



**Notice of Proposed Rule Making
NPRM 20/08-27
11 December 2020**

**Part 109
Regulated Air Cargo Agent - Certifications**

**Docket 20/08/CAR109/27
2020 Rules Review**

**Consequential amendment
Part 108
Part 121**

Proposed Rule Applicable 11th December 2020

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 (ICAO) 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;
- (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 108.

2. Background to the Proposal

2.1 General Summary

This proposal is to bring the Civil Aviation Rule Part 109 up to date with the International Civil Aviation Organisation (ICAO) Annex 17, Amendment 17 Standards and also include the security legislative deficiencies that were identified in the ICAO Universal Security Audit Program-Continuous Monitoring Approach (USAP-CMA) audit of June 2019. Hence, Part 109 proposed amendments will address the identified gaps to ensure that PNG applies the ICAO Annex 17 security measures and standards consistently across both its domestic or international flights.

It is proposed to amend the following;

Rule 109.1 Purpose

The purpose is amended for clarity and align with other rule Parts dealing with aviation security and more generally the term for international commercial air transport operations.

Rule 109.3 Definitions

Existing definitions have been amended to give a clear definition related to air cargo or mail security operations, and new definitions added to include air cargo or mail security.

Rule 109.5 Requirement for Certificate

Existing rule parts have been amended in respect to commercial air transport operations and a new requirement is added for the application of security within the domestic commercial air transport operations.

Rule 109.11 Privileges of certificate Holder

Amendment proposed to provide clarity on cargo or mail carried by air on an aircraft conducting an international commercial air transport operation and new requirement for security implementation for domestic commercial air transport operation.

Rule 109.51 Personnel requirement

A new amendment is submitted to include the criteria for obtaining a regulated agent and/or a known consignor designation in order to establish a requirement for proper recruitment and selection of management and operational personnel.

Rule 109.53 Facility Requirements

In respect to access control procedures, new amendments are added which is intended to strengthen measures relating to access control to security restricted areas, by introducing a limitation to allow access only to those with an operational or otherwise legitimate need to be there, and extend the scope of verification at access points to authorization along with identity. The amendment also seeks to eliminate any ambiguity and make clear that all persons other than passengers must be screened prior to entry into a security restricted area, in order to address the threat from insiders.

Further addition is added to include the increased use of random and unpredictable security measures as a possible mitigation against the potential tactical advantage of insiders. It seeks to ensure the use of randomness and unpredictability in the implementation of security measures, as appropriate.

Also amendment to use appropriate screening method has been included for implementation and recognizing that the mitigation of threats from insiders requires a balanced and coordinated

approach between background check procedures and physical security measures and addresses the need for appropriate screening methods capable of detecting explosives also on persons other than passengers.

Rule 109.55 Cargo and Mail Security Control Procedures

The heading in rule 109.55 is amended to “including transfer cargo or mail”. Further amendments within the rule are made for consistency with the heading and the inclusion of new amendments is proposed under this rule to emphasize protection of cargo or mail from unauthorized interference from point of screening until departure of the aircraft.

Rule 109.57 Screening procedures

It is proposed to amend the Heading to include the phrase “for cargo or mail including transfer cargo or mail” to capture transfer cargo or mail and consequently, other section of the rule is amended for consistency. To address ICAO Protocol Question PQ7035 regarding use of appropriate security method/s for cargo or mail taking into account the nature of the consignment i.e. special categories of cargoes) new paragraph has been added to this rule and another to make a clear reference to known consignors as an entity in the secure supply chain. The cargo or mail which cannot be confirmed and accounted for by a RACA, known consignor, or an entity approved by CASAPNG shall be subjected to screening.

Rule 109.59 Authorisation Procedures

Subsection, paragraphs and subparagraphs 109.59(c)(1) (v-i) are all new amendments proposed to provide clarification on who should be subject to background checks, when background checks should be applied, and what should occur if an individual has been found unsuitable by any background check. They prescribe the need for recurrent background checks and the actions required when a person is found to be unsuitable for the relevant functions as a result of the background check. Further the proposal adds the element on selection procedures of those implementing security controls and the element on standards of performance of those implementing security controls. These are new requirements contained under recent Amendment 17 of Annex 17.

Rule 109.61 Procedures and register for a known customer

The new proposed amendment is to include requirements for the proper recruitment and selection of known customer management and operational personnel and has been added to subsection (c), paragraph (4).

Rule 109.63 Procedures for High Risk Cargo or mail

For clarity purpose in respect to definition of High Risk Cargo or mail, certain sections of this rule has been proposed to be deleted and amended with renumbering of subsections and paragraphs. 109.63(a)(1 & 4) are deleted to provide a clearer definition of High risk cargo or mail.

Rule 109.65 Training Programme

The title of the rule is amended to include the word “personnel” as this rule highlights training of personnel and the word “programme” is deleted.

An amended is proposed to 109.65(b)(4) and it is intended to focus on the security outcome to be achieved and not on a single method of achieving this outcome. It recognizes that that focus should be on the results of training delivered by qualified subject matter experts who possess the knowledge and ability to instruct, and especially the necessary knowledge of the subject matter being taught. The certification, or other alternative applied methods, as such should focus on both elements required.

Rule 109.65(e) is amended and adds a new requirement that recognizes that security training currently prescribed in the rule is now a basic certification requirement and must be delivered by a holder of a Part 141 Aviation Training Organisation duly authorised to conduct such

training. This will place emphasis on security training and align with Annex 17 requirement that security trainers and instructors are to be properly certified.

Rule 109.73 Organisation exposition

New amendment is included for the grant of a RACA certificate requiring cargo security programme to contain the contractual arrangements by which the RACA will ensure that any contractor or agent involved in the handling of the RACA's services will comply with the security programme of the regulated air cargo agent. The specific content of any standard clause in contracts with the contractor or agent will normally be sufficient. Such contractual arrangements will need to be documented in the cargo security programme to clarify responsibility and accountability.

It further seeks to ensure that external service providers are in compliance with the State's aviation security regulations, in order to address the insider threat which may stem from external service providers.

Appendix A A.1. is amended to include transfer cargo or mail.

Appendix B B.1.(a) is amended to include the word "shall".

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 Standards and Recommended Practices (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 16 and 17 to Annex 17.

2.3 Key Stakeholders

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

- (1) The Civil Aviation Safety Authority
- (2) The Minister for Transport
- (3) The Minister for Civil Aviation
- (4) Aviation Document holders
- (5) Other stakeholders

3. Issues Addressed during Development

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

3.1 Consequential Amendments

The rule change will have consequential amendments to Part 140.

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 Annex and guidance material:

- Annex 17 – Security
- ICAO GM Doc 8973.

3.4 Compliance Costs

The proposed amendments do not impose any direct compliance costs on air operators.

4. Summary of changes

The changes are made at the following rules:

- Purpose
- Definitions
- Requirement of Certificate
- Privileges of certificate holder.
- Personnel requirements
- Facility requirements amendments
- Cargo and Mail security control procedures: Title changes that affects other section of the rule and inclusion of protection of cargo.
- Screening procedures: Title change and other amendments
- Authorisation Procedures: Title amendment and other amendments.
- Procedures and register for a known customer.
- Procedures for High Risk Cargo or mail.
- Training Programme
- Organisation Exposition
- Appendix A A.1 is amended to include transfer cargo or mail.
- Appendix B B.1(a) is amended to include the word “shall” which emphasizes a requirement to this Rule Part and deletes the word “may”.

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 109 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 17 – Security

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 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 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.

6.4 How to make a submission

Submissions may be sent by the following methods:

by Mail: Docket Clerk (NPRM 20/08-27)
Civil Aviation Safety Authority
PO Box 1941
BOROKO
National Capital District

delivered: Docket Clerk (NPRM 20/08-27)
Civil Aviation Safety Authority
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD

by Fax: Docket Clerk (NPRM 20/08-27)
3251789 / 325 1919

by Email: Docket Clerk (NPRM 20/08-27)
rules@casapng.gov.pg

6.5 Final date for submissions

Comments must be received before **COB on 20th November, 2020.**

6.6 Availability of the NPRM

Any person may obtain a copy of this NPRM from the 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

6.7 Further information

For further information, contact:

Carol Jaran (Ms)
Manager – Legal Services
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Email cjaran@casapng.gov.pg
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Proposed Rule Amendments

Part 109 Regulated Air Cargo Agent - Certification

Subpart A — General

109.1 Purpose

- (a) This Part prescribes rules governing the certification and operation of an organisation providing the services of a regulated air cargo agent for cargo or mail that is required to be accompanied by a declaration of security for carriage by air on an aircraft carrying passengers.
- (b) In this Part, any requirement relating to cargo or mail for carriage by air ~~only~~ relates only to cargo or mail that is intended for carriage by air on an aircraft conducting an international commercial regular air transport operations ~~passenger service~~.
- (c) In this Part, any requirement relating to cargo or mail for carriage by air relates to all cargo or all mail that is intended for carriage by air only on an all-cargo aircraft (certified under Part 121) conducting an international regular a domestic commercial air transport operations ~~passenger service~~.

109.3 Definitions

In this Part—

Access controlled, in relation to a particular area, means an area that is secured in a manner that prevents the entry of any unauthorised person.

Domestic air operator means an air operator who conducts ~~regular~~ commercial air transport operations within Papua New Guinea.

High-risk cargo or mail means cargo or mail ~~presented by an unknown entity or showing signs of tampering that is~~ shall be considered high risk if, ~~in addition, it meets one of the following criteria:~~

- (a) specific intelligence indicates that the cargo or mail poses a threat to civil aviation; or
- (b) the cargo or mail shows anomalies or signs of tampering which ~~that~~ give rise to suspicion;
or
- (c) ~~the nature of the cargo or mail is such that baseline security measures alone are unlikely to detect prohibited items that could endanger the aircraft.~~

International air operator means an air operator who conducts ~~regular~~ commercial air transport operations to or from Papua New Guinea.

Known customer means a shipper of cargo or mail who has an established association with a regulated air cargo agent or an air operator for the carriage of the shipper's cargo or mail by air and who is registered with the regulated air cargo agent or the air operator:

Transfer cargo and mail, are cargo or mail departing on an aircraft other than that on which it arrived.

109.5 Requirement for certificate

A person must not act as a regulated air cargo agent to provide a consignment of cargo or mail to an air operator for carriage by air except under the authority of a regulated air cargo agent certificate

granted in accordance with this Part, if ~~the cargo or mail is carried on an aircraft conducting an international regular transport passenger service.~~

- (a) the cargo or mail is carried on an aircraft conducting an international commercial air transport operation;
- b) the cargo or mail is carried on an all-cargo aircraft conducting a domestic commercial air transport operation under Part 121.

109.7 Application for certificate

An applicant for the grant of a regulated air cargo agent certificate must complete form CAA 109/01 and submit it to the Director with—

- (1) the applicant's exposition required under rule 109.71; and
- (2) if applicable, a payment of the appropriate application fee prescribed by regulations made under the Act.

109.9 Grant of certificate

Subject to section 49 of the Act, an applicant is granted a regulated air cargo agent certificate if the Director is satisfied that—

- (1) the applicant meets the requirements of Subpart B; and
- (2) the applicant, and the applicant's senior person or persons required by rule 109.51 are fit and proper persons; and
- (3) granting the certificate is not contrary to the interests of aviation safety or security.

109.11 Privileges of certificate holder

A regulated air cargo agent certificate authorises the holder to act as a regulated air cargo agent to issue a declaration of security for a consignment of cargo or mail that is to be carried by air on: ~~an aircraft conducting an international regular air transport passenger service.~~

- (a) an aircraft conducting an international commercial air transport operation;
- (b) an all-cargo aircraft conducting a domestic commercial air transport operation under Part 121.

109.13 Duration of certificate

- (a) A regulated air cargo agent certificate may be granted or renewed for a maximum period of 5 years.
- (b) A regulated air cargo agent certificate remains in force until it expires or is suspended or revoked.

109.15 Renewal of certificate

An application for the renewal of a regulated air cargo agent certificate must be submitted to the Director before the application renewal date specified in the certificate or, if no such date is specified, not less than 30 days before the certificate expires.

Subpart B — Certification requirements

109.51 Personnel requirements

- (a) An applicant for the grant of a regulated air cargo agent certificate must employ, contract, or otherwise engage—
 - (1) a senior person, identified as the chief executive, who—
 - (i) has the authority within the applicant's organisation to ensure that every activity undertaken by the organisation is financed and carried out to meet applicable operational requirements; and
 - (ii) is responsible for ensuring that the organisation complies with the requirements of this Part; and
 - (2) a senior person or persons responsible to the chief executive for ensuring that the applicant's organisation complies with its exposition; and
 - (3) sufficient personnel to implement the cargo and mail security control procedures detailed in the applicant's exposition.
- (b) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for assessing and maintaining the competence of those personnel who are authorised to carry out work relating to security control for cargo or mail as specified in the applicant's exposition.
- (c) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for the proper recruitment and selection criteria of its management and operational personnel.

109.53 Facility requirements

An applicant for the grant of a regulated air cargo agent certificate must provide facilities that are appropriate for the following activities that may be applicable to the services that are to be provided by the applicant:

- (1) receiving, and applying security controls to, cargo or mail from a person who is not a known customer:
- (2) receiving a consignment of cargo or mail from a known customer and checking the consignment and associated documentation:
- (3) storing a consignment of cargo or mail that has undergone the required security controls in an access controlled area to protect the consignment from tampering:
- (4) delivering a consignment of cargo or mail from the air cargo agent's access controlled storage area to the air operator, including a means to ensure that the consignment is not tampered with.
- (5) establish, implement and maintain access control procedures at all times including:
 - (i) the identification systems in respect of persons and vehicles in order to prevent unauthorized access to airside areas and security restricted areas; and
 - (ii) access shall be granted to only those with operational need or other legitimate reason to be there; and
 - (iii) verification of identity and authorisation at designated checkpoints before access is allowed to airside areas and security restricted areas; and
 - (iv) ensuring that persons other than passengers, together with items carried, are screened prior to entry into airport security restricted areas to eliminate insider threats; and

- (v) ensure the use of randomness and unpredictability in the implementation of security measures, as appropriate; and
- (vi) ensure the use of appropriate screening methods that are capable of detecting the presence of explosives and explosive devices carried by persons other than passengers on their persons or in their items carried. Where these methods are not applied continuously, they must be used in an unpredictable manner.

109.55 Cargo and mail including transfer cargo or mail security control procedures

- (a) An applicant for the grant of a regulated air cargo agent certificate must establish security control procedures for ensuring that—
 - (1) every consignment of cargo or mail including transfer cargo or mail that is accepted by the regulated air cargo agent for carriage by air from a person who is not a known customer has security controls applied to it in order to prevent any weapon, explosive, or other dangerous device, article or substance that may be used to commit an act of unlawful interference being carried in the consignment; and
 - (2) every consignment of cargo or mail including transfer cargo or mail that is accepted by the regulated air cargo agent for carriage by air from a known customer is—
 - (i) accompanied by a statement of content; and
 - (ii) checked to ensure that the consignment has not been tampered with; and
 - (3) the statement of content required under paragraph (2) for each consignment of cargo or mail including transfer cargo or mail, is checked to ensure that—
 - (i) the consignment of cargo or mail including transfer cargo or mail, does not contain any weapon, explosive, or other dangerous device, article or substance that may be used to commit an act of unlawful interference; and
 - (ii) the statement of content is identified as originating from the known customer; and
 - (4) every consignment of cargo or mail including transfer cargo or mail that is accepted by the regulated air cargo agent and has had security controls applied to it under paragraphs (1), or (2) and (3) is ~~held in an access controlled area until the consignment leaves the access controlled area for delivery to the air operator who is to carry the consignment on the air operator's aircraft; and~~
 - (i) held in an access controlled area until the consignment leaves the access controlled area for delivery to the air operator who is to carry the consignment on the air operator's aircraft; and
 - (ii) protected from unauthorised interference, from the point of screening until departure of the aircraft.
 - (5) every consignment of cargo or mail including transfer cargo or mail that is delivered to an air operator for carriage on the operator's aircraft is—
 - (i) accompanied by a declaration of security that meets the requirements of Appendix A.1 and is signed by a person who is authorised in accordance with rule 109.59 to sign the declaration of security; and

- (ii) protected from any act of tampering from the time the consignment leaves the regulated air cargo agent's access controlled area until the time that the consignment is accepted by the air operator.
- (b) A person who is to implement any of the security control procedures required by paragraph (a) must be appropriately trained, and hold an appropriate authorisation issued in accordance with rule 109.59.

109.57 Screening procedures for cargo or mail including transfer cargo or mail

- (a) An applicant for the grant of a regulated air cargo agent certificate who intends to screen cargo or mail including transfer cargo or mail as part of the security control procedures required under rule 109.55 must establish procedures for screening in accordance with Appendix B.
- (b) The procedures required under paragraph (a) must—
 - (1) identify, and be applicable to, the particular screening method to be used; and
 - (2) detail the processes that must be followed by the person carrying out the screening and taking into account the nature of the consignment; and
 - (3) require that every person must be appropriately authorised in accordance with rule 109.59 for the particular screening method; and
 - (4) include a programme and procedures for periodically testing the screening method, including the persons performing the screening; and
 - (5) for screening methods that use technical equipment, include a maintenance programme for the equipment, including if applicable, procedures to periodically test the integrity of the screening equipment; and
 - (6) include a process for assessing the significance of a screening method failure and the actions to be taken regarding the effect that the failure may have on cargo that has already been screened; and
 - (7) use an appropriate method or methods taking into account the nature of the consignment such as special categories of cargo (high-risk cargo, high-value cargo, diplomatic bags, live animals, perishable goods, biomedical samples and vaccines, other perishable medical items, life sustaining items, human remains, nuclear material); and
 - (8) ensure that operators do not accept cargo or mail for carriage on an aircraft engaged in commercial air transport operations unless the application of screening or other security controls is confirmed and accounted for by a RACA, or known consignor; and
 - (9) ensure that any cargo or mail which cannot be confirmed or accounted for by a RACA, or known consignor, shall be subjected to screening.

109.59 Authorisation procedures

- (a) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for the issue of an authorisation to every person who carries out any of the following security control functions that are applicable to the applicant's proposed activities:
 - (1) screening cargo or mail in accordance with the procedures required under rule 109.57:

- (2) applying the security control procedures required under rule 109.55(a)(1) to cargo or mail that is accepted from a person who is not a known customer:
 - (3) checking a consignment of cargo or mail, and statement of content received from a known customer in accordance with the security control procedures required by rule 109.55(a)(2) and (a)(3):
 - (4) accessing a consignment of cargo or mail that is held in the applicant's access controlled area referred to in rule 109.55(a)(4):
 - (5) issuing a declaration of security that is required by rule 109.55(a)(5)(i) for each consignment of cargo or mail:
 - (6) delivering a consignment of cargo or mail that is accompanied by a declaration of security, but is not being transported in a 'tamper evident' manner to the air operator in accordance with the security control procedures required by rule 109.55(a)(5)(ii):
 - (7) implementing the known customer procedures required under rule 109.61(a) and entering details of the known customer into the known customer register required under rule 109.61(c).
- (b) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for the issue of an authorisation to every person who enters an access controlled area, other than those provided for under rule 109.109(2).
- (c) The procedures required by paragraphs (a) and (b) must include the following:
- (1) an authorisation must not be issued to a person unless—
 - (i) the person has undergone a security background check acceptable to the Director; and
 - (ii) for an authorisation issued under paragraph (a), the person has been appropriately trained in accordance with the regulated air cargo agent's training programme that is required under rule 109.63; and
 - (iii) for an authorisation issued under paragraph (a), the person has been assessed as competent, in accordance with the regulated air cargo agent's training programme required under rule 109.63, to carry out the security control functions for which the authorisation is intended; and
 - (iv) for an authorisation issued under paragraph (b), the person has a knowledge of security requirements for air cargo; and
 - (v) 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
 - (vi) recurrent background checks are applied to such persons at an interval of not more than 2 years; and
 - (vii) 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;
 - (viii) persons implementing security controls possess all competencies required to perform their duties and are appropriately selected and trained according to the requirements of the National Civil Aviation Security Programme (NCASP) and that appropriate records are maintained up-to-date; and
 - (ix) relevant standards of performance must be established and initial and periodic assessments must be introduced to maintain those standards.

- (2) every authorisation must be in writing and must include—
 - (i) the name of the person to whom the authorisation is issued; and
 - (ii) the security control function or other function that the person is authorised to perform; and
 - (iii) the expiry date of the authorisation:
- (3) an authorisation must not be issued for a period of more than 32 years:
- (4) an authorisation must not be reissued to a person unless the requirements of paragraphs (1), (2) and (3) are complied with.

109.61 Procedures and register for a known customer

- (a) An applicant for the grant of a regulated air cargo agent certificate who intends to accept cargo or mail for carriage by air from a known customer must establish procedures for ensuring that—
 - (1) the known customer has a knowledge of security matters that relate to the carriage of the known customer's cargo or mail by air; and
 - (2) the known customer has appropriate systems and procedures in place for ensuring that—
 - (i) only the intended items of cargo or mail are contained in the customer's consignment of cargo or mail that is forwarded to the applicant's organisation for carriage by air; and
 - (ii) every consignment of cargo or mail that is forwarded to the applicant's organisation is accompanied by a statement of content that can be identified as originating from the known customer; and
 - (iii) every consignment of cargo or mail that is forwarded to the applicant's organisation is protected in a manner that enables the applicant's organisation to readily identify whether the consignment has been tampered with; and
 - (iv) the cargo or mail is not tampered with when sent by the known customer to the applicant's organisation.
- (b) The procedures required under paragraph (a) must include the means for the applicant's organisation to ensure that the requirements under paragraph (a) continue to be met.
- (c) An applicant for the grant of a regulated air cargo agent certificate who intends to accept consignments of cargo or mail for carriage by air from a known customer in accordance with the procedures required by paragraph (a) must establish a register of known customers and record for each known customer:
 - (1) the customer's current name (and/or business name if appropriate):
 - (2) the current name and details of the principal contact person:
 - (3) the customer's current address, and applicable facsimile, email and telephone numbers.
 - (4) proper recruitment and selection criteria of its known customer management and operational personnel.

109.62 Procedures for external service providers

An applicant for the grant of a regulated air cargo agent certificate must establish procedures to ensure that:

- (a) where any work relating to compliance with this Part is intended to be outsourced to an external service provider, the contractual provisions by which the holder of a regulated air cargo agent certificate ensures that any such contractor or other agent complies with the requirements of the holder's regulated air cargo security exposition, are implemented; and
- (b) as an entity responsible for the implementation of relevant elements of the National Civil Aviation Security Programme (NCASP), it must periodically verify at an interval of not more than 12 months that the implementation of security measures outsourced to external service providers is in compliance with the holder's Regulated Air Cargo Agent exposition.

109.63 Procedures for High Risk cargo or mail

- (a) An applicant for the grant of a regulated air cargo agent certificate who intends to accept high-risk cargo or mail for carriage by air from an unknown customer must establish additional screening procedures for ensuring that—
 - ~~(1) every cargo or mail consignment considered as high risk and showing signs of tampering are identified; and~~
 - ~~(2) 1) specific intelligence information that cargo or mail poses a threat to civil aviation are captured; and~~
 - ~~(3) 2) the identification of cargo or mail that shows with anomalies or signs of tampering which that give rise to suspicion; and~~
 - ~~(4) the nature of the cargo or mail is such that baseline security measures alone are unlikely to detect prohibited items that could endanger the aircraft such as improvised explosive devices (IEDs).~~
- (b) The additional screening methods and measures required under paragraph (a) must be appropriate and acceptable to the Director.

109.65 Training of personnel Programme

- (a) An applicant for the grant of a regulated air cargo agent certificate must establish and maintain a training programme for ensuring that—
 - (1) every person who has access to a consignment of cargo or mail that has been accepted by the applicant's organisation for carriage by air has the appropriate training in the security control procedures for the storage and transportation of the consignments; and
 - (2) every person who carries out a security control function in relation to cargo or mail that is accepted by the applicant's organisation for carriage by air is appropriately trained and assessed as competent to carry out the security control function; and
 - (3) every person who has access to or carries out a dangerous goods control function in relation to a consignment of cargo or mail that has been accepted by the applicant's organization for carriage by air have satisfactorily completed a dangerous goods training programme including recurrent training under 92.203.
- (b) The training programme required under paragraph (a) must contain—

- (1) applicable segments for —
 - (i) initial training; and
 - (ii) recurrent training; and
 - (iii) competency assessment; and
 - (2) syllabi for each applicable security control function and segment of training; and
 - (3) syllabi for each applicable dangerous goods control function and segment of training.
 - (4) a developed certification system that will be implemented to ensure that instructors are qualified in the applicable subject matters in accordance with the National Civil Aviation Security Programme (NCASP).
- (c) The training programme required by paragraph (a) must ensure that every person who is required to be trained undertakes the recurrent training segment of the training programme at an interval of not more than ≥ 2 years.
- (d) The training programme for a person who carries out a security control function that includes screening must include the standards prescribed in Appendix C.
- (e) The training programme required by paragraph (a) must be conducted by the holder of a Part 141 certificate that authorizes the conduct of such a course.

109.67 Cargo security incident

An applicant for the grant of a regulated air cargo agent certificate must establish procedures—

- (1) for notifying, investigating and reporting, any cargo security incident that is associated with the applicant's activities, in accordance with Part 12, and
- (2) for implementing corrective actions to eliminate the cause of a cargo security incident and prevent its recurrence.

109.69 Records

- (a) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for identifying, collecting, indexing, storing, maintaining, and disposing of the records that are necessary to provide an accurate record for—
- (1) every consignment of cargo or mail that is delivered under the authority of a declaration of security to an air operator for carriage by air, including a copy of the declaration; and
 - (2) every person who is required under rule 109.63 to be trained, including details of each segment of training that is undertaken; and
 - (3) every person who is issued with a written authorisation under rule 109.59, including details of the person's training and competency assessment, authorisation, and the security background check required under rule 109.59(c)(1)(i); and
 - (4) every known customer who is entered in the register required by rule 109.61(c), including details of continued compliance as required by rule 109.61(b); and
 - (5) every investigation relating to a cargo security incident investigation carried out under rule 109.65; and
 - (6) every management review that is carried out under rule 109.69. (b) The records required under paragraph (a) must be—
 - (1) accurate, legible and of a permanent nature; and

- (2) in the interest of aviation security—
 - (i) for records required by paragraphs (a)(2) and (3), retained for a maximum period of 2 years from the date that the affected person ceases to work for or be associated with the regulated air cargo agent; and
 - (ii) for a statement of content or declaration of security, retained for at least 31 days unless required by the Director for a longer period for the purposes of a security incident investigation.

109.71 Safety and Quality Management

An applicant for the grant of a regulated air cargo agent certificate must establish an integrated safety and quality management system meeting the following requirements of Part 100:

- (1) rule 100.53 in respect of a security policy; and
- (2) rule 100.55 in respect of security objectives; and
- (3) rule 100.59 in respect of hazards to security; and
- (4) rule 100.61 in respect of risks to security; and
- (5) Subpart C.

109.73 Organisation exposition

- (a) An applicant for the grant of a regulated air cargo agent certificate must submit to the Director for acceptance, an exposition containing—
 - (1) a statement signed by the chief executive on behalf of the applicant's organisation confirming that—
 - (i) the exposition defines the organisation and demonstrates its means and methods for ensuring ongoing compliance with this Part; and
 - (ii) the exposition, and every associated manual, and operating, and security control procedure, must be complied with by the organisation's personnel at all times; and
 - (2) the titles and names of the senior person or persons referred to in rule 109.51(a)(1) and (2); and
 - (3) the duties and responsibilities of the senior person or persons referred to in paragraph (2), including matters for which they have responsibility to deal directly with the Director on behalf of the organisation; and
 - (4) an organisation chart showing lines of responsibility of the senior persons referred to in paragraph (2) and covering each location referred to in paragraph (6); and
 - (5) a summary of the organisation's staffing structure at each location referred to in paragraph (6); and
 - (6) a summary of the scope of activities at each location where the organisation's personnel are based for carrying out security control functions relating to cargo and mail; and
 - (7) a summary of the facilities provided at each location referred to in paragraph (6) that meets the requirements of rule 109.53; and
 - (8) the detailed procedures required under rule 109.69 regarding safety and quality management; and

- (9) the detailed procedures, or an outline of the procedures including information that identifies the documentation that contains the detailed procedures, that are required under—
- (i) rule 109.51(b) regarding the competence of personnel; and
 - (ii) rule 109.55(a)(1) regarding the acceptance and application of security controls to cargo or mail received from a person who is not a known customer; and (iii) rule 109.55(a)(2) and (3) regarding the acceptance of consignments of cargo or mail from a known customer; and
 - (iii) rule 109.55(a)(2) and (3) regarding the acceptance of consignment of cargo or mail from a known shipper; and
 - (iv) rule 109.55(a)(4) regarding the holding of a consignment of cargo or mail in an access controlled area; and
 - (v) rule 109.55(a)(5)(i) regarding the provision of a declaration of security for a consignment of cargo or mail that is delivered to an air operator; and
 - (vi) rule 109.55(a)(5)(ii) regarding the protection of a consignment of cargo or mail from an act of tampering during the delivery of the consignment to the air operator; and
 - (vii) rule 109.57 regarding the screening of cargo or mail; and
 - (viii) rule 109.59 regarding the issue of an authorisation to personnel; and
 - (ix) rule 109.61 regarding the requirements for a known customer; and
 - (x) rule 109.63 regarding high risk cargo or mail; and
 - (xi) rule 109.65(1) regarding the training programme
 - (xii) rule 109.67(1) regarding the notification, investigation and reporting of a cargo security incident; and
 - (xiii) rule 109.67(2) regarding the implementation of a corrective action to eliminate the cause of a cargo security incident and prevent its recurrence; and
 - (xiv) rule 109.69 regarding the identification, collection, indexing, storage, maintenance and disposal of records; and
- (10) details of procedures for—
- (i) controlling, amending, and distributing the exposition; and
 - (ii) ensuring that the exposition meets the applicable requirements of this Part; and
 - (iii) ensuring that the Director is provided with a copy of every amendment to the exposition as soon as practical after the amendment is incorporated into the exposition.
- (b) The exposition must remain acceptable to the Director.

Subpart C — Operational requirements

109.101 Continued compliance

The holder of a regulated air cargo agent certificate must—

- (1) continue to meet the standards and comply with the requirements of Subpart B prescribed for certification under this Part; and
- (2) comply with every procedure referred to in the certificate holder's exposition; and
- (3) hold at least one complete and current copy of the certificate holder's exposition at each location where a senior person is based; and
- (4) make each applicable part of the certificate holder's exposition available to personnel who require those parts to carry out their duties; and
- (5) maintain the register of known customers with current information for each of the certificate holder's known customers; and
- (6) subject to rule 109.103, suspend or remove the name of a known customer from the certificate holder's register of known customers if so requested in writing by the Director; and
- (7) notify the Director in writing of any change of address for service, telephone number, or facsimile number within 28 days of the change; and
- (8) ensure that a person does not perform a security control function under the authority of the holder's certificate unless the person holds an appropriate authorisation issued in accordance with the procedures required under rule 109.59.

109.103 Suspend or remove name of known customer from register

- (a) Subject to paragraph (c), the Director may request in writing that the holder of a regulated air cargo agent certificate suspend or remove the name of a known customer from the certificate holder's register of known customers, if the Director is satisfied that—
 - (1) the known customer has failed to comply with—
 - (i) a requirement relating to the cargo and security control procedures required by rule 109.55(a)(2), or (3); or
 - (ii) a requirement relating to the procedures and register for known customers required by rule 109.61; and
 - (2) it is in the interest of aviation security to suspend or remove the name of the known customer.
- (b) The suspension or removal of the name of a known customer from the certificate holder's register of known customers may be for a period specified by the Director or until the Director is satisfied that every requirement that the customer failed to comply with is met.
- (c) Subject to paragraph (d), before requesting the suspension or removal of a known customer's name under paragraph (a), the Director must, if the Director proposes to take into account any information that is or may be prejudicial to the known customer, disclose the information to the known customer, and allow the known customer to refute or comment on it, within 30 days of disclosing the information.
- (d) The Director is not required to disclose information—
 - (1) which may endanger the safety of any person:
 - (2) which is not in the interest of aviation security, if disclosed.

109.105 Changes to certificate holder's organisation

- (a) Subject to paragraph (b), the holder of a regulated air cargo agent certificate must—
- (1) ensure that its exposition is amended as required, to remain a current description of the certificate holder's organisation, and air cargo security services; and
 - (2) ensure that any amendment made to its exposition meets the applicable requirements of this Part; and
 - (3) comply with the exposition amendment procedure contained in its exposition; and
 - (4) provide the Director with a copy of each amendment to its exposition, as soon as practicable after the amendment is incorporated into the exposition; and
 - (5) make such amendments to its exposition as the Director may consider necessary in the interests of aviation security.
- (b) If the holder of a regulated air cargo agent certificate changes, or proposes to change, any of the following, the certificate holder must notify the Director prior to the change or as soon as practicable if prior notification is not possible, and the change must be accepted by the Director, including applicable fit and proper person criteria under section 50 of the Act, before being incorporated into the certificate holder's exposition:
- (1) the person identified as the chief executive;
 - (2) the title or name of any senior person specified in the exposition as required by rule 109.71(a)(2);
 - (3) the cargo and mail security procedures required by rule 109.55;
 - (4) the screening procedures required by rule 109.57;
 - (5) the authorisation procedures required by rule 109.59;
 - (6) the procedures for a known customer required by rule 109.61;
 - (7) the safety and quality management procedures required by rule 109.69.
- (c) The Director may impose conditions under which the holder of the regulated air cargo agent certificate may operate during or following any of the changes specified in paragraph (b).
- (d) The holder of an air cargo agent certificate must comply with any condition imposed by the Director under paragraph (c).
- (e) If any of the changes under paragraph (b) requires an amendment to the air cargo agent certificate, the certificate holder must forward the certificate to the Director as soon as practicable for endorsement of the changes.

109.107 Persons to issue declaration of security

A person must not issue a declaration of security to an air operator for a consignment of cargo or mail to which this Part applies unless—

- (1) the person holds a valid written authorisation from the holder of a regulated air cargo agent certificate to issue the declaration; and
- (2) the person issues the declaration of security—
 - (i) under the authority of the regulated air cargo agent certificate; and
 - (ii) in accordance with the certificate holder's procedures for issuing the declaration; and
- (3) the consignment of cargo or mail has been subjected to the security control procedures detailed in the certificate holder's exposition.

109.109 Entry to access controlled area

The holder of a regulated air cargo agent certificate must not permit a person to enter, and a person must not enter an access controlled area unless—

- (1) the person holds a valid written authorisation issued in accordance with the procedures required under rule 109.59(b); or
- (2) the person is accompanied by a person who holds an authorisation referred to in paragraph (1).

Subpart D — Transition Provisions**109.151 ~~Reserved~~ Transition**

Transition provisions detailed in Part 20 apply to this Part

Appendix A — Declaration of Security

A.1 Declaration of security

A declaration of security must either be in an electronic format or in writing to accompany the cargo or mail including transfer cargo or mail throughout the secure supply chain and must relate to a particular consignment of cargo or mail and include the following information:

- (1) the identity of the regulated air cargo agent under whose certificate the declaration is issued:
- (2) the destination of the consignment:
- (3) the identity of the air operator to whom the consignment is delivered:
- (4) the date that the consignment is delivered to the air operator:
- (5) a declaration that the consignment has been subjected to the security controls specified both in ~~Civil Aviation Rule~~ Part 109 and in the regulated air cargo agent's exposition and these have not detected any weapon, explosive, or other dangerous goods except for those listed under paragraph (8):
- (6) the identity of the person who is authorised to issue the declaration, by name and signature:
- (7) an acknowledgement that a false declaration is an offence:
- (8) a list of any weapon, explosive or other dangerous good contained within the consignment.

Appendix B — Screening Standards

B.1 Screening methods

- (a) Cargo or mail including transfer cargo or mail that is screened or is required to be screened ~~may~~ must be screened by use of 1 or more of the following methods:
 - (1) conventional x-ray equipment:
 - (2) advanced technology x-ray explosives detection system (ATEDS):
 - (3) explosive trace detection (ETD) systems:
 - (4) explosive detection dogs:
 - (5) computed tomography:
 - (6) physical inspection:
 - (7) any other screening technology or method acceptable to the Director.
- (b) Screening equipment must be situated in an access controlled area.

B.2 Periodic testing

- (a) Every method of screening must be subject to periodic testing within each 28 day cycles using a test piece to ensure the ongoing integrity of the screening process.
- (b) A test piece must be—
 - (1) appropriate for the particular screening method being tested; and
 - (2) representative of an unauthorised article that the screening method is intended to detect; and
 - (3) acceptable to the Director.

- (c) If a periodic test is intended to test the proficiency of a person performing the screening, the test must be carried out—
 - (1) without prior notice to the person who is performing the screening; and
 - (2) by placing the test piece used for the test among other items of cargo or mail being screened; and
 - (3) in a manner that gives the person being tested reasonable opportunity to detect the test piece; and
 - (4) within each 150-day cycle.

Appendix C — Training Standards

C.1 Grading system and training

- (a) The grading system of the level of competence specified in paragraph (b) is as follows:
 - (1) grade 1 denotes awareness of the subject:
 - (2) grade 2 denotes a basic knowledge of the subject:
 - (3) grade 3 denotes the ability to apply a basic knowledge of the subject in a situation that is likely to arise in the course of the person's duties:
 - (4) grade 4 denotes the ability to apply a thorough knowledge of the subject in a situation likely to arise in the course of the person's duties:
 - (5) grade 5 denotes the ability to apply a thorough knowledge of the subject and to exercise sound judgement in situations likely to arise in the course of the person's duties.
- (b) The topics that personnel who undertake screening functions are required to be trained on are as follows:
 - (1) Screening and search of cargo or mail:
 - (i) to outline the general principles governing the screening and search of cargo, to grade 4; and
 - (ii) to be familiar with and proficient in the use of the screening equipment provided by the certificate holder, to grade 5; and
 - (iii) to have practical experience with the procedures and methods for screening and search of cargo, to grade 5.
 - (2) Improvised explosive devices as they affect civil aviation to give a person who carries out screening an understanding of improvised explosive devices likely to be encountered in cargo or mail, to grade 3.
 - (3) The threat factor to update a person who carries out screening on the current terrorist and criminal trends, to grade 2.
 - (4) Historical background and statistics of acts of unlawful interference to provide personnel with knowledge of the evolution of aviation security and the extent of occurrences, to grade 1.