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**NOTICE OF RULE MAKING**  
**COOK ISLANDS CIVIL AVIATION RULE PART 172**  
**Air Traffic Services Organisations - Certification**

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

Cook Island Civil Aviation Rule (CICAR): Part 172 Air Traffic Services Organisations -  
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 172** in force as at **18<sup>th</sup> April 2018** as modified hereunder and shall be read subject to the following Interpretation and Modification Statement.

**Objective of the Rule**

This Rule prescribes the certification and operating requirements for organisations providing an air traffic service in Cook Island airspace. It is to be noted that the Cook Islands comes within the Auckland Oceanic flight Information region where air traffic services are managed by Airways New Zealand. In the sovereign airspace of the Cook islands, New Zealand (delivered by Airways New Zealand) has been delegated the provision of services at flight levels 245 and above.

These Rules seek to provide for the certification of the Cook Island organisations responsible for ATS within the Cook Island sovereign airspace.

**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 172 of the New Zealand Civil Aviation Rule (Consolidated version dated 10 March 2017) will be attached to this document and physically filed at:

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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 Enuā)

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 Enuā)
- 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

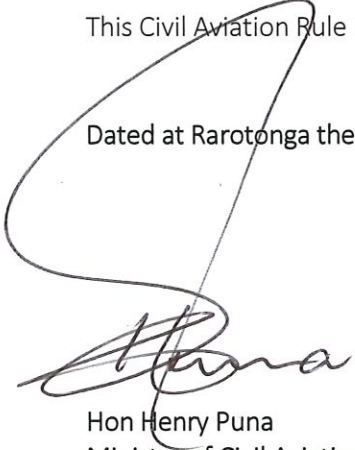
The Ministry of Transport received written submissions from:

- 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 28<sup>th</sup> day June 2018.



Hon Henry Puna  
Minister of Civil Aviation

### Interpretation and Modification Statement for Part 172

(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 Civil Aviation Act 2002.

#### Throughout

- For “New Zealand” substitute “the Cook Islands” or “Cook Islands” as appropriate
- For “Act” or “Civil Aviation Act” substitute “2002 Act”
- For “regulations” substitute “regulations made under the Civil Aviation Act 2002”
- For “Authority” or “Civil Aviation Authority of New Zealand” substitute “the Cook Islands Ministry of Transport”
- For “CAA of NZ” or CAA substitute “Ministry of Transport – Civil Aviation Division of Cook Islands”
- For “AIP” or “AIPNZ” or “Aeronautical Information Publication New Zealand” substitute “AIP CI” or “Aeronautical Information Publication Cook Islands”.
- For “CAA Consolidation” substitute “Cook Islands Incorporated Consolidation”.
- For “Form CAA” substitute “Form MOT”
- For “the Auckland Oceanic Flight Information Region” substitute “the airspace within the territorial limits of the Cook Islands”

Below, “NZCAR” means New Zealand Civil Aviation Rule

NZCAR 172.1 Purpose	
Delete: 172.1(a)(1)	Insert: 172.1(a)(1)
“(1) the certification and operation of organisations providing an air traffic service in— (i) the New Zealand Flight Information Region; and (ii) the Auckland Oceanic Flight Information Region; and”	“(1) the certification and operation of organisations providing an air traffic service in the airspace within the territorial limits of the Cook Islands; and”
<b>Explanation of Change:</b> NZCAR has a wider scope than is appropriate for the Cook Islands. Certification is for the responsible ATS Authority in the Cook Islands.	

NZCAR 172.3 definitions	
Delete: Rated air traffic controller	Insert: Rated air traffic controller
<p>“Rated air traffic controller means an air traffic controller holding a current licence, and a rating, or ratings, validated for the particular location, issued in accordance with Part 65:</p> <p>Rated aerodrome flight information operator means a flight service operator holding a current licence, and an aerodrome flight information rating validated for the particular location, issued in accordance with Part 65:</p> <p>Rated flight service operator means a flight service operator holding a current licence, and a rating, or ratings, validated for the particular location, issued in accordance with Part 65.”</p>	<p>“Rated air traffic controller means an air traffic controller holding a current licence, and a rating, or ratings, validated or qualified or the particular location, issued in accordance with Part 65:</p> <p>Rated aerodrome flight information operator means a flight service operator holding a current licence, and an aerodrome flight information rating validated or qualified for the particular location, issued in accordance with Part 65:</p> <p>Rated flight service operator means a flight service operator holding a current licence, and a rating, or ratings, validated or qualified for the particular location, issued in accordance with Part 65.”</p>
<p><b>Explanation of Change:</b> The insertion of “or qualified” is required as validation may not be appropriate.</p>	

NZCAR 172.89 (a) and (b) – Cruising levels	
Delete:	Insert
<p>“(a) Each applicant for the grant of an air traffic service certificate in respect of an air traffic control service shall establish procedures to ensure that cruising levels allocated within the New Zealand FIR are selected in accordance with 91.425 for IFR flights, or 91.313 for VFR flights, except that, within controlled airspace— (1) for both IFR</p>	<p>“(a) Each applicant for the grant of an air traffic service document in respect of an air traffic control service shall establish procedures to ensure that cruising levels allocated within Cook island airspace below flight level 245 feet are selected in accordance with 91.425 for IFR flights, or 91.313 for VFR flights, except that, within controlled airspace— (1) for both IFR and</p>



and VFR flights, correlation of cruising level with track need not apply; and  (2) VFR flights may be allocated IFR levels.  “(b) Each applicant for an air traffic service certificate for the provision of an area control service in the Auckland Oceanic FIR shall establish procedures to ensure that cruising levels are allocated in accordance with Annex 2, except that correlation of cruising level with track need not apply.”	VFR flights, correlation of cruising level with track need not apply; and  (2) VFR flights may be allocated IFR levels. “
<b>Explanation of Change:</b> NZCAR has a wider scope than is appropriate for the Cook Islands.	

NZCAR 172.97(a) – Alerting Service	
<b>Delete:</b>	<b>Insert:</b>
“(a) - RCC means the rescue co-ordination centre established by the Authority under section 72B (2A) of the Act.”	“(a)- RCC means the New Zealand rescue coordination centre providing search and rescue capability with in the Pacific region.”
<b>Explanation of Change:</b> Removal of New Zealand legislative reference.	

NZCAR 172.285 – Separation involving military aircraft	
<b>Delete:</b>	<b>Insert:</b>
“The separation criteria and minima prescribed in these rules shall be applied to military aircraft unless there is written agreement between the ATS provider and the New Zealand Defence Force, or a military agency of a foreign state, authorising the use of reduced military separation when it is-”	“The separation criteria and minima prescribed in these rules shall be applied to military aircraft unless there is written agreement between the ATS provider and a military agency of a foreign state, authorising the use of reduced military separation when it is-”
<b>Explanation of Change:</b> Removal of reference to New Zealand Defence Force. The Cook Islands do not have a defence force or another applicable agency.	

NZCAR Subpart H - Transitional Provisions.	
Delete: 172.451(c) and (h) 172.453 (i)	Insert: 172.451(c) and (h) 172.453 (i)
<p><b>172.451</b> “(c) A completed CAA form and implementation plan must be submitted to the Director—</p> <p>(1) after 1 February 2016 for an applicant for the grant of an air traffic service certificate under subparagraph (a)(2); and</p> <p>(2) by 30 July 2016 for a holder of an air traffic service certificate under subparagraph (a)(1). “</p> <p>“(h) This rule expires on 1 February 2018.”</p> <p>172.453 “(i) This rule expires on 1 February 2018”</p>	<p>“A completed CAA form and implementation plan must be submitted to the Director—</p> <p>(1) after 1 February 2019 for an applicant for the grant of an air traffic service certificate under subparagraph (a)(2); and</p> <p>(2) by 30 July 2019 for a holder of an air traffic service certificate under subparagraph (a)(1).”</p> <p>“(h) This rule expires on 1 February 2020.”</p> <p>172.453 “(i) This rule expires on 1 February 2020”</p>
<p><b>Explanation of Change:</b> The transition dates for SMS are changed to make them relevant to the document holder in the Cook islands.</p>	

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

NZCAR 172.1 Purpose
Delete: 172.1(d)
“(d) In this Part, references to the Auckland Oceanic Flight Information Region exclude those portions of airspace within the flight information region that are designated under Part 71 as sectors where an ICAO Contracting State other than New Zealand is providing the air traffic service.”
<p><b>Explanation of Change:</b> This provision is not relevant in the Cook Islands</p>

NZCAR 172.65 Contingency plan
Delete: 172.65(b)

“(b) In addition to the requirement in paragraph (a), each applicant for the grant of an air traffic service document to provide services in the Auckland Oceanic FIR shall detail in its plan provisions for the continuation of the safe and orderly flow of international traffic not landing in New Zealand. “

**Explanation of Change:**

Not relevant to the Cook Islands.

NZCAR NZCAR-172.67 Co-ordination requirements (Renumber 172.67(a) (7) and (8) as (6) and (7))

**Delete: 172.67(a)(6)**

“(6) the New Zealand Defence Force; and”

**Explanation of Change:** Removal of reference to New Zealand Defence Force. The Cook Islands does not have a defence force or other applicable agency.

NZCAR 172.151A – Transitional Arrangements

**Delete: 172.151A**

“(a) Despite rule 172.151(4), a holder of an air traffic service certificate is not required to comply with rule 172.115(b) (10) until 16 July 2013.

(b) Rule 172.165 does not apply to the holder of an air traffic service certificate until 16 July 2013”

**Explanation of Change:**

Transitional dates have expired. The Rule is no longer relevant or appropriate.

(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



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

- Part 172 Original Issue: 1 January 1998
  
- Amendment 1; 13 August 1999
- Amendment 2; 1 24 January 2002
- Amendment 3; 8 August 2002
- Amendment 4; 5 August 2004
- Amendment 5; 22 June 2006
- Amendment 6; 23 October 2008
- Amendment 7; 10 March 2010
- Amendment 8; 16 January 2013
- Amendment 9; 1 April 2014
- Amendment 10; 24 September 2015
- Amendment 11; 1 February 2016
- Amendment 12; 10 March 2017

(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]