
NOTICE OF RULE MAKING
COOK ISLANDS CIVIL AVIATION RULE PART 140
Aviation Security Service Organisation – Certification.

I, Hon Henry Puna Minister of Civil Aviation of the Cook Islands, make the following Rule:

Cook Island Civil Aviation Rule (CICAR): Part 140 Aviation Security Service Organisation
– Certification

Content of Rule Incorporated by Reference

In accordance with section 39 of the Civil Aviation Act 2002 this Rule Part, incorporates by way of reference, the Rules contained in **New Zealand Civil Aviation Rule Part 140** in force as at 18th April 2018 as modified hereunder and shall be read subject to the following Interpretation and Modification Statement.

Objective of the Rule

The purpose of the Rule is to prescribe the certification requirements for an organisation providing aviation security services in the Cook Islands and the operating requirements for the continuation of this certification. Part 140 is intended to achieve Cook Islands obligations under ICAO Annex 17 to provide security services at both security designated aerodromes and security designated navigation installations.

The Rule incorporates the standard layout for Rules pertaining to the certification of organisations. The Rule contains specific requirements for the certification (entry standards), operation (continued operations), and safety audit (surveillance) of persons providing security

Commencement of Rule into Force

This Rule, as modified below, comes into force on the 1st July 2018.

Availability of Rules

A copy of Part 140 of the New Zealand Civil Aviation Rule (Consolidated version dated 16 January 2013) will be attached to this document and physically filed at:

The Ministry of Transport
Port of Avatiu
Avatiu
Rarotonga
Cook Islands

Copies of the New Zealand Civil Aviation Rules are available from:

- CAA web site: <http://www.caa.govt.nz/>
- NZ +64 0800 GET RULES (0800 438 785)

Extent of Consultation

In addition to public notification of proposed Rule-making, targeted notification of the intention to make this Rule was made to:

- All key document holders including holders of Foreign Air Operator Certificates
- Relevant Ministries
- Mayors and Executive Officers of the Outer Islands (Pa Enea)

The Ministry of Transport met on request with:

- The Office of the Public Service Commission
- Air Rarotonga
- Infrastructure Cook Islands (including representatives from the Pa Enea)
- Airport Authority Cook Islands
- Cook Islands Police Service
- Ministry of Finance and Economic Management (Customs)
- Pacific Island Energy PTE Ltd
- Cook Island Meteorological Service
- Cook Islands Tourism

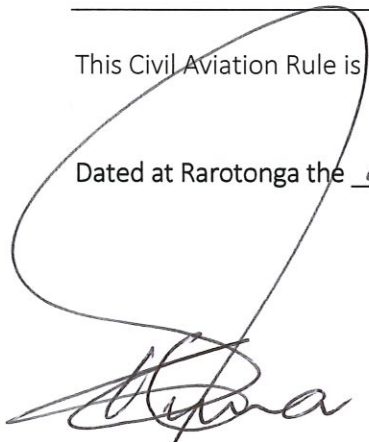
The Ministry of Transport received written submissions from:

- Airport Authority Cook Islands
- Air Rarotonga Ltd
- Pacific Islands Energy PTE Ltd.

Copies of the written submissions are available from the Ministry of Transport.

This Civil Aviation Rule is made pursuant to section 29 of the Civil Aviation Act 2002.

Dated at Rarotonga the 28th day June 2018.

A large, stylized handwritten signature in black ink, appearing to read 'H. Puna', is written over the date and extends upwards into the text area.

Hon Henry Puna
Minister of Civil Aviation

Interpretation and Modification Statement for Part 140

(1) Words and numbers to be substituted. Unless otherwise stated, all references to civil aviation legislation are to be read as referring to the Cook Islands Aviation Security Act 2008.

Throughout

- For “New Zealand” substitute “the Cook Islands” or “Cook Islands” as appropriate.
- For “Act” or “Civil Aviation Act” substitute “Aviation Security Act 2008” unless otherwise specifically indicated below.
- For “regulation(s)” substitute “regulations made under the Civil Aviation Act 2002”
- For “Authority” or “Civil Aviation Authority of New Zealand” substitute “Cook Island Ministry of Transport”
- For “form CAA” substitute “form MOT”. Cook Island Ministry of Transport form numbers are otherwise identical to New Zealand CAA form numbers.
- For “CAA of NZ” substitute “Ministry of Transport – Civil Aviation Division of Cook Islands”
- For “CAA Consolidation” substitute “Cook Islands Incorporated Consolidation”
- For “the Police” substitute “for the Cook Island Police Service”
- For “section 80 of the Act” substitute “section 8 of the Aviation Security Act”
- For “section 82 of the Act” substitute “section 10 of the Aviation Security Act”
- For “unauthorised article “ substitute “prohibited item”
- For “security enhanced area “ substitute “security restricted area:”
- For “within each 28-day cycle” in Appendix A substitute “with “once every calendar month.”
- For “150 day cycle” in Appendix A substitute “within 6 calendar months of the last tests or checks conducted”.

Below, “NZCAR” means New Zealand Civil Aviation Rule

NZCAR 140.3 – Definitions (Aviation Security Officer)	
Delete: Aviation security officer	Insert: Aviation security officer
“Aviation security officer means an employee of a holder of an aviation security service certificate who is designated as such under section 81(2) of the Act or a person for the time being employed as such in the Aviation Security Service:”	“Aviation security officer has the meaning given to it by section 2 of the Aviation Security Act 2008, and means a person for the time being employed by an aviation security organization pursuant to Civil Aviation Rule Part 140.”
Explanation of Change: Provides the correct reference in Cook Islands legislation.	

NZCAR 140.3 – Definitions (In service)	
Delete: In service	Insert: In service
<p>“In service has the same meaning as in section 2(3) of the Aviation Crimes Act 1972:”</p>	<p>“In service has the meaning given to it in section 2(3) of the Aviation Security Act 2008 and means in respect of an aircraft the time, when pre-flight preparation of the aircraft by ground personnel or by the aircraft’s crew begins for a specific flight until either—</p> <p>(a) The flight is cancelled; or</p> <p>(b) Twenty four hours after the aircraft, having commenced the flight, lands;</p> <p>or</p> <p>(c) The aircraft, having commenced the flight, makes a forced landing and any competent authorities referred to in subsection (2) of section 2 the Aviation Security Act 2008 assume responsibility for the aircraft and for persons and property on board the aircraft; or</p> <p>(d) The aircraft, having commenced the flight, ceases to be in flight, -whichever is the latest.”</p>
<p>Explanation of Change: Removal of reference to New Zealand legislation and replacement with an appropriate definition in the Aviation Security Act</p>	

NZCAR 140.3 – Definitions (Unauthorised article)	
Delete: unauthorised article	Insert: Prohibited item
<p>“Unauthorised article means those articles referred to in section 11(1)(a), (b), (c), and (d) of the Aviation Crimes Act 1972;”</p>	<p>“Prohibited Item” has the same meaning as in section 2(1) of the Aviation Security Act 2008.”</p>
<p>Explanation of Change: Removal of reference to New Zealand legislation and replacement with an appropriate definition.</p>	

NZCAR 140.9 – Issue of Certificate	
Delete: in heading	Insert: In heading
“Subject to section 79A of the Act, the Director shall issue an aviation security service certificate if—”	“subject to sections, 4,5 and 6 of the Aviation Security Act 2008 and section 26 of the Act the Director shall issue an aviation document to provide aviation security services if —”
Explanation of Change: Reference to the appropriate Cook Island legislation.	

NZCAR Appendix A – Security Operational Standards (A.1 Sterile area search)	
Delete: A.1(3)	Insert: A.1(3)
“(3) carry out tests or checks, to confirm— (i) the thoroughness of any search of a sterile area, within each 28 day cycle; and (ii) the proficiency of each aviation security officer carrying out sterile area searches, within each 150 day cycle, in accordance with the recurrent testing provisions of A.24.”	“(3) carry out tests or checks, to confirm— (i) the thoroughness of any search of a sterile area, once every calendar month; and (ii) the proficiency of each aviation security officer carrying out sterile area searches, within 6 calendar months of the last tests or checks conducted, in accordance with the recurrent testing provisions of A.24.”
Explanation of Change: This change maintains consistency with Annex 17.	

Appendix A – Security Operational Standards (A.12 – Mobile patrol)	
Delete: A.12 Mobile patrol	Insert: A.12 Mobile patrol:
A.12 Mobile patrol: “(b)(8) ensure the inspection required by paragraph (b)(7) includes— (i) covering the perimeter at least three times during night and at least three times during day; and”	A.12 Mobile patrol: “(b) (8) ensure the inspection required by paragraph (b)(7) includes— (i) covering the perimeter at least three times daily, including at least once in the period 90 minutes prior to each international arrival or departure; and”
Explanation of Change: Amendment to reflect the more limited number of movements through the International Airport while still ensuring a reasonable level of security.	

Appendix A – Security Operational Standards (A.12 – Mobile patrol)
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Delete: A.12 Mobile patrol	Insert: A.12 Mobile patrol
<p>A.12 Mobile patrol: “(c) Where the Aviation Security Service is providing aviation security services at an aerodrome, other than at Auckland, Wellington, or Christchurch International Airports, its aviation security officers may maintain mobile patrols at that aerodrome less than 24 hours daily, without complying with paragraph (b)(8), if –</p> <p>(1) the aerodrome operator is providing its own 24-hour daily security presence; and</p> <p>(2) its aviation security officers patrol the period from 90 minutes prior to each international departure until 15 minutes after departure.”</p>	<p>A.12 Mobile patrol: “(c) The holder of an aviation document to provide aviation security services at International Airports may maintain mobile patrols at that aerodrome less than 24 hours daily, without complying with paragraph (b)(8), if—</p> <p>(1) an aviation security risk and threat assessment has been carried out for the aerodrome within the immediately preceding 12 months of any international arrival or departure, which indicates a risk probability of no greater than “unlikely’ with a risk severity of no greater than “negligible”; and</p> <p>(2) the document holder is not aware of any increase in the level of security risks or threat in respect of the aerodrome; and</p> <p>(3) the aviation security risk and threat assessment has been approved by the Director; and</p> <p>(3) its aviation security officers patrol the period from 24 hours prior to each international arrival until two hours after departure.”</p>
<p>Explanation of Change: Removal of references to New Zealand airports, and amendment to reflect the more limited number of movements through Rarotonga International Airport while still ensuring a high level of security. Language amended to reflect Cook Islands laws.</p>	

Appendix A – Security Operational Standards (A.18 – Aircraft Security)	
Delete: A.18 Aircraft Security	Insert: A.18 Aircraft Security
<p>A.18 Aircraft Security: “(b) Where the Aviation Security Service is providing aviation security services at an aerodrome, other than at Auckland, Wellington, and Christchurch International Airports, its aviation security officers may maintain patrols of aircraft that are in</p>	<p>A.18 Aircraft Security: “(b) Where the Aviation Security Service is providing aviation security services at an aerodrome other than at Rarotonga Aerodrome, its aviation security officers may maintain patrols of aircraft that are in service for international destinations at that</p>

service for international destinations at that aerodrome for periods less than that required by paragraph (a)(2), if –"	aerodrome for periods less than that required by paragraph (a)(2), if –"
Explanation of Change: Amendment to change references of aerodromes.	

Appendix A – Security Operational Standards (A.23 – Training)	
Delete:	Insert:
<p>A.23 Training: “(1) Legislation relating to aviation security: (i) Aviation Crimes Act 1972 to examine the powers of an aviation security officer, aircraft commander, and the police and study the crimes that are provided for under the Aviation Crimes Act 1972, to grade 4: (ii) New Zealand Bill of Rights Act 1990 to examine the rights of an individual to be secure against unreasonable search or seizure, to grade 3: (iii) Civil Aviation Act 1990 and Civil Aviation Rules to examine the responsibilities, functions, and powers of an aviation security officer and offences applicable to aviation security, to grade 5: (iv) Part 19 to examine the provisions of rules 19.353, 19.355, 19.357, and 19.359, to grade 3: (v) Civil Aviation (Offences Regulations 1997) to examine the offence provisions and penalties for breaches of rules 19.353, 19.355, 19.357, and 19.359, to grade 3: (vi) Crimes Act 1961 to examine sections 157, 203, 300, 301, and 303 of the Crimes Act dealing with endangering transport, to grade 3:</p>	<p>A.23 Training: “(1) Legislation relating to aviation security as, and at a grade, that may be determined necessary by the Director including but not limited to :” (i) the Aviation Security Act 2008 (ii) the Civil Aviation Act 2002 and the Civil Aviation Rules</p>

(vii) Arrest and use of force to examine the sections of the Crimes Act dealing with arrest and use of force, to grade 5:"	
Explanation of Change: Removal of references to New Zealand legislation. Conferral of limited discretion to the Director to determine what training is appropriate.	

(ii) Any subpart, Rule or appendix of the adopted Rule Part which shall not apply in the Cook Islands

Nil

(iii) Any general exemptions which will apply in the Cook Islands

Nil

(iv) Any additional provisions or requirements not found in the New Zealand Rule Part but which will apply in the Cook Islands

Nil

(v) Any direction as to the application or non-application to the Cook Islands of any amendment or repeal of an adopted Rule Part by its country of origin

This Rule Part adopts all New Zealand amendments in force as at 18th April 2018, including:

- Part 140 Original Issue: 2 November 1998
- Amendment 1; 1 June 2002
- Amendment 2; 22 June 2006
- Amendment 3; 26 September 2007
- Amendment 4; 18 January 2008
- Amendment 5; 25 March 2010
- Amendment 6; 16 January 2013

(vi) Any other matter which would assist in the practical, clear and unambiguous interpretation and application of the adopted Rule Part in the Cook Islands.

Unless the Director issues specific acceptable means of compliance for this Cook Island Rule Part, the standards, practices and procedures that the Director has found to be acceptable are those published in the associated Advisory Circulars issued by the Civil Aviation Authority of New

Zealand. Interpretative or explanatory material for this Rule Part may also be found in New Zealand Advisory Circulars.

In this Rule, “CAA Advisory Circulars” means Advisory Circulars issued by the Civil Aviation Authority of NZ.

If further guidance regarding acceptable means of compliance for this Cook Island Rule Part is required, the Director shall issue such guidance on request.

Any references to other Rule Parts is intended to refer to the applicable Cook Island Civil Aviation Rule (for example “Part 12” refers to Part 12 of the Cook Islands Civil Aviation Rules, which adopts by way of reference, with modifications, the New Zealand Civil Aviation Rule Part 12).

If no relevant Cook Island Civil Aviation Division form exists, the relevant New Zealand form may be used. [Ends]