
NOTICE OF RULE MAKING
COOK ISLANDS CIVIL AVIATION RULE PART 71
Designation and Classification of Airspace

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

Cook Island Civil Aviation Rule (CICAR): Part 71 Designation and Classification of
Airspace

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 71** 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

Part 71 prescribes the general rules for the designation and classification of airspace for aviation purposes and in the public interest.

In particular, Part 71 empowers the Director as the person who may designate and classify airspace for aviation purposes in the sovereign airspace of the Cook Islands.

Part 71 also empowers the Director to restrict aviation activity by the designation of special use airspace.

Airspace can be designated as either controlled airspace or special use airspace. Controlled airspace is designated where there is a need for an air traffic control service to be provided for the safety and efficiency of aircraft operations. Such designations include control areas and control zones.

Special use airspace is designated where there is a need to impose limitations on the operation of aircraft for aviation safety and security, or national security, or for any other reason in the public interest.

Special use airspace includes restricted areas, mandatory broadcast zones, volcanic hazard zones and danger areas.

Airspace classification is the term used to specify various levels of air traffic services that are required to ensure the safety and efficiency of aircraft operations. Airspace classifications are made in accordance with the ICAO airspace classification system.

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 71 of the New Zealand Civil Aviation Rule (Consolidated version dated 30 October 2017) 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.



Hon Henry Puna
Minister of Civil Aviation

 Interpretation and Modification Statement for Part 71

(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 “regulation(s)” substitute “regulations made under the Civil Aviation Act 2002”
- For “Authority” or “Civil Aviation Authority of New Zealand” substitute “Cook Islands Ministry of Transport”
- For “CAA of NZ” or CAA substitute “Ministry of Transport – Civil Aviation Division of Cook Islands”
- For “CAA Consolidation” substitute “Cook Islands Incorporated Consolidation”.
- For “Form CAA” substitute “Form MOT”
- For “the Auckland Oceanic Flight Information Region and the New Zealand Flight information Region” substitute “airspace within the territorial limits of the Cook Islands.
- For “New Zealand Air Navigation Register” substitute “Cook island Air Navigation Register”
- For “section 9 of the Act” substitute “section 28 of the 2002 Act”

Below, “NZCAR” means New Zealand Civil Aviation Rule

NZCAR 71.1 Purpose	
Delete:	Insert:
(1) “airspace within the territorial limits of New Zealand; and”	(1) “airspace within the territorial limits of the Cook Islands”
(2) “airspace for which New Zealand has accepted responsibility under international civil aviation agreements.”	
Explanation of Change: The new definition defines the area where the Cook Islands remains the sovereign authority	

NZCAR Subpart B-Controlled Airspace	
Delete: 71.51 (b)	Insert:
<p>“(b) If another ICAO Contracting State provides an air traffic control service for any portion of airspace within the Auckland Oceanic Flight Information Region, the Director must—</p> <p>(1) designate that portion of airspace as a control area or a control zone in accordance with this Subpart after consulting with the other State; and</p> <p>(2) classify that portion of airspace as Class A, B, C, D, or airspace in accordance with Subpart C.”</p>	<p>“(b) In the portion of airspace within the Auckland Oceanic Flight Information Region, which is within the territorial limits of the Cook islands, the Director must—</p> <p>(1) ensure consultation with New Zealand to ensure that the classification of the airspace is in conformity with ICAO requirements and acceptable to both the Cook Islands and New Zealand. “</p> <p>All relevant Rules are to be read subject to this provision.</p>
<p>Explanation of Change:</p> <p>The new provision recognises that New Zealand is unable to promulgate Rules which cover another countries sovereign airspace. However, for Air Traffic management purposes that airspace designation needs to be in accordance with ICAO standards and New Zealand and the Cook islands need to agree.</p>	

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

Below, “NZCAR” means New Zealand Civil Aviation Rule

NZCAR 71.155 Military operating areas
Delete: 71.155
<p>71.155 Military operating areas</p> <p>(a) The Director may—</p> <p>(1) designate a portion of airspace as a military operating area to segregate military activities from other traffic; and</p> <p>(2) impose conditions under which—</p>

- (i) aircraft may be permitted to fly within that military operating area; and
- (ii) an administering authority specified under paragraph (b)(2) must operate.
- (b) The Director must—
- (1) specify the type of activity for which each military operating area is designated; and
 - (2) specify the administering authority responsible for each military operating area; and
 - (3) identify each military operating area by the ICAO nationality letters of the applicable State followed by the letter “M” followed by a number.
- (c) The administering authority responsible for a military operating area—
- (1) must manage—
 - (i) the entry of aircraft into the military operating area; and
 - (ii) the operation of aircraft within the military operating area; and
 - (iii) the exit of aircraft from the military operating area; and
 - (2) if the military operating area is designated as being made active by NOTAM, must at least 24 hours before the military operating area is to become active, give to the New Zealand NOTAM Office notice of that military operating area becoming active, except that in the case of emergencies less than 24 hours’ notice may be given; and
 - (3) may, within any conditions imposed by the Director under paragraph (a) (2) (ii), impose conditions under which an aircraft may be operated within the military operating area.

Explanation of Change:

Not applicable to the Cook Islands.

NZCAR 71.163 Low Flying Zones

Delete: 71.163

71.163 Low flying zones

- (a) The Director may designate a portion of airspace as a low flying zone where pilot training in low level manoeuvres may be conducted.
- (b) The Director must—
- (1) nominate a using agency responsible for—
 - (i) briefing pilots on the associated conditions of use agreed with the registered owner or administrator of the land or water below the low flying zone; and
 - (ii) complying with paragraphs (e) and (f); and
 - (2) identify each low flying zone by ICAO nationality letters of the applicable State followed by the letter “L” followed by a number.
- (c) A low flying zone may only be active during the day.

(d) The vertical limits of a low flying zone must extend from the surface of the earth to a height of 500 feet.

(e) The Director may not designate a portion of airspace as a low flying zone unless the using agency nominated for the low flying zone—

(1) provides the Director with a map or chart on which the boundaries of the low flying zone are defined; and

(2) satisfies the Director that the registered owner or administrator of the land or water below the low flying zone consents to the portion of airspace above their land or water being used for low flying; and

(3) provides the Director with full details of consultation with other airspace users.

(f) A using agency nominated under paragraph (b) (1) must satisfy the Director, if requested to, that the using agency continues to have the consent referred to in paragraph (e) (2).

Explanation of Change:

Not necessary or desirable within the Cook Islands environment.

(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 Cook Island of any amendment or repeal of an adopted Rule Part by its country of origin

This Rule is intended to apply only to those areas within the territorial limits of the Cook Islands. Any provisions external to that are not applicable. All matters of overlap between the NZCAR's and the CICAR's will be met by discussion between the parties and in accord with 71.51(b).

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

- Part 71 Original Issue: 1 January 1998
- Amendment 1; 8 August 2002
- Amendment 2; 5 August 2004
- Amendment 3; 11 May 2006
- Amendment 4; 23 October 2008

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

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]