



**Notice of Proposed Rule Making
NPRM 2414/140-37
28 August 2024**

**Part 140
Aviation Security Service Organisation
— Certification**

**Consequential Amendments
Part 1**

**Docket24/14/CAR140/37
2024 Rules Review**

Proposed Applicable 04th November 2024



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Background to the Civil Aviation Rules

The Papua New Guinea (PNG) Civil Aviation Rules (CARs) establish the *minimum* regulatory safety standards and boundary for participants to gain entry into, operate within, and exit the PNG civil aviation system. The PNG Rules are divided into Parts and each Part contains a series of individual rules which relate to a particular aviation activity.

Advisory Circulars accompany many rule Parts and contain information about standards, practices and procedures that the Director has been established to be an ‘*Acceptable Means of Compliance*’ (AMC) for the associated rule. An Advisory Circular may also contain Guidance Material (GMs) and Explanatory Material (EMs) to facilitate compliance with the rule requirements.

The objective of the Civil Aviation Rules system is to obtain a balance of responsibility between, on the one hand, the State and regulatory authority, the Civil Aviation Safety Authority of PNG (CASA PNG) and, on the other hand, those who provide services and exercise privileges in the civil aviation system. This balance must enable the State and regulatory authority to set standards for, and monitor performance of aviation participants whilst providing the maximum flexibility for the participants to develop compliance within the safety boundary.

Section 45 of the *Civil Aviation Act 2000* prescribes general requirements for participants in the civil aviation system and requires, amongst other things, participants to carry out their activities safely and in accordance with the relevant prescribed safety standards and practices. Section 69 of the Act allows the Minister to make ordinary rules for any of the following purposes:

- (a) The implementation of Papua New Guinea’s obligations under the Convention
- (b) To provide for a safe, sustainable, effective and efficient aviation services
- (c) The provision of aviation meteorological services, search and rescue services and civil aviation security programmes and services
- (d) Assisting aviation safety and security, including but not limited to personal security
- (e) Assisting economic development
- (f) Improving access and mobility
- (g) Protecting and promoting public health
- (h) Ensuring environmental sustainability
- (i) Any matter related or reasonably incidental to any of the following:
 - (1) The Minister’s functions and role under section 8 of the Act;
 - (2) The Authority’s general objects and functions under section 11 of the Act;
 - (3) The Authority’s functions in relation to safety under section 12 of the Act; and
 - (4) The Director’s functions and powers under section of 17 the Act
 - (5) The Director’s powers under section 52A, 53 and 54 of the Act
- (j) Any other matter contemplated by any provision of the Act.



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1. Purpose of this NPRM

The purpose of this Notice of Proposed Rulemaking (NPRM) is to put forward for consideration the proposed amendments to Civil Aviation Rule (CAR) Part 140. NPRM of Part 140 amendment 05 is proposed to address the ICAO USAP CMA Audit Findings (291 Protocol Questions) issued in June 2019 to 2024.

2. Background to the Proposal

2.1 General Summary

This NPRM is proposed to have PNG security legislations – CAR Part 140 up to date with the ICAO Annex 17, amendment 18.

2.2 NPRM Development

As a signatory to the convention on international civil aviation, Papua New Guinea is committed to aligning its regulations to ICAO SARPS, where practicable. NPRM development are therefore triggered by the amendments of various Annexes to the Convention on international aviation and in PNG's effort to ensure compliance rules are developed and proposed to ensure that international operations are consistent with the international requirements of ICAO Annexes. The development of this NPRM is a result of amendment 18 to Annex 17.

In the development of this NPRM, the impact assessment on safety, efficiency, security and facilitation, environment and financial of this amendment has been considered.

2.3 Key Stakeholders

The Civil Aviation Safety Authority of Papua New Guinea identifies the following as key stakeholders for the proposed rule amendments contained in this NPRM:

- (a) ICAO;
- (b) The Ministry for Transport and Civil Aviation;
- (c) Aviation Document Holders; and
- (d) Other interested stakeholders.

3. Issues Addressed during Development

There were no major issues addressed during the development of this NPRM.

3.1 Consequential Amendments

3.2 Exemptions

There are no current Exemptions against this Rule Part.

3.3 ICAO SARPS and Level of Risk to Papua New Guinea Aviation Safety

The proposed rule amendments are intended to align, where practicable, with the SARPs contained in ICAO Annexes and are written in consultation with the following Annexes and



Guidance Material:

- Annex 17
- ICAO Aviation Security Manual (Doc 8973), 10th Edition, 2017.

3.4 Compliance Costs

Whether or not there is an increase in costs depends on the mechanisms already in place. The wording of the proposed new standards highlights the need for increased explosive detection capabilities in accordance with changes to aviation security threat and risk, while allowing scalability and choice of means at an operational level.

In this case, the cost falls on the operator for the acquisition and deployment of equipment and screening methods, costs of new equipment, staff, installation, maintenance and training.

4. Summary of changes

(a) New Inclusions:

- (1) rule 140.3 is a new inclusion which seeks to define the Security Restricted Area within the Security Designated Aerodrome.
- (2) rule 140.51(c)(2) is a new inclusion for the person implementing security control functions must undergo an additional security vetting to confirm they are not associated with the terrorist organization. This seeks to mitigate the emerging aviation insider threat.
- (3) A.26 (2) is a new inclusion to ensure vehicle being granted access into the security restricted area together with items contained within are screened based on risk assessment.
- (4) A.26 (3) is a new inclusion to seek vehicles and persons to and from aircraft is supervised in the Security Restricted Area.
- (5) A.26 (4) is a new inclusion to provide a general surveillance over the screened hold baggage and aircraft in service.
- (6) A.26 (5) is a new inclusion to ensure cargoes/mail to be carried on the aircraft is protected until departure of the aircraft.

(b) Minor Amendments:

rule 140.51(c)(1) delete” ~~persons implementing security control~~²². The proposed deletion of this part was to capture full requirement in 140.51(c)(2).



5. Legislative Analysis

5.1 Power to Make Rules

The Minister may make ordinary rules under sections 69, 70, 71 and 72 of the *Civil Aviation Act 2000*, for various purposes including implementing Papua New Guinea's obligations under the Convention, assisting aviation safety and security, and any matter contemplated under the Act.

These proposed rules are made pursuant to:

- (a) Section 69(1)(a) which provides for the Minister to make rules for the implementation of Papua New Guinea's obligations under the Convention;
- (b) Section 72(a) which provides for the Minister to make rule for the designation, classification and certification of-
 - (1) Air services;
 - (2) Aerodrome operators;
 - (3) Aviation security providers;
 - (4) Aviation training organizations"
 - (5) Aircraft design, manufacture, maintenance and supply organizations;
 - (6) Air traffic services;
 - (7) Aviation meteorological services;
 - (8) Aeronautical communication services;
 - (9) Aeronautical procedures.

The proposed amendment of Part 140 complies with the requirements of the *Civil Aviation Act 2000* and does not contravene the Constitution, the Aerodrome (Business Concession) Act 2000, Civil Aviation (Air Craft Operator Liability) Act 1975, Aircraft Charges Act, Airport Departure Tax Act, Explosive Act 1952, Firearms Act 1978, Customs Act 1951, Plant, Disease and Control Act 1953 and the Environmental Act 2000.

The proposed Rule has been checked for language and compliance with the legal conventions of Papua New Guinea.

5.2 Matters to be taken into account

The development of this NPRM and the proposed rule changes take into account the matters under section 75 of the Act that the Minister must take into account when making ordinary rules including the following:

5.2.1 ICAO Standards and Recommended Practices

The proposed rule amendments comply with applicable sections of the following International Civil Aviation Organization (ICAO) Annexes:

- Annex 17 – TBC

5.2.2 Assisting Economic Development



The proposed rule amendments will have no detrimental impact on economic development, and in some cases will reduce costs incurred by the aviation industry.

5.2.3 Assisting Safety and Personal Security

The proposed rule amendments will maintain safety levels in respect to clarifying and maintaining common standards of definitions, abbreviations and units of measurements used throughout the industry.

5.2.4 Improving Access and Mobility

The proposed rule amendments will have no impact on access and mobility.

5.2.5 Protecting and Promoting Public Health

The proposed rule amendments will have no impact on protecting and promoting public health.

5.2.6 Ensuring Environmental Sustainability

The proposed rule amendments will have no impact on environmental sustainability.

6. Submissions on the NPRM

6.1 Submissions are invited

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or comments. All submissions will be considered before final action on the proposed rulemaking is taken. If there is a need to make any significant change to the rule requirements in this proposal as a result of the submissions received, then interested persons may be invited to make further submissions.

6.2 Examination of Submissions

All submissions will be available in the rules docket for examination by interested persons both before and after the closing date for submissions. A consultation summary will be published on the CA web site and provided to each person who submits a written submission on this NPRM. Submissions may be examined by application to the Docket Clerk at the Civil Aviation Safety Authority of Papua New Guinea Headquarter Building 1, Level 1, Morea Tobo Road, Six Mile, NCD Port Moresby between 8:30 am and 3:30 pm on weekdays, except statutory holidays.

6.3 Disclosure

Submitters should note that any information attached to submissions will become part of the docket file and will be available to the public for examination at the CASA PNG Headquarter.

Submitters should state clearly if there is any information in their submission that is commercially sensitive or for some other reason the submitter does not want the information to be released to other interested parties.

7. How to make a submission

Submissions may be sent by the following methods:



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by Mail: Docket Clerk (NPRM 2414/140-37)
Civil Aviation Safety Authority of Papua
New Guinea
PO Box 1941
BOROKO
National Capital District

delivered: Docket Clerk (NPRM 2414/140-37)
Civil Aviation Safety Authority of Papua
New Guinea
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD

by Fax: Docket Clerk (NPRM 2414/140-37)
3251789 / 325 1919

by Email: Docket Clerk (NPRM 2414/140-37)
rules@casapng.gov.pg

7.1 Final date for submissions

Comments must be received before **COB, 01st October 2024.**

7.2 Availability of the NPRM

Any person may obtain a copy of this NPRM from-

CASA PNG web site: www.casapng.gov.pg

or at a cost from

Docket Clerk
Civil Aviation Safety Authority of Papua New Guinea Headquarter
Building 1, Level 1
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD

7.3 Further information

For further information, contact:

Taras Garap (Ms.)
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Proposed Rule Amendments

Part 140

Aviation Security Service Organisation

Subpart A — General

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140.3 Definitions

Security Restricted Area means those areas of the airside of a security designated aerodrome which are identified as priority risk areas where in addition to access control, other security controls are applied.

Subpart B — Certification Requirements

140.51 Personnel requirements

- (c) The applicant must establish procedures to ensure that—
- (1) background checks are completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information; and
 - (2) the persons implementing security control require additional checks to the baseline measures required by rule 140.51(c)(1) to include criteria to confirm that they are not associated with a terrorist.
 - (3) recurrent background checks are applied to such persons at an interval of not more than 2 years; and
 - (4) persons found unsuitable by any background check are immediately denied the ability to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information:

Subpart C — Operating Requirements

140.101 Continued compliance

Each holder of an aviation security service certificate shall continue to—

...

- (5) have sufficient personnel, resources and facilities at each airport to:
- (i) ensure that the airport-level entities responsible for the implementation of security measures have adequate human resources to fulfil their responsibilities, taking into consideration the growth of aircraft and airport operations; and
 - (ii) provide infrastructure and appropriate equipment at the vehicle and persons access gates, including other access control points to ensure effective implementation of security controls.



Appendix A — Security Operational Standards

A.1 Sterile area search

The holder of an aviation security service certificate shall—

- (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. 245.

A.26 Security Enhanced Areas

- (a) The operator of a security designated aerodrome as the holder of an aviation security service certificate shall ensure—
 - (5) any screening apparatus used at a security enhanced area screening point is tested in a manner acceptable to the Director; and
 - (6) vehicles being granted access to Security Restricted Areas, together with item contained within them, are subject to screening or other appropriate security controls in accordance with a risk assessment carried out by the relevant national authorities.; and
 - (7) the movement of persons and vehicles to and from aircraft is supervised in security restricted areas to prevent unauthorized access to the aircraft; and
 - (8) all hold baggage to be carried on an aircraft is protected from unauthorized interference, from the point of screening or acceptance into the care of the aircraft operator until departure of the aircraft on which it is to be carried, to include the actions to be taken in the event that the integrity of hold baggage has been jeopardized, such as re-screening before being placed on board an aircraft; and
 - (9) mail to be carried on an aircraft is protected from unauthorised interference, from the point screening or other security controls are applied, until departure of the aircraft.