



GOVERNMENT OF SAMOA
MINISTRY OF WORKS, TRANSPORT & INFRASTRUCTURE

Notice of Proposed Rule Making
Intention to Adopt New Zealand Civil Aviation Rules as Samoan Civil Aviation Rules

Summary of Proposed Rule Making

The Ministry of Works, Transport and Infrastructure – Civil Aviation Division is proposing to adopt most Civil Aviation Rules currently in force in New Zealand.

This includes adopting amendments to some Rule Parts that already apply to Samoa (but have since been amended in New Zealand) and new Rules that have been introduced in New Zealand but never adopted in Samoa.

Purpose of Rule Making

The purpose of the proposed rule-making is to address some legal issues that could affect the validity of the rules that are currently in force in Samoa.

New Zealand Civil Aviation Rules (NZCARs) and their amendments will be adopted, and referred to, as Samoan Civil Aviation Rules (SCARs). This includes several new New Zealand Civil Aviation Rules, such as those relating to drones (remotely piloted aircraft) and recreation aviation activities.

Although a number of the rules relate to aviation activities not currently undertaken in Samoa, the adoption of the full New Zealand civil aviation rules suite will future proof and ensure that Samoa has a strong aviation system should a person or organization decide they wish to take up new aviation activities.

Background

In 2000 the Civil Aviation Regulations 2000 (the Regulations) adopted all NZCARs, and any amendments made to them.

The effect of the Regulations was that as at 7 November 2000 all NZCARs and any amendment that had been made to them since their date of initial issue would apply in Samoa.

It appears that it was the intention of the Regulations that any future amendments to the NZCARs would automatically apply in Samoa.

The regulator, being the Ministry of Works, Transport and Infrastructure – Civil Aviation Division (the CAD) and the civil aviation industry in Samoa have proceeded on this basis, and are currently applying the up-to-date NZCARs.

However, a recent review of Samoa's civil aviation system identified that there any amendments made to the NZCARs since 7 November 2000 may not have been appropriately adopted in Samoa. This means the validity of the NZCARs and their adoption in Samoa is uncertain and could be open to legal argument. In practice, this

means that some NZCARs that were adopted by the Regulations on 7 November 2000 have not been properly amended as, and when, they have been amended in New Zealand since that date. Additionally, no new Rule Parts issued in New Zealand have been adopted in Samoa since 2000. Accordingly, Samoa's Civil Aviation Rules are currently out of date and incomplete.

The MWTI believes that it is necessary to remove any doubt as to the adoption of the NZCARs in Samoa. This rule making exercise will adopt all consolidated NZCARs and re-make them as SCARs to ensure that they are up-to-date and complete. The exercise also provides the opportunity to consider the making of SCARs that adopt new Rules that have been adopted in New Zealand, such as around remotely piloted aircraft systems (as known as drones), Safety Management Systems, and some recreational aviation activities.

As part of this exercise it is proposed to revoke clause 3 of the Regulations so as to enable the NZCARs to be adopted 'fresh', for ease of reference.

Legal Procedure for Adoption

The Civil Aviation Act 1998 (the Act), under sections 27 to 36, provides a process for the Minister to make Rules.

Sections 137-139 of the Act provide the procedure around the adoption of foreign rules and regulations. Under the Act, the Samoan system does not provide for the automatic adoption of NZCAR's. It is an opt in, rather than an opt out system. The opt-in approach is preferable and common across the Pacific, but requires ongoing, and sometime onerous, monitoring of rule development and amendments in New Zealand.

Adoption and Interpretation Statements

The CAD has prepared adoption and interpretation statements that will supplement the adopted NZCARs and form newly made SCARs. These statements are intended to assist with understanding and interpreting the SCARs, modifying the NZCARs and providing additional interpretative aids as is necessary.

The statements include the following information:

- An adoption statement: formally adopting each NZCAR Part, and declaring it to be a SCAR, retaining the same Part number and numbering (e.g. NZCAR Part 1, is adopted and referred to in Samoan law as SCAR Part 1);
- An interpretation statement: detailing the following matters:
 - Words and numbers to be substituted;
 - Any subpart, Rule or appendix of the adopted Rule Part which shall not apply in Samoa;
 - Any general exemptions which will apply in Samoa;
 - Any additional provisions or requirements not found in the New Zealand Rule Part but which will apply in Samoa;
 - Any direction as to the application or non-application to Samoa of any amendment or repeal of an adopted Rule Part by its country of origin;
 - Any other matter which would assist in the practical, clear and unambiguous interpretation and application of the adopted Rule Part in Samoa;
 - The date that the SCAR is to take force: allowing commencement of the Rule to be delayed or phased.

You can provide feedback

All operators, participants or affected persons may provide comment on this proposal. The CAD does want to hear from you about any NZCAR Part, NZCAR amendment, subpart or any aspect of a NZCAR that you believe should not be adopted in Samoa as a SCAR.

CAD has already identified some aspects of the NZCARs that are inappropriate for, or inapplicable to, Samoa. These have been identified and form part of adoption and interpretation statements that will accompany the NZCARs when they become SCARs.

How to provide feedback

If you wish to provide feedback please provide it in writing to:

Ministry of Works, Transport and Infrastructure
TATTE Building, Level 4
Private Bag

Feel free to contact the CAD by telephone or email.

Our contact details are:

Phone: 685-21611

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CAD will be engaging directly with organizations and people that may be directly affected by the adoption of some rules.

SECRETARY FOR TRANSPORT