



**Notice of Proposed Rule Making
NPRM 21/09-02
Date 02/11/2021**

**Part 12
Accidents, Incidents and Statistics**

**Consequential Amendments
NIL**

**Docket 21/CAR12/02
2021-09 Rules Review**

Proposed Effective 02 November 2021

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:

- The implementation of Papua New Guinea's obligations under the Convention
- To provide for a safe, sustainable, effective and efficient aviation services
- The provision of aviation meteorological services, search and rescue services and civil aviation security programmers and services
- Assisting aviation safety and security, including but not limited to personal security
- Assisting economic development
- Improving access and mobility
- Protecting and promoting public health
- Ensuring environmental sustainability
- Any matter related or reasonably incidental to any of the following:
 - i. The Minister's functions and role under section 8 of the Act;
 - ii. The Authority's general objects and functions under section 11 of the Act;
 - iii. The Authority's functions in relation to safety under section 12 of the Act; and
 - iv. The Director's functions and powers under section of 17 the Act
 - v. The Director's powers under section 52A, 53 and 54 of the Act
- 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 12.59(a)(2) and Part 12.59(b).

2. Background to the Proposal

2.1 General Summary

The last major amendment to Part 12 was amendment 5, dated 11 Dec 2020, which were editorial and grammatical error amendments including updating Table 1 for statistical reporting.

This amendment is proposed to align incident investigation and retention of record time period.

2.2 NPRM Development

This change will clarify record retention and investigation periods.

2.3 Key Stakeholders

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

- The Civil Aviation Safety Authority
- The Minister for Transport
- The Ministry for Transport
- The Minister for Civil Aviation
- Aircraft operators
- Aircraft maintenance organizations
- Other aviation industry stakeholders

3. Issues Addressed during Development

There were no issues

3.1 Consequential Amendments

NIL

3.2 Exemptions

NIL

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 6 – Operation of Aircraft
- Annex 8 – Airworthiness of Aircraft
- Annex 13 – Aircraft Accident Investigation
- Annex 15 - Aeronautical Information Service
- Annex 19 – Safety Management Systems

3.4 Compliance Costs

NIL

4. Summary of changes

The proposed changes include the replacement of 90 days investigation period to 30 days and the need for retention of records to within the same period.

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:
 - (i) the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft:
 - (ii) 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:
 - (i) aircraft:
 - (ii) aircraft pilots:
 - (iii) flight crew members:
 - (iv) air traffic service personnel:

- (v) aviation security service personnel:
 - (vi) aircraft maintenance personnel:
 - (vii) aviation examiners or medical examiners:
 - (viii) air services:
 - (ix) air traffic services:
 - (x) aerodromes and aerodrome operators:
 - (xi) aeronautical navigation service providers:
 - (xii) aviation training organizations:
 - (xiii) aircraft design, manufacture, and maintenance organizations:
 - (xiv) aeronautical procedures:
 - (xv) aviation security services:
 - (xvi) aviation meteorological services:
 - (xvii) aeronautical communication services:
 - (xviii) 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 International Civil Aviation Organization (ICAO) Annexes listed in 3.3 above.

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 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 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.

7. How to make a submission

Submissions may be sent by the following methods:

- by Mail: Docket Clerk (NPRM 21/09-02)
Civil Aviation Safety Authority
PO Box 1941
BOROKO
National Capital District
- delivered: Docket Clerk (NPRM 21/09-02)
Civil Aviation Safety Authority
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD
- by Fax: Docket Clerk (NPRM 21/09-02)
3251789 / 325 1919
- by Email: Docket Clerk (NPRM 21/09-02)
rules@casapng.gov.pg

7.1 Final date for submissions

Comments must be received before **COB, 24 September 2021.**

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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Proposed Rule Amendments

Part 12 Accidents, Incidents and Statistics

12.59 Investigation and reporting

- (a) A holder of a certificate referred to under rule 12.55(a) who is required to provide details of an incident to the Authority under rule 12.57 must, unless otherwise notified by the Authority—
- (1) subject to section 248(3) of the Act, conduct an investigation to identify the facts relating to its involvement in the incident and establish, so far as those facts will allow, the cause or causes of the incident; and
 - (2) on completion of the investigation, submit a report of the investigation to the Authority no later than ~~90~~ 30 days after the incident—
 - (i) on form CA005; or
 - (ii) by a means acceptable to the Authority; and
 - (3) advise the Authority of any actions taken to prevent recurrence of a similar incident.
- (b) Notwithstanding paragraph (a) (2), a holder of an aviation document may obtain the Director's approval to submit a completed report later than ~~90~~ 30 days where the nature and complexity of the investigation is such that a longer period is justified.