



**Notice of Proposed Rule Making
NPRM 18-41
08 November 2018**

**Part 157
Notice of Constructions, Alteration,
Activation, and Deactivation of
Aerodromes**

**Docket 18/CAR/157/05
2018 Rules Review**

Proposed Rule Applicable 8 November 2018

Background to the Civil Aviation Rules

The Civil Aviation Rules establish the minimum regulatory safety boundary for participants to gain entry into, operate within, and exit the Papua New Guinea civil aviation system. The Rules are structured in a manner similar to the Civil Aviation Rules of New Zealand and the Federal Aviation Regulations of the USA. Where practicable the Rules also align with the International Civil Aviation Organization Annexes and the regulatory code of the Civil Aviation Safety Authority of Australia.

Rules are divided into Parts and each Part contains a series of individual rules that relate to a particular aviation activity. Advisory Circulars accompany many rule Parts and contain information about standards, practices and procedures that the Director has established to be an Acceptable Means of Compliance (AMC) with the associated rule. An Advisory Circular may also contain guidance material (GM) to facilitate compliance with the rule requirements.

The objective of the Civil Aviation Rules system is to strike a balance of responsibility between, on the one hand, the State and regulatory authority (CASA) 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 while providing the maximum flexibility for the participants to develop their own means of 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, among 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; and
- (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 rule-making proposal is to conform to Section 75 of the Civil Aviation Act. The rule amendments resulting from this proposal are intended to facilitate a means of greater regulatory authority, and hence, the ability to meet the appropriate levels of safety oversight of aerodromes.

2. Background to the Proposal

2.1 General Summary

Civil Aviation Rule (CAR) Part 157 — Notice of Construction, Alteration, Activation, and Deactivation of Aerodromes came into force on 1 January 2004. The current Part 157 provides the regulatory requirements relating to the assessment of a location in whole or part to be used as an aerodrome or heliport. To date, no revision to the rule has been enacted.

2.2 NPRM Development

CASA has reviewed Part 157 and has proposed one amendment to rule 157.1(b)(1), to correct the false assumption that Rule 157 does not include an aerodrome that is “required to be” certificated under Rule 139. The proposed amendment will ensure that any proposed aerodrome location whether or not it is required to be certified under Part 139, must be subject to the Director’s aeronautical study.

2.3 Key Stakeholders

The following are identified by the CASA as key stakeholders in the proposed rule amendments contained in this NPRM:

- Civil Aviation Safety Authority;
- The Ministry of Transport
- The Ministry of Civil Aviation
- National Airports Corporation Ltd
- Air Services Ltd
- Other Certificated Aerodrome Operators
- Non-certificated aerodrome operators
- Aircraft operators

3. Issues Addressed During Development

Part 157 allows the Director to require an applicant to conduct an aeronautical study on a proposed location for an aerodrome prior to construction or activation, to assess the safe and efficient use of the aerodrome and its airspace by aircraft.

However, the current applicability of Part 157(b)(1) does not include an aerodrome that is required to be certified under Part 139. This is based on the false assumption that Part 139 certification requirements includes an aeronautical study to assess the safe and efficient use of an aerodrome location and its airspace. This is not the case as Part 139 certification assessments do not cover a study on the proposed location but commences from facility inspection.

For this reason, the intent of this proposed amendment to rule 157.1(b)(1) is to include an aerodrome that is required to be certified under Part 139. Therefore, any proposed aerodrome location whether or not it is required to be certified under Part 139, must be subject to the Director's aeronautical study.

3.1 Consequential Amendments

There are no other consequential amendments in other Rule Parts.

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:

- Annex 14 Volume 1 – Aerodromes Design and Operations

3.4 Compliance Costs

Applicants seeking approval of new aerodromes or renovation to existing aerodrome structures will incur a cost for the aeronautical study.

4. Summary of changes

Delete the words “required to be” in Rule 157.1 (b)(1) to include an aerodrome that is required to be certificated under Part 139.

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 allows the Minister to make rules for the purpose of the implementation of Papua New Guinea's obligations under the Convention:
- (b) Section 69(b) which allows the Minister to make rules for the purpose of assisting aviation safety and security, including (but not limited to) personal security:
- (c) Section 69(5) which allows the Minister to make rules that provide for matters to be determined or approved by the Authority, the Director, or any other person or empower the Authority, the Director or any other person to impose requirements, or conditions on the performance of any activity including but not limited to procedures to be followed:
- (d) Section 70(c) which allows the Minister to make rules providing for general operating rules, air traffic rules, and flight rules, including but not limited to the following:
 - (1) the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft:
 - (2) the prevention of aircraft endangering persons or property.
- (e) Section 72(a) which allows the Minister to make rules for the designation, classification, and certification of all or any of the following:
 - (1) aircraft:
 - (2) aircraft pilots:
 - (3) flight crew members:
 - (4) air traffic service personnel:
 - (5) aviation security service personnel:
 - (6) aircraft maintenance personnel:
 - (7) aviation examiners or medical examiners:
 - (8) air services:
 - (9) air traffic services:
 - (10) aerodromes and aerodrome operators:
 - (11) aeronautical navigation service providers:
 - (12) aviation training organisations:
 - (13) aircraft design, manufacture, and maintenance organisations:
 - (14) aeronautical procedures:
 - (15) aviation security services:
 - (16) aviation meteorological services:
 - (17) aeronautical communication services:
 - (18) any other person who provides services in the civil aviation system, and any aircraft, aeronautical products, aviation related services, facilities, and equipment operated in support of the civil aviation system, or classes of such persons, aircraft, aeronautical

products, aviation related services, facilities, and equipment operated in support of the civil aviation system:

- (f) Section 70(b) which allows the Minister to make rules for the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in paragraph 70(a) including the specifications of standards of design, construction, manufacture, processing, testing, supply, approval, and identification of aircraft and aeronautical products:
- (g) Section 70(c) which allows the Minister to make rules setting the conditions of operation of foreign aircraft and international flights to, from, or within Papua New Guinea:
- (h) Section 70(d) which allows the Minister to make rules for the definitions, abbreviations, and units of measurement to apply within the civil aviation system.

The proposed amendment of Part 43 complies with the requirements of the Civil Aviation Act and does not contravene the Constitution, the Aerodrome (Business Concession) Act, Civil Aviation (Aircraft Operator Liability) Act, Aircraft Charges Act, Airport Departure Tax Act, the Explosive Act, Firearms Act, Customs Act, Plant and Disease Control Act and the Environmental Act.

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 14 Volume I – Aerodromes Design and Operations

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 identifying the person or persons certifying release to service of an aircraft or aircraft component.

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 CAA 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 Headquarter Building 1, Level 1, Morea Toba 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 office.

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:

- by Mail: Docket Clerk (NPRM 18-41)
Civil Aviation Safety Authority
PO Box 1941
BOROKO
National Capital District
- delivered: Docket Clerk (NPRM 18-41)
Civil Aviation Safety Authority
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD
- by Fax: Docket Clerk (NPRM 18-41)
3251789 / 325 1919
- by Email: Docket Clerk (NPRM 18-41)
rules@casapng.gov.pg

7.1 Final date for submissions

Comments must be received before **3.30pm, Friday 28th September 2018.**

7.2 Availability of the NPRM

Any person may obtain a copy of this NPRM from-

CASA web site: www.casapng.gov.pg

or at a cost from

Docket Clerk

Civil Aviation Safety Authority Headquarter

Building 1, Level 1

Morea-Tobo Road

Six Mile, Jacksons Airport

Port Moresby NCD

7.3 Further information

For further information, contact:

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157.1 Purpose

- (a) This Part prescribes rules for persons proposing to construct, alter, activate, or deactivate an aerodrome or heliport of the kind specified in paragraph (b).
- (b) This Part applies to an aerodrome or heliport unless it is—
- (1) an aerodrome that is ~~required to be~~ certificated under Part 139; or
 - (2) an aerodrome or heliport restricted to VFR operations that is used or intended to be used for a period of less than 7 days in any 30 consecutive day period; or
 - (3) an aerodrome used or intended to be used exclusively by aircraft engaged in agricultural operations and that is not located inside a control zone and that is located more than—
 - (i) 5 nautical miles (9 kilometres) from the nearest other aerodrome; and
 - (ii) 3 nautical miles (6 kilometres) from the nearest heliport; or
 - (4) a heliport used or intended to be used exclusively by helicopters engaged in agricultural operations and that is not located inside a control zone and that is located more than -
 - (i) 3 nautical miles (6 kilometres) from the nearest aerodrome; and
 - (ii) 1 nautical mile (2 kilometres) from the nearest other heliport.

157.3 Definitions

For the purposes of 157.1 and 157.5:

"Aerodrome" does not include a defined area of land or water intended or designed specifically for use by helicopters:

"Heliport" means any defined area of land or water, and any defined area on a structure, intended or designed specifically for use by helicopters.

157.5 Projects requiring notice

A person who intends to do any of the following (who in this Part is referred to as a 'proponent') shall notify the Director in the manner prescribed in 157.7:

- (1) construct or otherwise establish an aerodrome or heliport to which this Part applies or activate such an aerodrome or heliport:
- (2) construct, re-align, alter, or activate any runway or other aircraft landing or take-off area of an aerodrome or heliport to which this Part applies:

- (3) increase the use of an established aerodrome or heliport restricted to VFR operations to more than 7 days in any 30 consecutive day period:
- (4) deactivate, discontinue using, or abandon an aerodrome or heliport to which this Part applies, or any landing or take-off area of such an aerodrome or heliport, for a period of one year or more.

157.7 Notice of intent

- (a) The notice required by 157.5(1), (2) and (3) shall be submitted on CAA Form 157/01 to the Director at least 90 days before the day that work is to begin.
- (b) The notice required by 157.5(4) shall be submitted in writing at least 30 days before the date planned for deactivation, discontinuance of use, or abandonment.

157.9 Aeronautical study

- (a) On receiving a notification under 157.7 (a), the Director shall conduct an aeronautical study.
- (b) In conducting the aeronautical study, the Director shall consult with such persons, representative groups, and organisations as the Director considers appropriate.
- (c) The purpose of the aeronautical study shall be to consider the effects that the proposed action would have on the safe and efficient use of airspace by aircraft, and on the safety of persons and property on the ground. In particular, the aeronautical study shall consider the following:
 - (1) the effect the proposed action would have on existing or contemplated aerodrome traffic circuits of neighbouring aerodromes:
 - (2) the effect the proposed action would have on existing and projected airspace uses:
 - (3) the effect the proposed action would have on the safety of persons and property on the ground:
 - (4) the effect the existing or proposed man-made objects and natural objects within the affected area would have on the proposed action.

157.11 Aerodrome determination

- (a) On completion of the aeronautical study, the Director shall issue to the proponent, appropriate local authorities, and other interested persons an aerodrome determination which shall be one of the following—

- (1) **Acceptable:** An acceptable determination shall be made when the Director is satisfied that the proposed action will not adversely affect the safe and efficient use of the airspace by aircraft nor the safety of persons or property on the ground:
 - (2) **Conditional:** A conditional determination shall be made when the Director identifies aspects of a proposed action that are unacceptable but specifies conditions which, if complied with, satisfy the Director that the proposed action will not adversely affect the safe and efficient use of the airspace by aircraft nor the safety of persons or property on the ground:
 - (3) **Unacceptable:** An unacceptable determination shall be made when the Director identifies unacceptable aspects of a proposed action and shall specify the Director's reasons for finding the proposed action objectionable.
- (b) Acceptable and conditional aerodrome determinations shall contain a determination void date in order to facilitate efficient planning for the use of the navigable airspace.
 - (c) All work or action for which a notice is required by this Part shall be completed by the determination void date. Unless otherwise extended, revised, or terminated, an aerodrome determination becomes invalid on the day specified as the determination void date.
 - (d) Interested persons may, at least 15 days in advance of the determination void date, petition the Director to—
 - (1) revise the determination based on new facts that change the basis on which it was made; or
 - (2) extend the determination void date.

157.13 Notice of completion

The proponent shall notify the Director in writing of the completion of any action notified under 157.5 within 15 days of the completion.