relating to the operation of ex-military helicopters for logging operations etc but nothing so far directly applicable to the prohibition notice. Legal Unit are working on it and will hopefully have something that I can pass onto you next week when I am back in the office.

I will also get a track change version of the rule documents compiled for you when I return on Tuesday.

Regards

Peter Blackler
Technical Manager Rules
Civil Aviation Authority of
New Zealand
Tel 64-4- 560 9413
Fax 64-4-560 9481
Email: blacklerp@caa.govt.nz

From: Nick Taylor [mailto:N.Taylor@transport.govt.nz]
Sent: Tuesday, 24 June 2008 11:14 a.m.
To: Peter Blackler
Cc: Chris Roblett
Subject: FW: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Peter,

On a related matter, I understand the Ministry has not received contracted track change versions of the Part 21 final draft rules against NPRM. It would help us speed things along if you could provide these.

Regards,

Nick

From: Nick Taylor
Sent: Tue 24/06/2008 10:50
To: Peter Blackler
Subject: RE: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Hi Peter,

Further to our conversation last week re special category helicopters and ag ops/ sling loads, how are you going with tracing the information that prompted the prohibition notice in the first place, and any subsequent investigation on the matter that supported entrenching the prohibition in rules?

Regards,

Nick

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Thu 08/05/2008 14:05
To: Nick Taylor
Cc: Chris Lamain
Subject: Part 21 Draft Final Rules - Additional Amendments to Parts 47 and 91

Nick

I understand that you are temporarily back with MoT and will be reviewing the draft final rules for the Part 21 Special Category Aircraft rule project. Since the end of last week when Chris Lamain sent the package of draft final rules for this project to MoT for review I have discovered that some consequential changes to other rules had not been picked up. Attached a new copy of Part 47 that includes a consequential change to rule 47.104(a) to delete the reference to "experimental" where it refers to a special category airworthiness certificate. Also attached a new copy of Part 91 that includes a consequential change to rules 91.107(b)(1) and 91.537(c) to delete the reference to "special category airworthiness certificate" and just refer to *special flight permit*.

Thanks

Peter Blackler
Technical Manager Rules
Civil Aviation Authority of
New Zealand
Tel 64-4- 560 9413
Fax 64-4-560 9481
Email: blacklerp@caa.govt.nz

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C-19825-01 (DW1174834-0)

24 March 2009

Ms Irene King
Chief Executive
Aviation Industry Association of NZ (Inc)
PO Box 2096
WELLINGTON 6140

Dear Irene

Restricted Category Ex-Military Helicopters

Thank you for your letter of 9 March 2009 regarding the certification and operation of Restricted Category Surplus Military (RCSM) helicopters. It is timely to review the situation although there has been little related activity in industry since Conference last year.

I noted at Conference that we have considered a number of courses of action and consulted as widely as possible with interested parties. We have acknowledged existing operators of RCSM aircraft and the overall safety record of these aircraft when utilised in the agricultural role. Those operators have been consulted with a view to continuing existing operations and have been advised independently of our intention to manage the current New Zealand fleet.

We have already advised that it is the Director's intention not to allow an increase of RCSM helicopters on the Register beyond those currently there, as a matter of right. Any projected change to the current number of helicopters operated by those operators will be discussed on a case by case basis with the Director.

We have also indicated that existing Mandatory Flight Manual Supplements issued by the CAA will be reviewed and reissued to identify correctly the permitted special uses under NZCARs and that the carriage of passengers will be prohibited in the new supplements. This has been subordinated to more pressing work recently but I will look to progress it.

In the event that an operator, not already operating RCSM helicopters, wishes to do so it will be necessary to approach CAA with details of intended aircraft (by type and model and numbers to be operated) and intended type of operations including any relevant experience in the operation and maintenance of such types.

The Director will consider any approach on a case by case basis and, if accepted, will most likely manage such an operation by way of an individual approved maintenance programme and a Flight Manual Supplement permitting only those activities that have been declared and considered during the approval process. In particular, although CAR 135.53 allows a Restricted category aircraft to be used for commercial transport under certain conditions, it is the Director's intention to prohibit carriage of passengers in RCSM helicopters. Accordingly, it is likely that RCSM helicopters will be withdrawn from existing Part 119 Operations

Specifications (OpSpecs) and will not be added to existing or new OpSpecs in the future, because the defined permitted activities will be able to be carried out under Part 133.

The above applies, by definition, to RCSM aircraft. Any helicopter introduced to the Register under the Special category cannot conduct hire or reward operations, unless qualifying for limited eligibility to do so under the proposed new Rule Parts 21 and 115. Any helicopter introduced to the Standard category will of course have no restrictions.

Yours sincerely

John Lanham
General Manager
General Aviation Group

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Text Value	Occurrence No	Aircraft Model	Occurrence Date/Time	Basic acc descriptor
^BREstrictedB^ for the purp	06/2102	UH-1H	06-Jun-06	COMPONENT/SYSTEM MALF
^BREstrictedB^	93/5381	R22 Beta	17-Nov-93	Dynamic Roll-over (heli)
^BREstrictedB^	97/3523	TH-1F	06-Dec-97	Tail Rotor Drive Shaft
^BREstrictedB^	00/2674	UH-1B	12-Aug-00	Fence/fence Post
^BREstrictedB^	01/44	UH-1F	14-Jan-01	Hydraulic
^BREstrictedB^	01/44	UH-1F	14-Jan-01	Hydraulic
^BREstrictedB^	01/44	UH-1F	14-Jan-01	Hydraulic
^BREstrictedB^	01/1947	UH-1H	04-Jun-01	General Breakup/disintegrati
^BREstrictedB^	01/1947	UH-1H	04-Jun-01	General Breakup/disintegrati
^BREstrictedB^	01/1947	UH-1H	04-Jun-01	General Breakup/disintegrati
^BREstrictedB^	01/1947	UH-1H	04-Jun-01	General Breakup/disintegrati
^BREstrictedB^	01/1947	UH-1H	04-Jun-01	General Breakup/disintegrati
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Struck By Object
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Struck By Object
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Uncontrolled Rotation (heli)
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Uncontrolled Rotation (heli)
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Collision Hill/mountain
^BREstrictedB^	03/2	UH-1E	03-Jan-03	Collision Hill/mountain
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	Main Rotor
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	General Breakup/disintegrati
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	Main Rotor
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	General Breakup/disintegrati
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	Main Rotor
^BREstrictedB^	04/1354	UH-1B	22-Apr-04	General Breakup/disintegrati
^BSPECIAL CATEGORYB^	99/2830	Scout AH/1	30-Sep-99	Fuel Starvation
^BSPECIAL CATEGORYB^	00/1054	Scout AH/1	17-Mar-00	Tree
^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	ENGINE POWER LOSS
^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	Collision Hill/mountain
^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	ENGINE POWER LOSS
^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	Collision Hill/mountain

10

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^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	ENGINE POWER LOSS
^BSPECIAL CATEGORYB^	01/451	Wessex HC Mk 5C	11-Feb-01	Collision Hill/mountain
^BSPECIAL CATEGORYB^	02/704	Scout AH/1	12-Mar-02	Tree
^BSPECIAL CATEGORYB^	02/704	Scout AH/1	12-Mar-02	Tree
^BSPECIAL CATEGORYB^	02/704	Scout AH/1	12-Mar-02	Tree
^BSPECIAL CATEGORYB^ - Exp	01/1898	UH-1H	24-May-01	Cargo Shifted
^BSPECIAL CATEGORYB^ - Exp	02/3688	UH-1H	19-Dec-02	Wire/cable/powerline

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Injuries_Minor_PAX	Brief_Description	Brief_Description_ext	Finding_Text	Finding_Extended_Text
0	Lakeland Helicopters reported uncontrolled turn and heavy	uncontrolled turn and heavy		
0	Wind gust, tipped over			
0	Aircraft was lifting a log when	slow down. Aircraft impacted	The TRDS coupling seal was p	er 150 hours ago and 100hr in
0	While the helicopter was being	not reach translational lift, an	While the helicopter was being	onal lift, and the pilot aborted
0	Significant event: The pilot placed the skip c	ly. The pilot placed the skip c	The pilot lost control of the h	
0	The helicopter was shifting sky	ly. The pilot placed the skip c	The pilot lost control of the h	
0	The helicopter was shifting sky	ly. The pilot placed the skip c	No finding here -can't delete	
0	Significant event: On Monday	ended. The in-flight break-up	A TAIC investigation has dete	that this was not the cause of
0	Significant event: On Monday	ended. The in-flight break-up	Certain information was reco	
0	Significant event: On Monday	ended. The in-flight break-up	There was some difficulty in c	
0	Significant event: On Monday	ended. The in-flight break-up	There was some difficulty in c	
0	Significant event: On Monday	ended. The in-flight break-up	A TAIC investigation has dete	
0	The helicopter was on logging	erk caused the line to pull fre	During a logging operation, th	
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0	It was reported that the helic		Investigation into the regulat	procured against hours recor
0	It was reported that the helic		The Commission recommend	
0	It was reported that the helic		The Commission recommend	
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0	It was reported that the helic		The Commission recommend	uate identification of critical
0	Aircraft crashed, due possibly		The pilot did not correctly ma	
0	The helicopter tail rotor struc	vered by road. The pilot has		
0	Significant Event: During heli-	some 400 feet below the pick	The maintenance program fo	
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0	Significant Event: During heli-	some 400 feet below the pick	The CAA were deprived of inf
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0	A helicopter crashed while lif		Under instruction from Gene
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0	Significant event. The helicop		line and hook assembly.

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Chris Roblett

From: Chris Roblett
Sent: Thursday, 23 April 2009 13:44
To: Robert Spies
Cc: Glen-Marie Burns
Subject: Part 21 Cabinet Papers - Timings

Hi Robert,

David returned the Docmin to me so I've amended the legal memo and passed it to Jean.

The Gazette is published on Thursday so I have changed 12 June and 10 July to 11 June and 9 July.

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Chris Roblett
Sent: Thursday, 23 April 2009 1:22 PM
To: Robert Spies
Cc: Glen-Marie Burns
Subject: RE: Part 21 Cabinet Papers - Timings

Hi Robert,

The Docmin is with David and he should get to it this afternoon.

I agree that we should push the dates out as suggested. Let me know when you get the hard copy back and I will adjust the hard and soft copies of the legal memo.

Regards,

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Robert Spies
Sent: Wednesday, 22 April 2009 4:14 PM
To: Chris Roblett
Cc: Glen-Marie Burns
Subject: Part 21 Cabinet Papers - Timings

Hi Chris,

I've looked at the Indicative timings for Part 21 coming into force on/after 25 June (see below).

- Draft Cabinet papers sent to OEGI secretary – 23 April (Thurs)
- OEGI meets – 28 April (Tues @ 0900)
- Draft Cabinet papers with Minister for consideration
- Lodge with Cabinet Office – 7 May (Thurs)

- EGI – 13 May (Wed @ 1100)
- Cabinet - 18 May
- Gazettal - 28 May
- Rule coming into force on or after - 25 June

With the OEGI process we have to include now I could send the draft Cabinet papers to the OEGI secretary tomorrow but that would only give the Minister six working days to consider the paper after the OEGI meets next week on Tuesday. What do you think? Six working day not enough for the Minister's office?

Unless we aim for EGI on 27 May which would then give a rule coming into force date of 10 July. The Minister will then have over two weeks and we can send the draft papers to OEGI next week.

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- Cabinet – 2 June
- Gazettal – 12 June
- Rule coming into force on or after - 10 July

Has David signed the red sheet yet? And with QA yet?

Thanks, Robert

Robert Spies
Principal Adviser Aviation, Aviation Maritime & Security Group
Ministry of Transport – Te Manatū Waka

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Robert Spies
Principal Adviser Aviation, Aviation Maritime & Security Group
Ministry of Transport – Te Manatū Waka

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23

T: [04] 471 9999



REGULATIONS REVIEW COMMITTEE

8 April 2009

9
Mr Martin Matthews
Chief Executive
Ministry of Transport
P.O. Box 3175
Wellington



Dear Mr Matthews

Referral of draft Civil Aviation Rules: Part 21 Amendment – Special Category Aircraft

A letter to this effect dated 13 March 2009 and signed by Graham Hill, then Clerk of Committee, was sent last month but I understand that it has failed to arrive. As such, I am sending this letter in its place.

Thank you for your letter to the Chairperson of the Regulations Review Committee, dated 20 February 2009, referring the above regulations to the committee. These regulations were considered by the committee at its meeting on 12 March 2009. The committee has no matters to raise with you about these draft regulations at this time.

Yours sincerely

Renée Riddell-Garner
Legislative Counsel
Regulations Review Committee

Cc Chris Roblett, Senior Solicitor, Corporate, Ministry of Transport

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Chris Roblett

From: Chris Lamaln [LamalnC@caa.govt.nz]
Sent: Wednesday, 16 April 2009 07:29
To: Chris Roblett
Cc: Peter Blackler; Robert Sples
Subject: RE: CAR Part 21

Chris

I agree.

Regards
Chris

From: Chris Roblett [mailto:C.Roblett@transport.govt.nz]
Sent: Tuesday, 14 April 2009 6:54 p.m.
To: Chris Lamaln
Cc: Robert Sples
Subject: CAR Part 21

Hi Chris,

Robert and I are finalising the papers to go to the Minister.

There is one outstanding query, which CAA may have highlighted, regarding the whether or not the proposed Rules "affect the level of risk existing to aviation safety".

The Director's letter of 30 April 2008 says that the Rules do not affect the level of risk existing to aviation safety as regards s33(2)(b) and that, under s33(2)(d) the Rules should enhance the general level of safety as a result of the better classification of the types of special category aircraft and the additional operational and maintenance requirements for ex-military aircraft.

I suggest adopting the position as set out as regards s33(2)(d) and amending the statement that the rules do not affect the level of risk to safety under s33(2)(b) accordingly. Do you agree?

Regards,

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

MINISTRY OF TRANSPORT
Wellington (Head Office) | 39 The Terrace | PO Box 3175 | Wellington 6140 | NEW ZEALAND | Tel: +64 4 439 9000 | Fax: +64 4 439 9001
Auckland | The Government Urban and Economic Development Office | 45 Queen Street | PO Box 106238 | Auckland City | Auckland 1143 | NEW ZEALAND | Tel: +64 9 9854827 | Fax: +64 9 9854849
Christchurch | 96 Hereford Street | PO Box 3014 | Christchurch 8140 | NEW ZEALAND | Tel: +64 3 366 9304 | Fax: +64 3 366 9317

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Chris Roblett

From: Chris Roblett
Sent: Tuesday, 14 April 2009 17:50
To: Robert Spies
Subject: RE: Part 21 Cabinet Papers

Hi Robert,

I have gone through the legal memo and updated it. All seems to be in order, apart from the query on whether or not the proposed Rules "affect the level of risk existing to aviation safety" as there is inconsistent narrative in the Director's letter of 30 April 2008 concerning s33(2)(b) and (d). I suggest removing the statement that the rules do not affect this under s33(2)(b) and will email Chris Lamain to confirm.

Apart from that, all appears to be go to proceed to QA. The formatting will need fixing, and I would prefer to do this when we have resolved the above query and removed the final comment.

I have inserted some "working" dates to para 9, which would have the rule in force by the end of this FY. They give us until the end of next week (24th April) to get the red sheet signed out. The Minister then has the papers for nearly 2 weeks, from 27 April, lodging the EGI paper on 7 May for EGI on 13 May.

Regards,

Chris Roblett
Senior Solicitor, Corporate
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9362 | F: +64 4 439 9004 | c.roblett@transport.govt.nz | www.transport.govt.nz

From: Robert Spies
Sent: Tuesday, 14 April 2009 4:41 PM
To: Chris Roblett
Subject: Part 21 Cabinet Papers

Hi Chris,

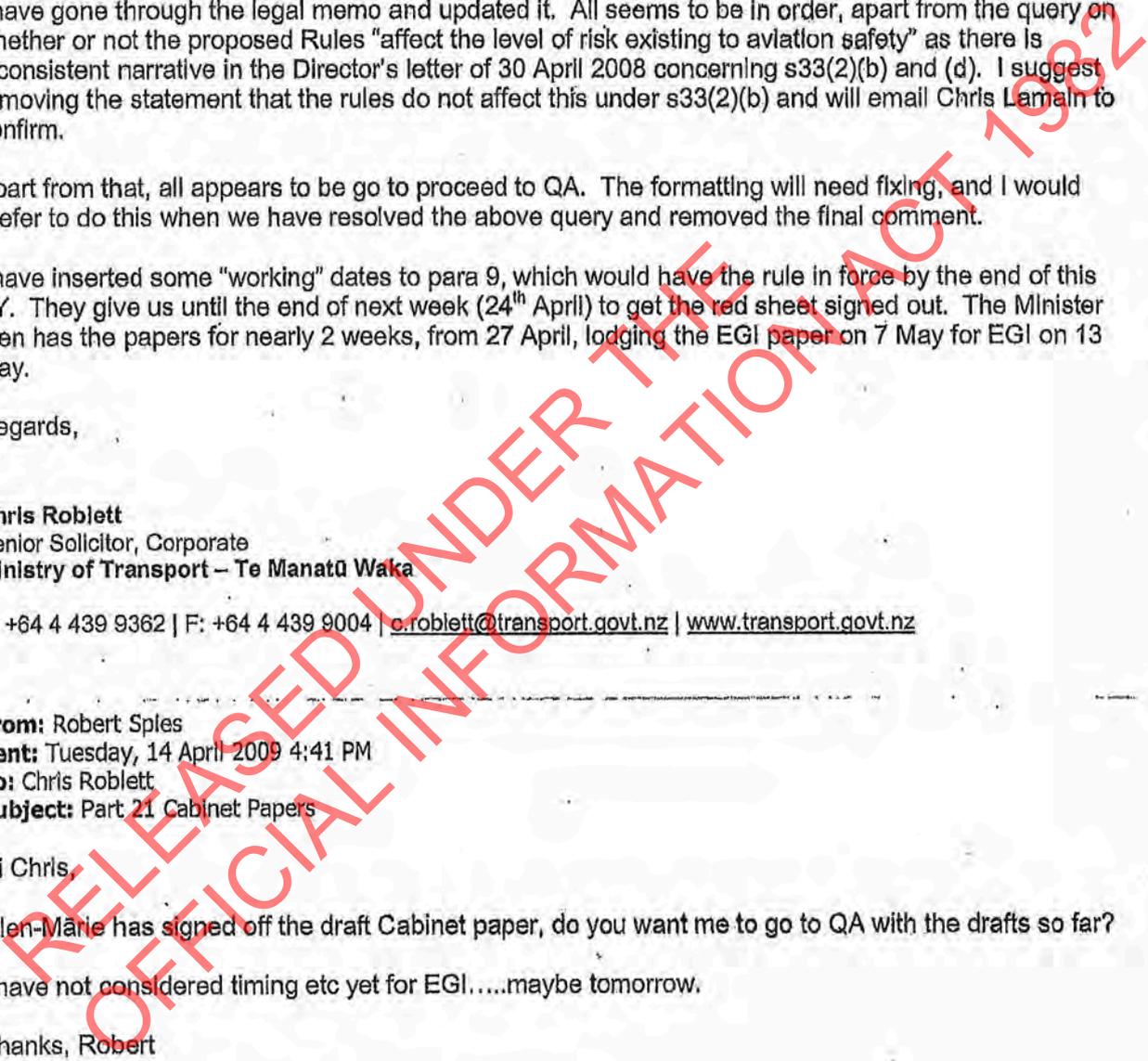
Glen-Marie has signed off the draft Cabinet paper, do you want me to go to QA with the drafts so far?

I have not considered timing etc yet for EGI.....maybe tomorrow.

Thanks, Robert

Robert Spies
Principal Adviser Aviation, Aviation Maritime & Security Group
Ministry of Transport – Te Manatū Waka

T: +64 4 439 9379 | www.transport.govt.nz



Document Number WGT A10804
File Ref FOA/15-88
24 February 2009
Minister of Transport

Civil Aviation Rule Part 21 - Certification of Products and Parts - Special Category Aircraft

Purpose
1. The purpose of this memorandum is to recommend that you sign the following ordinary civil aviation rules (the Rules) -

- 1.1 Part 1, Definitions and Abbreviations, Amendment 456
- 1.2 Part 21, Certification of Products and Parts, Amendment 388
- 1.3 Part 43, General Maintenance Rules, Amendment 274
- 1.4 Part 47, Aircraft Registration and Marking, Amendment 388
- 1.5 Part 65, Aircraft Maintenance Personnel Licensing, Amendment 301
- 1.6 Part 91, General Operating and Flight Rules, Amendment 209

2. A copy of the Rules accompany this paper, which also addresses

- 2.1 the legal and other requirements relating to the development of the Rules that must be complied with
- 2.2 the matters that you are required by law to consider when exercising your power to make ordinary civil aviation rules.

3. The Ministry of Transport (the Ministry) has assessed the Rules from legal and policy perspectives and considers that the Rules are in order for your signature.

Background/Issues

- 4. The Rules are part of the 2000s transport rules programme (CAB Min (08) 254, refer) and have been developed by the Civil Aviation Authority (the CAA) pursuant to an agreement for rules development services with the Ministry.
- 5. The Rules concern the airworthiness certification of aircraft that do not meet the requirements for standard or restricted category airworthiness certification. These aircraft are currently given a "special category - experimental" airworthiness certificate. The "special category - experimental" does not adequately differentiate between the types of aircraft placed in this category, which range from amateur-built to ex-military, or the types of operations undertaken by them.
- 6. The Rules provide for six sub categories of special category airworthiness certificate:
 - 6.1 Experimental, specific to aircraft actually concluding flight test and evaluation.

- 6.2 Exhibition, for aircraft engaged broadly in display flying.
- 6.3 Amateur-built, for amateur-built aircraft.
- 6.4 Primary, to provide a simplified method of gaining type certification for a small aircraft.
- 6.5 Light Sport aircraft, for aircraft that meet the technical definition of this type (weight, complexity, seating capacity).
- 6.6 Limited, for ex-military and vintage aircraft (which can be approved for hire or reward operations).

7. Further details about the Rules can be found in paragraphs two to 12 of your paper to the Cabinet Economic Growth and Infrastructure Committee, the accompanying Regulatory Impact Statement, and under the heading "Objective-of-the-Rule-objective" in each of the Rules.

Contentious issues

8. Amendments to Rule Part 91 prohibit the performance of helicopter external load operations using helicopters in the prohibition, amateur-built, primary, or limited special categories. This prohibition on external load operations using ex-military helicopters has been a contentious issue in the past, with the Director of Civil Aviation (the Director) issuing a prohibition notice. While it may be arguable that in some circumstances the performance of external load operations is unobjectionable, the Ministry's advice is that if some limited operations were to be permitted by the Rules, it would be difficult for the CAA to monitor what operations were being conducted and ensure that they were being conducted appropriately. It is therefore appropriate that the Rules contain a total prohibition leaving the Director to permit and monitor specific operations through the exemption process.

Timing

9. The Rule is drafted to come into force on dd mmm yyyy.
9.1 Section 24(4) of the Civil Aviation Act 1980 (the Act) states that rules must be Gazetted at least 28 days before they come into force. Therefore, the Rules must be Gazetted no later than dd mmm yyyy.

9.2 "Gazetted" signature copies of the Rules will be provided for signature by you following the Cabinet meeting on dd mmm yyyy, at which your intention to make the Rules will be noted. You will need to sign the Rules prior to dd mmm yyyy to enable the Gazette notice to be confirmed.

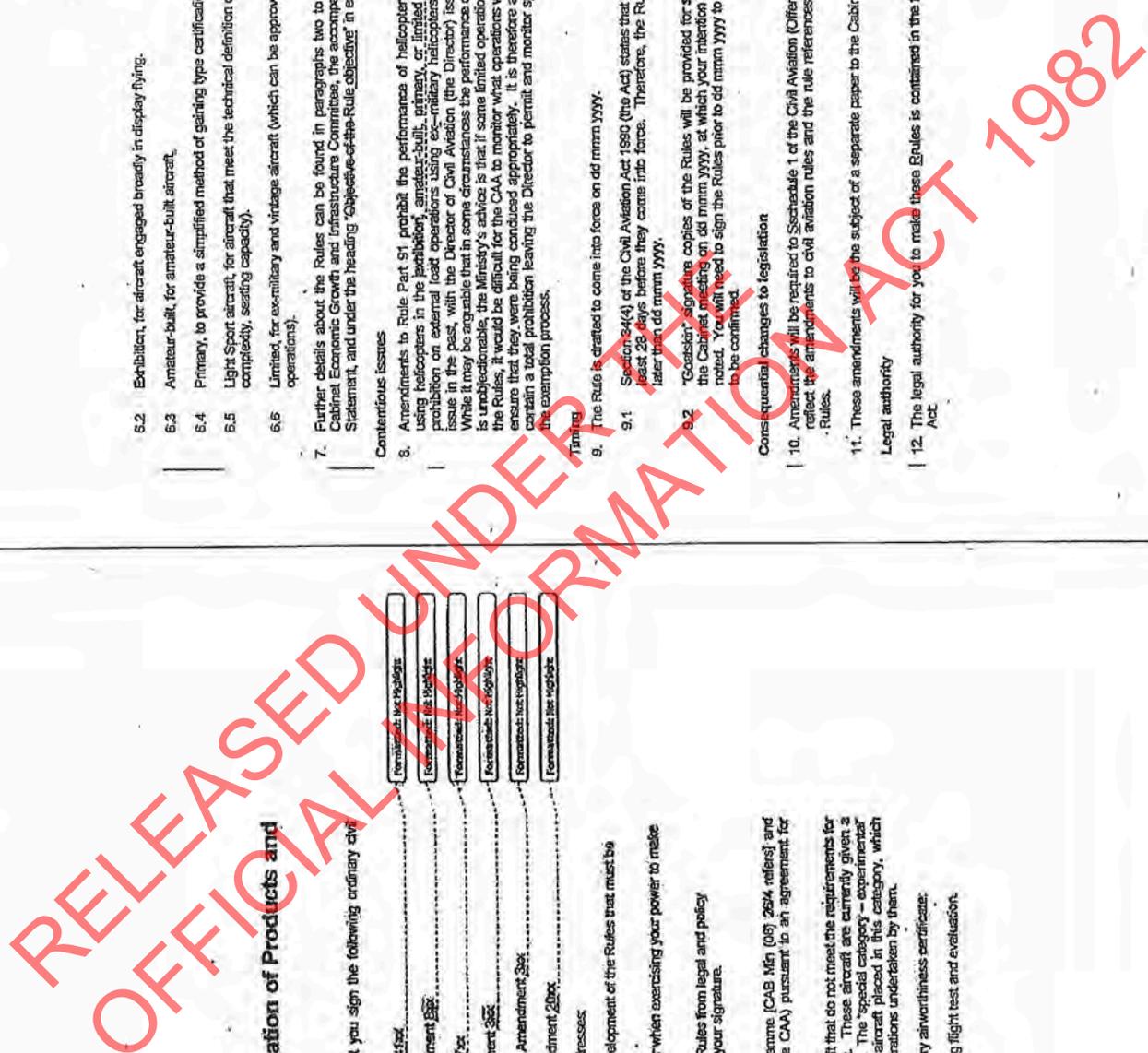
Consequential changes to legislation

10. Amendments will be required to Schedule 1 of the Civil Aviation (Offences) Regulations 2005, to reflect the amendments to civil aviation rules and the rule references that are contained in the Rules.

11. These amendments will be the subject of a separate paper to the Cabinet Legislation Committee.

Legal authority

12. The legal authority for you to make these Rules is contained in the following provisions in the Act



Comments (13) to be confirmed when we receive the comments. The primary helicopter should be permitted to carry external load operations as a category.

Search signature - confirmed

12.1 section 28(1)(c), which empowers you to make rules assisting aviation safety and security, including (but not limited to) personal security

12.2 section 28(c), which empowers you to make general operating rules, air traffic rules and flight rules, including but not limited to, the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft and the prevention of aircraft endangering persons or property

12.3 section 30(a), which empowers you to make rules for the designation, classification, and certification of aircraft, aircraft pilots, aircraft maintenance personnel, aircraft design, manufacture and maintenance organisations or any other person who provides services in the civil aviation system

12.4 section 30(b), which empowers you to make rules for the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in section 30(a), including but not limited to the specification of the privileges, limitations, and ratings associated with licenses or other forms of approval and the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products

12.5 section 30(c) which empowers you to make rules for the specification of definitions, abbreviations, and units of measurement to apply within the civil aviation system.

Matters for your consideration

13. Section 33 of the Act sets out the matters that you are required to take into account in exercising your power to make rules. These matters have been taken into account in developing the Rules and are discussed below. Consideration of these matters by you cannot be delegated.

14. Under section 33(1) of the Act ordinary rules shall not be inconsistent with the standards of the International Civil Aviation Organization (ICAO) relating to aviation safety and security, to the extent adopted by New Zealand or with New Zealand's international obligations relating to aviation safety and security. The Rules are not inconsistent with the standards in the relevant annexes to the Convention on International Civil Aviation (the Convention) or with New Zealand's international obligations for safety and security.

15. Under section 33(2) of the Act, in making any rule, you must have regard to, and to give such weight as you consider appropriate in each case to, the following:

Section 33(2)(a) - The recommended practices of ICAO relating to aviation safety and security, to the extent adopted by New Zealand

15.1 The Rules are consistent with the standards in Annex 8 of the Convention relating to the issue of airworthiness certificates for aircraft that are entered on the New Zealand Register of Aircraft.

Section 33(2)(b) - The level of risk existing to aviation safety in each proposed activity or service

15.2 Currently all certificated aircraft that do not qualify for the issue of a standard category or restricted category airworthiness certificate are issued with a special category or experimental airworthiness certificate. The term "experimental" is misleading and inappropriate for many of these aircraft, which range from amateur built aircraft to high performance ex-military aircraft and which may be operated for various purposes, including the carriage of persons and goods for hire or reward. The Rules provide for the separation of special category aircraft into six sub-categories, with defined limitations on

the use of aircraft in each sub-category. The rules do not affect the level of risk existing to aviation safety:

Section 33(2)(c) - The nature of the particular activity or services for which the rule is being established

15.3 Currently all aircraft other than microflight aircraft and hang gliders are required to be operated in accordance with an airworthiness certificate. However, Part 21 of the Civil Aviation Rules only provides for three types of airworthiness certificate:

(a) a standard category certificate for aircraft that are designed and built to approved civil aviation airworthiness design standards

(b) a restricted category certificate for standard category aircraft that have been permanently modified for agricultural aircraft operations and which are unsuitable for carrying passengers

(c) a special category certificate for all those aircraft that do not meet the standards for the issue of a special or a restricted category certificate. These types of aircraft range from:

- amateur (home built) aircraft, to
- vintage aircraft that were originally designed and manufactured to an approved airworthiness standard, but which are no longer supported by continuing airworthiness information from the manufacturer or state of design, to
- high performance ex-military aircraft.

15.4 As noted above, currently all special category aircraft are issued with a "special category" - experimental" airworthiness certificate. This "one size fits all approach" does not adequately identify the various types of special category aircraft, nor does it allow for the various types of operations that some of these special category aircraft may be safely used for. The Rules establish six sub-categories of special category aircraft to more appropriately identify the various types of special category aircraft and to allow appropriate requirements and operational limitations to be imposed in respect of each sub-category. This will include additional operating and maintenance requirements for ex-military aircraft.

Section 33(2)(d) - The level of risk existing to aviation safety and security in New Zealand in general

15.5 Accidents involving ex-military helicopters in particular have been significant in aviation accident statistics in the past. The amendments made by the Rules will enhance aviation safety with the better classification of the various types of special category aircraft that are operating in New Zealand. The Rules will not affect the level of risk existing to aviation security in New Zealand.

Section 33(2)(e) - The need to maintain and improve aviation safety and security, including (but not limited to) personal security

15.6 The amendments made by the Rules will enhance aviation safety, but will not impact on aviation security.

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Section 33(2)(f) - Whether the proposed rule assesses economic development, improves access and mobility, protects and promotes public health or ensures environmental sustainability

15.7 The Rules are unlikely to significantly affect economic development, or have any effect on access and mobility, public health, or environmental sustainability.

Section 33(2)(fa) - The costs of implementing such measures for which the rule is being proposed

15.8 There will be an initial cost resulting from the CAA reissuing airworthiness certificates in the appropriate sub-categories for existing special category aircraft. This will be charged to operators at the usual CAA charging rate of \$133 per hour. It is estimated that the time involved will range from one hour for an existing amateur-built aircraft to five hours for ex-military and vintage aircraft.

15.9 The Rules may involve a small initial cost for operators of existing special category aircraft that are re-certificated in the "exhibition" or "limited" sub-categories as the operator will be required to provide an operator statement for these aircraft (at a likely cost of \$100 to \$200 per aircraft) and the maintenance programme for the aircraft may have to be amended to include additional requirements §1.557(c) let. a, likely cost of \$2000 per aircraft.

15.10 The move from an annual review of airworthiness to a biennial review of airworthiness will reduce ongoing maintenance (operational) costs for the region, off-by approximately \$2400 per aircraft for all special category aircraft.

Section 33(2)(g) - The international circumstances in respect of aviation safety and security

15.11 The Rules will not affect or be affected by international circumstances in respect to aviation safety and security.

Section 33(2)(h) - The international circumstances in respect of mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements

15.12 The Rules do not affect and are not affected by ANZA mutual recognition agreements, which are concerned with commercial operations.

Section 33(2)(i) - Such other matters as you consider appropriate in the circumstances

15.13 The Rules include provision for the Director of Civil Aviation to approve "hire or reward" operations using special category - limited aircraft. The position of operators of special category aircraft, who wish to undertake hire and reward operations, will be further addressed in the upcoming Part 115 "Adventure Aviation" rule project.

Incorporation by reference

15.14 Under section 35(1)(b) of the Act, rules may incorporate by reference standards, requirements, or rules prescribed under law by any other controlling State of ICDO.

(b) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category - primary aircraft, incorporate by reference Federal Aviation Regulation (FAR) 21.24, which is the US Federal Aviation Authority airworthiness standard for primary category aircraft.

Continued (EQ3): To be included when final documents received by ICAO. YES, NO, or MAYBE, depending on the scope of Part 21 amendments.

(b) The provisions in the Part 21 amendment rule relating to the airworthiness certification of special category - light sport aircraft, incorporate by reference FAR 21.150, which specifies the standards for seat and torso restraints.

Compliance

16. The Rules comply with the principles of the Treaty of Waitangi, both the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, the principles and guidelines set out in the Privacy Act 1993, the relevant international standards and the Legislation Advisory Committee's guidelines.

Public notification of draft rule and consultation

17. Section 34 of the Act requires you to undertake public notification and consultation in relation to proposed rules. This has been conducted by the CAA on your behalf, pursuant to an instrument of delegation made by Hon. Maurice Williamson in 1999, the terms of the Agreement for Rules Development Services made between the Director of Civil Aviation and the Chief Executive of the Ministry of Transport, and §Section 34 of the Act.

18. The statutory requirements are:

18.1 Under section 34(1)(a) of the Act, to publish public notification of your intention to make proposed rules in the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, respectively, and in the Gazette.

(a) The Notice of Proposed Rule Making (NPRM) for the new-rule-Parts-65-and-69, proposed amendment to Part 21 and consequential amendments to Parts 3, 43, 69, and 91 was notified in the Gazette and in the specified newspapers on 26 October 2006.

(b) The NPRM did not include a draft of the proposed consequential amendment to Part 47 - Aircraft Registration and Marking as at the time it was proposed to address the substantive issue, operator statements, in the context of the proposed amendments to Part 91 - General Operating and Flight Rules.

18.2 Under section 34(1)(b) of the Act, to give interested persons a reasonable time, which must be specified in the notice, to make submissions on the NPRM.

(a) Submissions closed on 8 December 2006, a period of 41 days from publication of the notice.

(b) The Ministry believes that you can conclude that this was a reasonable period in which to make submissions on the draft Rules.

18.3 Under section 34(1)(c) of the Act, to consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as you in each case consider appropriate.

(a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included the Royal New Zealand Aero Club, the Recreational Aircraft Association of New Zealand, the Sport Aircraft Association of New Zealand, Gliding New Zealand, the NZ Warbirds Association, the NZ Sport and Vintage Aviation Society, operators of special category aircraft, and manufacturers and restorers of special category aircraft.

(b) The CAA received seven submissions on the NPRM. The submissions and comments were considered and taken into account in finalising the Rules. A summary of the submissions and the CAA responses to the original NPRM is appended to rule Part 21.

18.4 Under section 34(1)(d) of the Act, to consult with the Environmental Risk Management Authority, established under the Hazardous Substances and New Organisms Act 1988, about the contents of any rules that relate to the transportation of hazardous substances as defined in section 2 of that Act. As the CAA considered that the Rules do not relate to the transportation of hazardous substances they concluded that consultation with the Environmental Risk Management Authority was not required.

18.5 The Ministry considers that you can be satisfied that the consultation on the draft Rules met the requirements of section 34 of the Act.

Regulations Review Committee

19. Ordinary rules are regulations for the purpose of the Regulations (Disallowance) Act 1989 and under section 4 of that Act must be laid before the House of Representatives not later than the sixteenth sitting day after they are made.

19.1 On 20 February 2009 drafts of the Rules were referred to the Regulations Review Committee on your behalf under Standing Order 309(2).

19.2 The chair of the Regulations Review Committee responded to you, the Secretary of Transport on 24.13 pm on 20 March 1999(2009), advising that they had no issues with the Rules. [Website: http://www.mta.govt.nz/transport/legislation/2009/03/24/13pm/](#)

19.3 There do not appear to be any grounds for the Regulations Review Committee to draw the Rules to the attention of the House under Standing Order 310(2).

Publicity

20. The CAA will notify the making of the Rules in the Gazette as required by Section 34(f) of the Act. The CAA will also publicise the Rules in its publications and on its website.

Recommendation

21. We recommend that you:

- (a) note the contents of this memorandum;
- (b) sign Civil Aviation Rules Part 1 Definitions and Abbreviations, Amendment 43; Part 21, Certification of Products and Parts, Amendment 3; Part 43, General Maintenance Rules, Amendment 2; Part 47, Aircraft Registration and Marking, Amendment 3; Part 65, Aircraft Maintenance Personnel Licensing, Amendment 3; and Part 51, General Operating and Flight Rules, Amendment 2;
- (c) authorise notification of Civil Aviation Rules [...] in the New Zealand Gazette; and
- (d) authorise the laying of Civil Aviation Rules [...] before the House of Representatives.

Chris Robb

Senior Solicitor

Noted / agreed

Hon Steven Joyce
Minister of Transport

Dated: 1 / 1

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Private Bag 18041
Wellington 6160
New Zealand



REGULATIONS REVIEW COMMITTEE

8 April 2009



Mr Martin Matthews
Chief Executive
Ministry of Transport
P.O. Box 3175
Wellington

Dear Mr Matthews

Referral of draft Civil Aviation Rules: Part 21 Amendment – Special Category Aircraft

A letter to this effect dated 13 March 2009 and signed by Graham Hill, then Clerk of Committee, was sent last month but I understand that it has failed to arrive. As such, I am sending this letter in its place.

Thank you for your letter to the Chairperson of the Regulations Review Committee, dated 20 February 2009, referring the above regulations to the committee. These regulations were considered by the committee at its meeting on 12 March 2009. The committee has no matters to raise with you about these draft regulations at this time.

Yours sincerely

Renée Riddell-Garner
Legislative Counsel
Regulations Review Committee

Cc: Chris Roblett, Senior Solicitor, Corporate, Ministry of Transport

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Chris Roblett

From: Robert Sples
Sent: Tuesday, 10 March 2009 14:57
To: Chris Roblett
Subject: FW: Part 21
Attachments: Part 21 Special Category Aircraft PWG .doc

Chris, see below – I have updated the Legal memo in DocMIns with the cost figures.

Robert

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Tuesday, 10 March 2009 10:48 a.m.
To: Robert Sples
Subject: FW: Part 21

Robert

The additional costing info inserted below. The higher end cost of \$200 for the operator statement would be for those aircraft that are fitted with ejection seat mechanisms where some additional detail and procedures are required.

Regards
Peter Blackler

From: Peter Blackler
Sent: Monday, 23 February 2009 12:34 p.m.
To: Robert Sples
Subject: RE: Part 21

Hello Robert

I have requested the operating group people to provide me with information regarding the costing in your para 1.1 below. It will probably be next week before I get the information. Meanwhile the attached is the list of the industry participants for this project and who received a copy of the NPRM which was also published on the CAA web site.

Regards
Peter Blackler
Technical Manager Rules

From: Robert Sples [mailto:R.Sples@transport.govt.nz]
Sent: Friday, 13 February 2009 1:46 p.m.
To: Peter Blackler
Cc: Chris Lamain
Subject: Part 21

Hi Peter, these excerpts from the Legal memo need some cost data – can you provide/estimate please? And re-check for accuracy?

Thanks, Robert

- 1.1 Section 33(2)(fa) - The costs of implementing such measures for which the rule is being proposed

There will be an initial cost resulting from the CAA reissuing airworthiness certificates in the appropriate sub-categories for existing special category aircraft. This will be charged to operators at the usual CAA charging rate of \$133 per hour. It is estimated that the time involved will range from one hour for an existing amateur-built aircraft to five hours for ex-military and vintage aircraft.

The Rules may involve a small initial cost for operators of existing special category aircraft that are re-certificated in the "exhibition" or "limited" sub-categories as the operator will be required to provide an operator statement for these aircraft [at a likely cost of \$100 to \$200 per aircraft] and the maintenance programme for the aircraft may have to be amended to include additional requirements [91.607(d)] [at a likely cost of \$200 per aircraft].

The move from an annual review of airworthiness to a biannual review of airworthiness will reduce ongoing maintenance [operating] costs by approximately \$240 per annum for each [in the region of \$7-per-annum] for all special category aircraft.

1.2 Under section 34(1)(c) of the Act, to consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as you in each case consider appropriate.

(a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included 18 aircraft operators, aviation sport and recreation organisations, and aircraft engineering and maintenance organisations. [CAA to advise – the actual list is attached to this email]

Robert Spier
Principal Adviser, Aviation
Aviation, Maritime & Security
Ministry of Transport - Te Manatu Waka
Neville House, 89 The Terrace
PO Box 3179
Wellington 6140
New Zealand

DDI: +64 4 439 9279
FAX: +64 4 439 5001

www.transport.govt.nz

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Chris Roblett

From: ChrIs Roblett
Sent: Monday, 2 March 2009 15:38
To: Robert Spies
Subject: RE: Part 21

Hi Robert,

The Rule has already gone to RRC. The information sought is more for the legal memo.

Don't you think it is a bit worrying that the rule has got this far and the CAA do not have figures for the compliance costs and supposed benefits to hand? Maybe something to note for the post project review?

Chris

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

From: Robert Spies
Sent: Monday, 2 March 2009 2:18 PM
To: Chris Roblett
Subject: RE: Part 21

Hi Chris, do you need to the info below from CAA before you send off to RRC? Anything else outstanding?
Thanks, Robert

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Monday, 23 February 2009 12:34 p.m.
To: Robert Spies
Subject: RE: Part 21

Hello Robert

I have requested the operating group people to provide me with information regarding the costing in your para 1.1 below. It will probably be next week before I get the information.
Meanwhile the attached is the list of the industry participants for this project and who received a copy of the NPRM which was also published on the CAA web site.

Regards
Peter Blackler
Technical Manager Rules

From: Robert Spies [mailto:R.Spies@transport.govt.nz]
Sent: Friday, 13 February 2009 1:46 p.m.
To: Peter Blackler
Cc: Chris Lamain
Subject: Part 21

Hi Peter, these excerpts from the Legal memo need some cost data – can you provide/estimate please? And re-check for accuracy?

Thanks, Robert

1.1 Section 33(2)(fa) - The costs of implementing such measures for which the rule is being proposed

There will be an initial cost resulting from the CAA reissuing airworthiness certificates in the appropriate sub-categories for existing special category aircraft. This will be charged to operators at the usual CAA charging rate of \$133 per hour. It is estimated that the time involved will range from one hour for an existing amateur-built aircraft to five hours for ex-military and vintage aircraft.

The Rules may involve a small initial cost for operators of existing special category aircraft that are re-certificated in the "exhibition" or "limited" sub-categories as the operator will be required to provide an operator statement for these aircraft [at a likely cost of \$7 per aircraft] and the maintenance programme for the aircraft may have to be amended to include additional requirements [91.607(d)] [at a likely cost of \$7 per aircraft].

The move from an annual review of airworthiness to a biannual review of airworthiness will reduce ongoing maintenance [operating] costs [in the region of \$7 per annum] for all special category aircraft.

1.2 Under section 34(1)(c) of the Act, to consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as you in each case consider appropriate.

- (a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included [CAA to advise]

Robert Tapie :
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Ministry of Transport - Te Manatu Waka
Novell House, 89 The Terrace
PO Box 3175
Wellington 6140
New Zealand

DDI: +64 4 430 9379
FAX: +64 4 430 9004

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Chris Roblett

From: Chris Roblett
Sent: Monday, 23 February 2009 13:57
To: Robert Spies
Cc: 'Peter Blackler'; Chris Lamain
Subject: RE: Part 21

I have tweaked the consultation information in the legal memo to read:

- (a) The NPRM was mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal. These included the Royal New Zealand Aero Club, the Recreational Aircraft Association of New Zealand, the Sport Aircraft Association of New Zealand, Gliding New Zealand, the NZ Warbirds Association, the NZ Sport and Vintage Aviation Society, operators of special category aircraft, and manufacturers and restorers of special category aircraft.

Many thanks

Chris Roblett
Senior Solicitor
Ministry of Transport
Te Manatu Waka

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

From: Robert Spies
Sent: Monday, 23 February 2009 12:59 PM
To: Chris Roblett
Subject: FW: Part 21

fyi

From: Peter Blackler [<mailto:BlacklerP@caa.govt.nz>]
Sent: Monday, 23 February 2009 12:34 p.m.
To: Robert Spies
Subject: RE: Part 21

Hello Robert

I have requested the operating group people to provide me with information regarding the costing in your para 1.1 below. It will probably be next week before I get the information. Meanwhile the attached is the list of the industry participants for this project and who received a copy of the NPRM which was also published on the CAA web site.

Regards
Peter Blackler
Technical Manager Rules

From: Robert Spies [<mailto:R.Spies@transport.govt.nz>]
Sent: Friday, 13 February 2009 1:46 p.m.
To: Peter Blackler
Cc: Chris Lamain
Subject: Part 21

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Aviation, Maritime & Security
Ministry of Transport - Te Manatū Waka
Novell House, 89 The Terrace
PO Box 3175
Wellington 6140
New Zealand

DDI: 064 4 439 9379
FAX: 064 4 439 9004

www.transport.govt.nz

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Chris Roblett

From: Chris Roblett
Sent: Monday, 23 February 2009 13:55
To: Graham Hill
Subject: Draft Civil Aviation Rule - Part 21' project

Hi Graham,

I have just referred this rule package to the committee on behalf of the Minister of Transport.

There are a couple of typographic errors in the third paragraph of the covering letter.

The requirement for operator statements was originally contained in the NPRM for the amendment to Part 91 - General Operating and Flight Rules (there is no Part 90). The operator statement requirement is now in Part 47 (which was not part of the NPRM) and only applies to special category exhibition and special category limited aircraft and not all the special category aircraft.

My apologies.

Chris Roblett
Senior Solicitor
Ministry of Transport
Te Manatu Waka

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

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32

Chris Roblett

From: Robert Spies
Sent: Monday, 23 February 2009 12:59
To: Chris Roblett
Subject: FW: Part 21
Attachments: Part 21 Special Category Aircraft PWG .doc

fyl

From: Peter Blackler [mailto:BlacklerP@caa.govt.nz]
Sent: Monday, 23 February 2009 12:34 p.m.
To: Robert Spies
Subject: RE: Part 21

Hello Robert

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Regards
Peter Blackler
Technical Manager Rules

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Sent: Friday, 13 February 2009 1:46 p.m.
To: Peter Blackler
Cc: Chris Lamain
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Robert Spies
Principal Adviser, Aviation
Aviation, Maritime & Security
Ministry of Transport - Te Manatu Waka
Novell House, 89 The Terrace
PO Box 3175
Wellington 6140
New Zealand

DDI: +64 4 439 9379
FAX: +64 4 439 9004

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Part 21 Special Category Aircraft PWG

(updated Friday, 23 December 2005)

Industry



CAA Internal

Rex Kenny
John Bushell
David Gill
Peter Blackler
Mark Price

KennR@caa.govt.nz Manager, Sport & Recreation
Bushell@caa.govt.nz Airworthiness Coordinator
GillD@caa.govt.nz Team Leader, Airworthiness
BlacklerP@caa.govt.nz Technical Manager - Rules
PriceM@caa.govt.nz Aviation Examiner - Maintenance Engineering



Ministry of Transport
TE MANATŪ WAKA

File Number: POAV16-89

20 February 2009

Mr Charles Chauvel
Chairperson
Regulations Review Committee
2-055
Parliament House
WELLINGTON 1

Dear Mr Chauvel

Referral of draft Civil Aviation Rules: Part 21 Amendment – Special Category Aircraft

On behalf of the Hon Steven Joyce, Minister of Transport, the enclosed draft amendment number 8 to Civil Aviation Rule Part 21 – Certification of Products and Parts, together with consequential amendments to Parts 1, 43, 47, 66 and 91 are referred to the Regulations Review Committee for consideration under Standing Order 309(2).

The rules have been prepared by the Civil Aviation Authority (CAA) and are currently being reviewed by the Ministry of Transport. Their purpose is to expand the types of special category airworthiness certificates that may be issued under Part 21.

The notice of intended rule making (NPRM) that was issued in respect of this project did not include a draft amendment to Part 43. These amendments concern the provision of operator statements when a New Zealand certificate of registration is issued in respect of a special category aircraft. The requirement for these operator statements was contained in the NPRM as an operational requirement in Part 90. It was subsequently decided appropriate to require this information at registration.

Could you please direct any comments the Committee may have on these rules to the Hon Steven Joyce by Monday 30 March 2009.

Yours sincerely

Chris Roblett
Senior Solicitor

Cc. Hon Steven Joyce, Minister of Transport

Encl.

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Rule objective

The objective of amendment 8 to Part 21 is to expand the types of *special category* airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military, and other non-type certificated aircraft that are presently certificated as special category aircraft.

Amendment 8 to Part 21 is associated with the following amendments to other Parts:

- Amendment 41 to Part 1
- Amendment 7 to Part 43
- Amendment 3 to Part 47
- Amendment 3 to Part 66
- Amendment 20 to Part 91

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 07-03, containing the proposed changes to Part 21 and consequential changes to other rules, was issued for public consultation under Docket 5/CAR/2 on 26 October 2006.

The publication of this NPRM was notified in the Gazette on 26 October 2006 and advertised in the daily newspapers in the five main provincial centres on 26 October 2006. 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 41 days was allowed for comment on the proposed rule.

Summary of submissions

Seven written submissions were received on the NPRM. These submissions have been considered and as a result some minor changes were made to the proposed rules. Some editorial and drafting changes

have also been made to the rules to clarify the rule requirements and insert some transition provisions for existing aircraft.

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

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 existing rules and replacement of new rules. A new Subpart has been created to capture all rules pertaining to Flight Permits.

Effective date of rule

Amendment 8 to Part 21 comes into force on "insert date".

Availability of rules

Civil Aviation Rules are available from—

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

Freephone: 0800 GET RULES (0800 438 785)

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Part 21 Amendments

Subpart H — Airworthiness Certificates

Rule 21.173 is revoked and replaced by the following new rule:

21.173 Certificate categories

The following airworthiness certificates for New Zealand registered aircraft are issued by the Director under section 9 of the Act in accordance with the applicable requirements of this Subpart:

- (1) *standard category;*
- (2) *restricted category;*
- (3) *special category — experimental;*
- (4) *special category — exhibition;*
- (5) *special category — amateur-built;*
- (6) *special category — primary;*
- (7) *special category — LSA;*
- (8) *special category — limited;*
- (9) *provisional category.*

Rule 21.175 is revoked and replaced by the following new rule:

21.175 Application for certificate

An applicant for the grant of an airworthiness certificate for an aircraft must complete the applicable form and submit it to the Director with a payment of the application fee prescribed by regulations made under the Act:

- (1) form CAA 24021/05 for *standard or restricted category;*
- (2) form CAA 24021/06 for *special category;*

(3) form CAA 24021/14 for *provisional category*.

Rule 21.177 is revoked and replaced by the following new rule:

21.177 Special conditions for issue of certificate

(a) An airworthiness certificate for an aircraft may be issued in both the *standard category* and the *restricted category* if the Director is satisfied that—

- (1) the applicable certification requirements for each category under this Subpart are met when the aircraft is configured for the category; and
- (2) the aircraft can be converted from one configuration to the other by removing or adding equipment by simple mechanical means.

(b) Only a *restricted category* airworthiness certificate may be issued for an aircraft if the Director is satisfied that—

- (1) the aircraft is internally equipped for dispensing substances on an agricultural aircraft operation; and
- (2) the extent of the internal equipment makes the aircraft inappropriate for use in an air transport operation.

(c) An airworthiness certificate for an aircraft may only be issued in 1 of the *special categories* listed under rule 21.173 if the Director is satisfied that—

- (1) the applicable certification requirements under this Subpart are met in respect of the purposes for which the aircraft is to be operated; and
- (2) the aircraft is in a condition for safe operation.

(d) The Director may specify in an airworthiness certificate the purpose of the certificate and any associated conditions and limitations for the operation of the aircraft.

Rule 21.179 is revoked and replaced by the following new rule:

21.179 Duration of certificate

(a) The following airworthiness certificates for an aircraft remain in force if the maintenance on the aircraft is performed in accordance with the applicable requirements of Parts 91 and 43 unless the certificate has expired, or is suspended or revoked:

- (1) *standard category*;
- (2) *restricted category*;
- (3) *special category*;

(b) A *standard category* airworthiness certificate for an aircraft and a *restricted category* airworthiness certificate for an aircraft expire if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) the *type certificate* or the *type acceptance certificate*, as applicable, issued for the aircraft type, its engines, and propellers if applicable, ceases to remain in force; or
- (3) a new airworthiness certificate in the same category is issued for the aircraft.

(c) A *special category* airworthiness certificate for an aircraft expires if—

- (1) the aircraft ceases to be a New Zealand registered aircraft; or
- (2) a new airworthiness certificate in the same category is issued for the aircraft.

(d) The holder of an airworthiness certificate that has expired under paragraphs (b) or (c) must surrender the certificate to the Director.

(e) The holder of a *standard category* airworthiness certificate or a *restricted category* airworthiness certificate that has expired under paragraph (b)(2) may apply under rule 21.175 for the grant of an appropriate *special category* airworthiness certificate for the aircraft.

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The FAA Light Sport Aircraft Rule mentions accepting industry consensus standards. The proposed rule states that only aircraft meeting ASTM airworthiness standards would be accepted. The FAA commented that this statement could be limiting for the CAA as the FAA may elect to accept another standard developed by a different consensus standards organisation in the future.

CAA Comment

CAA agrees with the comment and will amend the proposed rule.

Aircraft Markings 21.193(a)(6), 21.195(a)(6), 21.197(a)(7), 21.199(a)(6), 21.201(e), and 21.203(b)(9)

Two submitters commented on proposed aircraft marking rules for Special category aircraft.

One submitter comments that aircraft markings should adhere to Part 47 to avoid confusion.

One submitter queried why special category aircraft should be eligible to be marked with Police marks and suggested that consideration should be given to removing this as a marking option especially for all special categories but at least 21.203 – limited category.

CAA Comment:

The comments have been considered against the existing Rule Part 47 and it is considered that the current rule is robust enough. The proposed rules will be amended accordingly.

Primary and LSA certification requirements Part 21.199/21.201

One submitter commented that in both of these proposed rules relating to the importation and certification of aircraft to these standards, consideration should be given to a process similar to the 'Type Acceptance' process as per Part 21 Subpart B as these aircraft have, in fact, met identified and recognised airworthiness standards. The commenter considered that irrespective of the categorisation of the operating airworthiness certificate in a special category, it may be useful for CAA to consider a type acceptance process for the first of type and to publish those types certified to ease the future importation requirements for additional imported types. The submitter also

recommended that the Primary and LSA standards should be placed into Appendix C.

CAA Comment:

Special category aircraft under the new rule will be subject to a process similar to type acceptance of type certified aircraft. However this will be an internal process and does not need to be documented in the Rule.

Transitional Arrangements, Appendix A

One submitter expressed concern that CAA may not have the resources to be able to meet the tasks in Appendix A over a 12 month transitional period. A longer period is suggested. It is presumed that the overall intent is to place all aircraft (and any future aircraft) into one of the new subcategories.

CAA Comment

CAA believes it has the resources to carry out the tasks in Appendix A over a 12 month period from when the rule amendment comes into force. The Rule is clearly intended to transition all existing Special Category aircraft to the new rule. Unfortunately the Rule change does not affect those legacy aircraft which are still in the Restricted Category. However, with the new Limited subcategory, there will be an incentive to change over as they may now be eligible for Part 115 operations. With regard to the proposed dates of eligibility and compliance in paragraphs (h) and (i) of Appendix A, the proposed rule transition dates in the NPRM will be revised to provide a 12 month compliance period from the date these rule amendments come into force.

Aircraft markings Part 21.195(a)(6) and similar occurrences

One submitter suggested that the use of the digit '1' be replaced by the word 'one'.

CAA Comment:

Legal drafting requirements require the use of figures rather than words in some circumstances.

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Special Category Limited – Certification Requirements Part 21.203(b)(1)

Three submitters commented on the proposed certification requirements.

One Submitter comments that the use of terms 'factory' and 'controlled design environment' may cause problematic interpretations. The submitter commented that it may be prudent to investigate other terminology associated with what is intended here regarding a properly designed, manufactured, and controlled product accepted for military service.

The submitter considered that it may be difficult to establish eligibility because some examples may not have been produced in great numbers, nor in a proper quality controlled environment.

One submitter suggests that the CAA may have to consider publishing clear guidance material on this "Limited" subcategory and the assessment procedures. The submitter considered that it will probably be the most contentious and difficult to assess area and will potentially be the category that operators will seek to use for hire or reward activities.

One submitter comments that rule 21.203(b)(5) requires the applicant to ensure continuing airworthiness data relative to the aircraft and installed components is available from a source acceptable to the Director. The submitter asks "what is continuing airworthiness data relative to the aircraft and what are sources acceptable to the Director?" As an example, the submitter comments that the Nanchang CJ-6a is unsupported by the manufacturer in terms of ongoing information, AD's etc.

The submitter considers that that this matter of continuing airworthiness data needs more definition before the proposal is completely acceptable.

CAA Comment:

The CAA must be satisfied that it is aware of any limitations and mandatory maintenance actions applicable to an aircraft type before it can be permitted to fly in New Zealand. This does not necessarily mean direct manufacturer support, but does mean the availability of operating and maintenance documentation and possibly some overseas history. More detailed guidance will need to be provided in Advisory Circulars. The CAA is open to industry input for more specific wording which may

more clearly identify the underlying issues of defining the origins of a limited subcategory aircraft. CAA will consider any input received and determine if it would be more appropriate for inclusion in the rule.

Sport Aircraft Association of New Zealand Inc.

The organisation submitted that the proposed rules are acceptable without change and considered that:

- the revised 'Special Categories' will more suitably define the present general mix of applicable aircraft types, origins, and end user/operator requirements;
- the proposed application of the 'Experimental Category' is a much more applicable procedure for the use of this term;
- the improved level of compatibility with other countries regulatory definitions should assist when aircraft are relocated overseas and into New Zealand.

CAA Comment:

The CAA notes the Sport Aircraft Association's support for the proposed rules.

Maintenance required under Part 145 – Rule 43.54

One submitter commented on their support for the proposed amendment in new paragraph (c) to rule 43.54 regarding maintenance required under Part 145.

CAA Comment:

Noted.

Maintenance Records Part 43.307

One submitter commented on their support for the proposed new rule 43.307 regarding maintenance records for replacement parts or components fitted to special category aircraft.

CAA Comment:

Noted.

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Release to Service – pressurised and turbine powered aircraft Part 43.309(a)

One submitter believes that, regarding the certification of pressurised aircraft, if an engineer is rated on the aircraft he/she should be able to release it to service. A review of the word between paragraphs (2) and (3) should read 'or', not 'and'.

CAA Comment:

CAA does not agree with the comment. The requirement of this rule is that a person must firstly have a rating on a pressurised standard category aircraft AND then either a rating or a Certificate of Maintenance Approval on a special category aircraft.

Minimum Instruments and equipment Part 91.509(e)

One submitter commented that it is unclear why special category aircraft (which have certain hire or reward privileges and carry passengers and are subject to approved maintenance programmes) should be exempted from the requirement to have a time-in-service recorder. The submitter considers that these aircraft are subject to the same potential abuse of maintenance recording which gave rise to the requirement in rule 91.509(b) for specified aircraft to be fitted with time-in-service recorders, and that failure to conduct proper maintenance leading to an aircraft failure has no less significant consequences. The submitter considers that the exception should be deleted.

CAA Comment:

CAA does not agree. It appears that the submitter has misread the proposed rule. The rule only exempts Experimental and Amateur-built aircraft from the requirement and neither of which will be eligible for hire or reward operations.

Special Category airworthiness certificates – operating limitations Part 91.105

One submitter commented that "if the rule provides for some types of special category aircraft to be used for flight training with the Director's approval, then a similar provision should be made for the Director to approve, on a case-by-case basis, the use of special category helicopters for operations under Parts 133 and 137."

CAA Comment:

Refer to the previous comment on Special category Operating Limitations regarding Part 133 and Part 137 operations.

Part 91 Appendix A.3

That as Appendix 3 is proposed to be revised as a consequential amendment to add paragraph (b), applicable to ejection seats, ANZES D.E. would like to point out that paragraph (a) of Part 91 A.3 is deficient in that it does not include TSO C127 as an acceptable specification for seats. This specification incorporates the majority of airworthiness standards required to meet FAR 25.562, as required for more recently type certificated Part 25 aircraft. It is proposed that Part 91 A.3 is revised to include TSO C127. In addition, with the recent introduction of EASA, and hence ETSO's, it is proposed that ETSO-C39 and ETSO-C127 be included in Part 91 A.3.

CAA Comment:

The CAA has already accepted seats meeting ETSO-C39 as part of the Air New Zealand 747 upgrade STC. There is currently provision for the CAA to accept alternative specifications under rule 91.503(a). If Air New Zealand were to apply for the recognition of alternative seat standards, this would be assessed by CAA. If accepted, a formal letter of acceptance would be issued, and this would be automatically passed to the Rules Unit to be added at the next appropriate rule amendment. Such an assessment, and therefore Air New Zealand's comment, is outside the scope of this current Part 21 Rule Project.

Appendix A List of Submitters

Air New Zealand Engineering Services
Aviation Industry Association
Federal Aviation Administration
J E McIntyre
J Remacha
Rural Aviation (1963) Ltd
Sport Aircraft Association of New Zealand Inc.



36

CIVIL AVIATION AUTHORITY
OF NEW ZEALAND

S-R180-06 5/CAR/2/3 (DW1173127-0)

17 February 2009

Chris Roblett
Solicitor
Ministry of Transport
C/- Novell House
PO Box 3175
89 The Terrace
WELLINGTON

Dear Chris

Part 21 Special Category Draft Final Rules

Attached are 14 collated copies of the following draft final rules for forwarding onto the Regulations Review Committee:

Amendment 41 to Part 1

Amendment 8 to Part 21

Amendment 7 to Part 43

Amendment 3 to Part 47

Amendment 3 to Part 66

Amendment 20 to Part 91

Yours faithfully

Peter T Blackler
Technical Manager Rules

Chris Roblett

From: Chris Roblett
Sent: Monday, 2 February 2009 15:04
To: Robert Spies
Cc: Graeme Sharman; Glen-Marle Burns
Subject: RE: Rule Part 21 Special Category Aircraft

Hi Robert,

The draft legal memo is in the rule folder in the O drive. If you can make me an editor of the Docmin, I will check that it is consistent with the redrafted documents and add it to the Docmin.

Can you let me know when you are aiming to get the papers to the Minister's office, which EGI meeting you are aiming for and when it is envisaged the amendments will come into force?

Depending on the urgency, am I to refer the draft Rule to RRC? RRC are back next week and we should be able to get comment by 9 March. Given the previous concerns around incorporation by reference of FAR design standards and the contentious nature of the helicopter external load operation issue, reference to RRC would be a sensible precaution in this case.

Chris

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

From: Robert Spies
Sent: Monday, 2 February 2009 11:30 AM
To: Glen-Marle Burns; Chris Roblett; Graeme Sharman
Subject: Rule Part 21 Special Category Aircraft

Glen-Marle, Chris

Please can you review. I have significantly re-drafted Nick Taylor's and the CAA's drafts from last year. Let me know if you want to see the originals.

Chris, I think you still need to do your Legal memo?

Graeme, fyi and peer review please.

Thanks, Robert

Go to [WGTA10804](#)

Robert Spies
Principal Adviser, Aviation
Aviation, Maritime & Security
Ministry of Transport - Te Manatu Waka
Nowell House, 89 The Terrace
PO Box 3476
Wellington 6140
New Zealand

DDI: +64 4 439 9379
FAX: +64 4 439 9004

www.transport.govt.nz

Chris Roblett

From: Chrís Roblett
Sent: Monday, 2 February 2009 15:11
To: Robert Spies
Cc: Graeme Sharman; Glen-Marie Burns
Subject: RE: Rule Part 21 Special Category Aircraft

Hi Robert,

I intended to include the addition of the amendment to Part 47, post consultation, as another justification for sending drafts to RRC.

Chris

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

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OFFICIAL INFORMATION ACT 1982

Chris Roblett

From: Chris Roblett
Sent: Monday, 2 February 2009 15:55
To: Robert Spies
Subject: FW: Part 21 cabinet paper package - for your Info

Hi Robert,

Have we received the revised drafts of the rules? As you will see, we were supposed to get them last September/October and if they have arrived, copies haven't got to me.

Regardless of whether they are referred to RRC, it would be good to get these sooner rather than later.

Chris

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

From: Glen-Marie Burns
Sent: Monday, 29 September 2008 3:09 PM
To: Robert Spies
Cc: Chris Roblett
Subject: FW: Part 21 cabinet paper package - for your Info

Final draft rules to come back from CAA with agreed amendment. I've asked Nick to return any papers also. I'll forward you emails to date on this rule.

Timing wise – this one will have to wait to we have Minsiter;'s on deck agin I think.

Glen-Marie

From: nick s 9(2)(a)
Sent: Monday, 29 September 2008 10:05 a.m.
To: Glen-Marie Burns
Cc: Chris Roblett
Subject: Part 21 cabinet paper package

Glen-Marie,

Attached are documents for Part 21. I am living in Wellington now, so happy to come to Ministry to discuss as needs be.

Paragraph 14 of the cabinet paper reflects my recent talk with Peter Blackler subsequent to my e-mail to him of 21 September copied to you. It is effectively agreeing now with the CAA that a 'line in the sand' is best drawn, but on the basis of the practicalities of regulatory oversight rather than on the basis of safety alone. I told Peter the cab paper would follow for CAA comment.

The WTO Issue is resolved with an amendment to the wording of the rule by CAA. I recommend the final rules wording be checked when received to ensure this has been done throughout, as there is more than one reference to FARs.

Regards,

Nick

Chris Roblett

From: Chris Roblett
Sent: Tuesday, 17 February 2009 12:06
To: Robert Spies
Cc: Glen-Marie Burns; Graeme Sharman
Subject: RE: Part 21 cabinet paper package - for your info

Rob,

We have yet to receive the copies of the rules from CAA for RRC.

Assuming we get them this week then I would anticipate the OK from RRC by 30 March. The Minister could consider the papers before the Easter recess and lodge them for EGI on 29 Apr and Cabinet on 4 May. That would give a *gazette* date of 14 May with the rule coming into force on or after 11 Jun.

Chris

Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

From: Robert Spies
Sent: Thursday, 5 February 2009 10:08 AM
To: Chris Roblett
Cc: Glen-Marie Burns; Graeme Sharman
Subject: RE: Part 21 cabinet paper package - for your info

Chris, I think we did, I will send you the email separately, it was sent from Chris Lamain on October 28 (I think you were copied).

CAA have come back to me with some suggested changes to my revised RIS and Cab paper which I have incorporated now.

They did say they need to update the draft Rules with the new Minister's credentials – would you prefer up-to-date draft rules before proceeding to RRC?

And they can now provide the amendment numbers?

Assuming RRC get back to you by 9th March I guess we could aim to get the Cab paper over to the Ministers office for signing that same week prior to EGI on 25 March?

CAA asked what the effective date would be? Any idea?

Robert

From: Chris Roblett
Sent: Monday, 2 February 2009 3:55 p.m.
To: Robert Spies
Subject: FW: Part 21 cabinet paper package - for your info

Hi Robert,

Have we received the revised drafts of the rules? As you will see, we were supposed to get them last September/October and if they have arrived, copies haven't got to me.

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Direct Dial: (04) 439 9362
E-mail: c.roblett@transport.govt.nz

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From: nick taylor [s 9\(2\)\(a\)](#)
Sent: Monday, 29 September 2008 10:05 a.m.
To: Glen-Marie Burns
Cc: Chris Roblett
Subject: Part 21 cabinet paper package

Glen-Marie,

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The WTO issue is resolved with an amendment to the wording of the rule by CAA. I recommend the final rules wording be checked when received to ensure this has been done throughout, as there is more than one reference to FARs.

Regards,

Nick

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MINISTRY OF TRANSPORT REPORT

Subject: AMENDMENT XX TO CIVIL AVIATION RULE PART 21- CERTIFICATION OF PRODUCTS AND PARTS - SPECIAL CATEGORY AIRCRAFT

Date: xx February 2009 **Docmin No.:** WGTA10804 **File Ref.:** POAV16-78

Attention: Hon Steven Joyce (Minister of Transport)

Purpose of Report

1. This report seeks your agreement to amend Civil Aviation Rule Part 21. Certification of Products and Parts (Part 21), and to make consequential amendments to other Rule Parts, pursuant to the Civil Aviation Act 1990.

Background

2. This report covers:
 - (a) Cabinet Process:
 - your paper to the Cabinet Economic Growth and Infrastructure Committee (EG), including a Regulatory Impact Statement, asking Cabinet to note your intention to sign the above Rule; and
 - talking points for EG.
 - (b) Rule-making following Cabinet notation:
 - a legal memorandum recommending that you sign the Rule, taking you through the legal requirements for the development of the Rule and matters that you are required to consider when making rules; and
 - a copy of the Rule.

Executive Summary

3. The objective of amendment xx to Part 21 is to expand the types of 'special category' airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military and other non-type certificated aircraft that are currently all certificated as special category aircraft – experimental (including both aeroplanes and helicopters).
4. The proposed changes to special category certifications will provide a platform to enable certain aircraft without type certificates to engage in some hire or reward activities under a separate proposed project, Part 115 Adventure Aviation, which is now in the technical development stage.

Recommendations

The recommendations are that you:

- (a) Sign and lodge the attached Cabinet paper; and
- (b) Note the contents of the attached legal memorandum; and
- (c) Agree to sign Amendment xx to Civil Aviation Rule Part 21: Certification of Products and Parts; and to make consequential amendments to other Rule Parts, subject to Cabinet notation.

Yes/No

Yes/No

Yes/No

Priority Routine Security Level In-confidence Deadline

Contact for telephone discussion (if required)

Name	Position	Telephone Direct Line Hours	Telephone After Hours	Suggested First Contact
Robert Spies	Principal Adviser, Aviation	04 439 9379		
Glen-Marie Burns	Manager, Aviation	04 439 9331		
Chris Robblett	Solicitor	04 439 9362		For legal issues

Robert Spies
Principal Adviser, Aviation

Martin Matthews
Chief Executive

MINISTER'S COMMENTS:

MINISTER'S SIGNATURE:

DATE:

<input type="checkbox"/> Noted	<input type="checkbox"/> Seen	<input type="checkbox"/> Approved
<input type="checkbox"/> Needs Change	<input type="checkbox"/> Referred to	<input type="checkbox"/> Overtaken by events
<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not Seen by Minister	

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Regulatory Impact Statement (RIS)

EXECUTIVE SUMMARY

The objective of amendment xx to Civil Aviation Rule Part 21: Certification of Products and Parts (Part 21) is to expand the types of special category airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, amateur-built, ex-military and other non-type certificated aircraft that are currently all certificated as special category experimental aircraft which includes aeroplanes and helicopters).

The proposed changes to special category certifications will also provide a platform to enable certain aircraft without type certificates to engage in some hire or reward activities in the growing 'Adventure Aviation' industry. This will be progressed under a separate proposed Adventure Aviation Rule project, Part 115, which is now in the technical development stage by the Civil Aviation Authority (CAA).

ADEQUACY STATEMENT

The Ministry of Transport has reviewed this RIS and considers it adequate according to the criteria agreed by Cabinet. The RIS explains why the existing framework will not suffice to deal with the problem being addressed, contains a statement of compliance costs and has been subject to adequate consultation.

STATUS QUO AND PROBLEM

Part 21 has, since entering into force in 1995, allowed a situation to develop where aircraft not eligible for a standard or restricted category airworthiness certificates were placed in the special category, subcategory experimental, whether the aircraft were involved in experimental operations or not. This situation resulted in the experimental subcategory becoming a 'dumping ground' for these aircraft.

Over this period there has been a rapid growth of ex-military and vintage aircraft displays, and the rise of sport and adventure aviation. The greater majority of aircraft involved in these activities in New Zealand are certificated under the experimental category. However, it is evident from records that only a small number of aircraft certificated as experimental are actually involved in experimental operations.

Industry petitioned the Civil Aviation Authority (CAA) in 1998 to create a new rule to provide for the unique certification and operating requirements of ex-military and vintage aircraft. Industry was asking that certain ex-military and vintage aircraft be permitted to operate for hire or reward to satisfy the increasing pressure from the public for adventure aviation experiences. Adventure aviation operations would enable the public to experience the thrill of flying in aircraft that would normally be barred under normal conditions.

Also, with the development of Light Sport Aircraft certification overseas and the inclusion of amateur-built aircraft in the experimental subcategory, the need for a rule with a broader base of airworthiness certificate types was considered necessary.

¹ Including consequential amendments to Rule Part 1 Definitions and Abbreviations, Part 43 General Maintenance Rules, Part 47 Aircraft Registration and Marking, Part 66 Aircraft Maintenance Personnel Licensing and 91 General Operating and Flight Rules

OBJECTIVES

The objective of amendment xx to Part 21 is to expand the types of Special Category airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, ex-military and other non-type certificated aircraft that are presently certificated as special category aircraft.

The public policy objective is to maintain aviation safety by identifying the role that Part 21 Special Category aircraft may be operated under and by creating specialised operational and maintenance rules to ensure the continued operational and engineering safety of these aircraft.

ALTERNATIVE OPTIONS

No other viable alternative options were considered other than to maintain the status quo.

PREFERRED OPTION

A comprehensive update of aircraft airworthiness classifications, maintenance and operational rules targeted at aircraft certificated under Part 21. The key features of the proposed amendments to Part 21 are below:

- Expanding the special category into six subcategories enabling an aircraft to be placed in the subcategory which best reflects its certification status.
- Introducing a revised experimental subcategory which limits aircraft to operational activities such as research and development, showing compliance with rules, or flight evaluation.
- Introducing an exhibition subcategory which will accommodate aircraft that will be primarily operated for exhibition at air shows, aerobatic competitions or the film industry.
- Introducing an amateur-built subcategory which will accommodate aircraft built by their owners for sport and recreation purposes once the aircraft has completed flight evaluation under the experimental subcategory.
- Introducing a primary subcategory to accommodate aircraft complying with U.S. Federal Aviation Administration's (FAA) Federal Aviation Regulation (FAR) 21.24. An aircraft certificated as Special Category—Primary may be operated for hire or reward or for flight training.
- Introducing the Light Sport Aircraft (LSA) subcategory to accommodate aircraft complying with certain standards notified by the FAA. The LSA aircraft, when constructed under factory conditions may be operated for hire or reward or for flight training.
- Introducing the Limited subcategory which accommodates the ex-military and vintage aircraft (including helicopters) which have been constructed in series, under factory conditions, in a controlled design environment. Aircraft in this subcategory may be operated for hire or reward.

The amendment to Part 21 will affect around 320 aircraft registered in New Zealand with special category airworthiness certificates. Owners of aircraft with special

category airworthiness certificates will be given 12 months to transition to the respective subcategories developed in this Rule amendment.

During the consultation compliance costs were questioned by industry. The CAA responded that it had considered the resources required for transferring certificates and that costs to the operator would be kept at a minimum.

There will be minimal additional costs to those persons operating their aircraft in a private capacity. These costs will be incurred by requiring those aircraft presently pooled in the experimental subcategory to be dispersed into the subcategory which best reflects its future operation. As CAA action will be limited to an electronic transaction for existing amateur-built aircraft a fee of 1 hour is estimated at \$133 per hour. Dependant on the aircraft original certification standard, CAA action on ex-military and vintage aircraft may need further time for assessment but will be limited to 5 hours maximum at \$133 per hour.

There will be a reduction in inspection costs for those aircraft not involved in hire or reward operations when the airworthiness inspection becomes biennial.

There is no significant change to government administration costs as a result of the proposals. There is no significant change to the CAA with regard to enforcement costs.

The net benefit of the proposal is an increase in aviation safety resulting from the ability to target and control the operational activities and the maintenance of special category aircraft. The ability of certain special category aircraft to be considered for hire or reward operations validates the restrictions and conditions being applied which will ensure that these aircraft are operated and maintained to the highest level.

IMPLEMENTATION AND REVIEW

Subject to Cabinet approval, the Minister of Transport will sign the proposed amendments to Part 21 and consequential Rules to come into force 28 days after notification in the Gazette.

Interested parties will be provided with guidance and information on acceptable means of compliance through an Advisory Circular published by the CAA.

CONSULTATION

Considerable consultation was undertaken across the aviation industry.

The proposed amendment to Part 21 has been in development since 1998 with a joint industry/CAA project working group being formed in 2005. A Notice of Proposed Rulemaking (NPRM), containing the proposed changes to Part 21 and consequential changes to other rules, was issued for public consultation in 2006. The publication of this NPRM was notified in the Gazette and advertised in the daily newspapers in the five main provincial centres. The NPRM was published on the CAA website and mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A total of seven submissions were received from a helicopter operator, aviation organisations, a regulatory authority, an engineering organisation and individuals. Feedback from the NPRM was incorporated into the Final Rule where appropriate.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Chair
Cabinet Economic Growth and Infrastructure Committee

AMENDMENT XX TO CIVIL AVIATION RULE PART 21: CERTIFICATION OF PRODUCTS AND PARTS - SPECIAL CATEGORY AIRCRAFT

Proposal

1. This paper proposes that the Cabinet Economic Growth and Infrastructure Committee note my intention to amend Civil Aviation Rule Part 21: Certification of Products and Parts (Part 21); and to make consequential amendments to the following Civil Aviation Rule Parts (collectively the 'Rules'), pursuant to the Civil Aviation Act 1990 (the Act):
 - Part 1, Amendment xx, Definitions and Abbreviations
 - Part 43, Amendment xx, General Maintenance Rules
 - Part 47, Amendment xx, Aircraft Registration and Marking
 - Part 66, Amendment xx, Aircraft Maintenance Personnel Licensing; and
 - Part 91, Amendment xx, General Operating and Flight Rules.

Executive summary

2. The objective of amendment xx to Part 21 is to expand the types of 'special category' airworthiness certificates that may be issued under Part 21 to adequately cover the range of vintage, amateur-built, ex-military and other non-type certificated aircraft that are currently all certificated as special category aircraft - 'experimental' (including both aeroplanes and helicopters).
3. The proposed changes to special category certifications will provide a platform to enable certain aircraft without type certificates to engage in some hire or reward activities under a separate proposed Rule project, Part 115 Adventure Aviation, which is now in the technical development stage at the Civil Aviation Authority (CAA).

Background

4. With certain exceptions, a person must not operate an aircraft unless that aircraft has a current airworthiness certificate. Part 21 currently lists three categories of airworthiness certificates for registered aircraft: standard, restricted and special.
5. The special category is for those aircraft that do not qualify for the more demanding airworthiness requirements under the standard or restricted categories. Special category aircraft may not presently be used for the carriage of persons or goods for hire or reward.
6. Aircraft that do not qualify for either a standard or restricted category airworthiness certificate are certified as special category 'experimental'.
7. The Rules are part of the 2005/06 Transport rules programme [EDC Min (05) 13/6 refers].

Comment

8. To accommodate the various types of aircraft in the special category, the proposed amendment to Part 21 will establish six special category airworthiness certificate subcategories. The aim is to enable industry and CAA to clearly identify where a particular aircraft lies in the airworthiness certification system, its certification standard, its end use and, in particular, the ability for an aircraft with a special category airworthiness certificate to be operated for hire or reward under certain circumstances.
9. The new subcategories under a special category airworthiness certificate are:
 - **Experimental:** for aircraft engaged only in aircraft research and development and flight evaluation.
 - **Exhibition:** for aircraft which have been factory built but not to a specific design standard. The exhibition category will cater for those aircraft that are primarily used for air shows, aerobatic competitions or the film industry.
 - **Amateur-built:** for amateur-built aircraft that have successfully completed a period of flight evaluation under a special category - experimental airworthiness certificate.
 - **Primary:** for small aircraft as a simplified method of gaining certification. If factory built, an aircraft in the Primary category may be operated for limited hire and reward.
 - **Light Sport Aircraft (LSA):** for aircraft that meet a unique set of design standards. A factory-built aircraft in the LSA category may be operated for limited hire or reward.
 - **Limited:** for ex-military and vintage aircraft with a provision for aircraft to be eligible for certain hire or reward operations. They will normally be multi-seat aircraft used for private or the proposed Adventure Aviation operations. As passengers may be carried, Part 21 seeks to mitigate risk by limiting the numbers of passengers in both aeroplanes and helicopters, issuing operations specifications to the operator, and ensuring that maintenance is controlled by a named principal maintenance provider.
10. The amendment to Part 21 will also prohibit the operation or use of special category aircraft, such as ex-military helicopters, for external load operations under Part 133 (Helicopter External Load Operations) and Part 137 (Agricultural Aircraft Operations). This limitation reflects the intent of a prohibition notice issued previously by the Director of Civil Aviation in 2006.

Consultation

11. A Notice of Proposed Rulemaking (NPRM) containing the proposed changes to Part 21 and consequential changes to the other Rules, was issued for public consultation in 2006. Seven written submissions were received on the NPRM and as a result some minor changes were made to the proposed rules.

12. The CAA has been consulted on this paper. The Department of the Prime Minister and Cabinet has been informed.

Financial implications

13. There are no financial implications for government arising from this paper. There will be no significant change to government administrative costs as a result of the proposed amendments to the Rules.

Human rights, gender and disability implications

14. There are no human rights, gender or disability implications arising from this paper.

Legislative implications

15. Amendments will be required to the Civil Aviation (Offences) Regulations 2006 to include references to offence provisions.

Regulatory impact analysis

16. The principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements, including the consultation RIA requirements, have been complied with. A Regulatory Impact Statement (RIS) was prepared and the Ministry of Transport considers it to be adequate. The final RIS was circulated with the Cabinet paper for departmental consultation and is attached to this paper.

17. Compliance costs to industry will be minimal. The amendment to Part 21 will affect around 320 aircraft registered in New Zealand with special category airworthiness certificates. The CAA estimates the cost of compliance to range from \$133 to \$665 per aircraft.

Publicity

18. The Minister of Transport will sign the Rules following noting of this paper by Cabinet and in accordance with the Act; the Rules will come into force not less than 28 days after they have been notified in the *New Zealand Gazette*.

19. Hard copies of the Rules will be available for purchase through the CAA and for free on the CAA website. CAA will publicise the Rules, including notification in the Civil Aviation Rules Register Information Leaflet, on the CAA website and in the CAA Vector magazine.

Recommendations

20. It is recommended that the Committee:

- 1) note my intention to amend Civil Aviation Rule Part 21: Certification of Products and Parts, which is part of the 2005/06 Transport rules programme; and to make consequential amendments to other Civil Aviation Rules Parts; and
- 2) note the contents of the Rules.

Steven Joyce
Minister of Transport

Dated: _____

Minister's Talking Points for EGI

Amendment to Civil Aviation Rule Part 21: Certification of Products and Parts

- Presently aircraft in New Zealand are certified as standard, restricted or special. This rule project concerns special category certification.
- Special airworthiness certificates are granted for those aircraft that do not meet the more demanding requirements for standard or restricted category. Special category aircraft may not presently be used for hire or reward operations.
- Most special category aircraft are currently given a special category – experimental airworthiness certificate. The proliferation of aircraft types that do not meet standard or restricted category standards means that special category – experimental now constitutes what the Civil Aviation Authority characterises as a 'dumping ground' for a variety of aircraft.
- Examples of special category aircraft are ex-military, aerobatic, and amateur-built and include both aeroplanes and helicopters.
- Special category – experimental does not adequately differentiate the types, or the activities sought by operators. Some operators wish to conduct hire and reward activities with special category aircraft, such as in Adventure Aviation. Internationally, regulators have addressed this by introducing more special category sub-categories.
- Six sub categories of special category airworthiness certificates are proposed:
 - **Experimental:** specific to aircraft actually conducting flight test and evaluation
 - **Exhibition:** for aircraft engaged broadly in display flying
 - **Amateur-built:** for amateur-built aircraft
 - **Primary:** to provide a simplified method of gaining type certification for a small aircraft
 - **Light Sport aircraft:** for aircraft that meet the technical definition of this type
 - **Limited:** for ex-military and vintage aircraft, which can be approved for hire or reward operations.
- The new sub-categories are differentiated on both maintenance requirements and operational limitations. This requires consequential amendments to other Rules Parts (1, 43, 47, 66 and 91)

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31 March 2022

OC220185

Hon Michael Wood
 Minister of Transport

Action required by:
 Friday, 8 April 2022

PROACTIVE RELEASE OF HĪKINA TE KOHUPARA – PATHWAYS TO NET ZERO BY 2050 CABINET PAPER

Purpose

Seeks your approval to proactively publish the Cabinet paper that sought permission to release *Hīkina te Kohupara – Kia mauri ora ai te iwi: Transport Emissions – Pathways to net zero by 2050* (Hīkina te Kohupara) as a discussion document for targeted engagement.

Number of papers	One Cabinet paper and one Minute of decision
Deadline	7 April 2022
Risks	There are no risks with the release of this paper

Recommendations

We recommend you:

- | | |
|---|----------|
| <ol style="list-style-type: none"> 1 approve Te Manatū Waka Ministry of Transport (the Ministry) to publish the Cabinet paper and the associated Cabinet Minute on Hīkina te Kohupara on the Ministry's website. No redactions have been made to the documents; 2 note that proactive release of the documents should have been actioned in June 2021 to meet the timeliness required by Cabinet Office circular 18(4); 3 note that the Ministry will remedy this oversight by publishing them as soon as possible. | Yes / No |
|---|----------|



Jemima de Lacey
 Acting Programme Manager,
 Environment, Emissions & Adaptation

30 / 3 / 2022

Hon Michael Wood
 Minister of Transport

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Minister's office to complete:

Approved

Declined

Seen by Minister

Not seen by Minister

Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Jemima de Lacey, Acting Programme Manager, Environment, Emissions & Adaptation	s 9(2)(a)	✓
Joanna Pohatu, Principal Adviser, Environment, Emissions & Adaptation		

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PROACTIVE RELEASE OF HĪKINA TE KOHUPARA – PATHWAYS TO NET ZERO BY 2050 CABINET PAPER

Background

- 1 On 10 May 2021 Cabinet made a decision on the paper titled *Release of Hīkina te Kohupara – pathways to net zero by 2050: Release of discussion document for targeted engagement*. (Cabinet minute CAB-21-MIN-0157 refers).
- 2 Cabinet Office circular CO 18(4) states that all Cabinet and Cabinet Committee papers and minutes be proactively released and published online within 30 business days of final Cabinet decisions. This is the case “unless there is good reason not to publish”.
- 3 Cabinet agreed to the proactive release of the Cabinet paper when it agreed to the release of Hīkina te Kohupara for targeted engagement. Unfortunately, Te Manatū Waka Ministry of Transport (the Ministry) did not action the proactive release. This was an oversight, primarily because officials were focused on the release of Hīkina te Kohupara and the subsequent targeted engagement.
- 4 We propose to rectify this and publish the following documents on the Ministry’s website:
 - Cabinet paper - Release of Hīkina te Kohupara – Kia mauri ora ai te iwi: Transport emissions – pathways to net zero by 2050 as a discussion document for targeted engagement
 - Cabinet Minute – CAB-21-MIN-0157: Hīkina te Kohupara – Pathways to Net Zero by 2050: Release of Discussion Document for Targeted Engagement.

Review

- 5 The Ministry has reviewed these documents and determined that both can be released in full. The attached schedule confirms this approach.

Consultations undertaken

- 6 We have consulted Waka Kotahi New Zealand Transport Agency on the proposed release of these documents. Waka Kotahi supports the release of the documents.

Risks and mitigations

- 7 There are no risks associated with the release of these documents. The Hīkina te Kohupara discussion document is already in the public domain.

Next steps

- 8 Once you have approved the release of the documents, we will publish them on the Ministry’s website.

ANNEXES

1 The following documents are attached to this briefing:

- Annex 1 Cabinet paper - Release of Hīkina te Kohupara – Kia mauri ora ai te iwi: Transport emissions – pathways to net zero by 2050 as a discussion document for targeted engagement.
- Annex 2 Cabinet Minute – CAB-21-MIN-0157: Hīkina te Kohupara – Pathways to Net Zero by 2050: Release of Discussion Document for Targeted Engagement.

2 Document Schedule

Ref	Date of document	Name of document	Details
1	Considered by Cabinet Economic Development Committee on 5 May 2021	Cabinet paper - Release of Hīkina te Kohupara – Kia mauri ora ai te iwi: Transport emissions – pathways to net zero by 2050 as a discussion document for targeted engagement.	Released in full.
2	10 May 2021	Cabinet Minute – CAB-21-MIN-0157: Hīkina te Kohupara – Pathways to Net Zero by 2050: Release of Discussion Document for Targeted Engagement.	Released in full.