

Aviation Ruling

Application of CAR 217(2)

Training and Checking: number of checks “each calendar year”

Effective Date This ruling is effective from 13 September 2004.

Catchwords Calendar years
CAR 217(2) checks required

Information about rulings

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Issue

- 1 The purpose of the ruling is to state CASA’s position and to enable any AOC holding operator to determine the number of checks required to be carried out on the operator’s operating crew under the CAR 217 Training and Checking organisation.

Background

- 2 Subregualtion 217(2) of the *Civil Aviation regulations 1988* (“CAR 1988”) requires a check and training organisation to “include provision for the making in each calendar year, but not at intervals of less than 4 months of 2 checks of a nature sufficient to test the competency of each member of the operator’s operating crew”.
- 3 There is no definition in the CARs or the Act of “calendar year”. “Calendar year” is, however, defined in section 22(1)(g) of the *Acts Interpretation Act 1901* to mean “a period of 12 months commencing on 1 January”. If CAR 217(2) had used the word “year” rather than “calendar year” it would have been clear that the timing of this 12 month period was intended to be a “rolling year” rather than a “fixed year between 1 January and 31 December
- 4 CAR 217(2) contains 2 requirements namely:
 - (i) that 2 checks be undertaken in each calendar year; and
 - (ii) that those checks be carried out at intervals not less than 4 months.
- 5 Both requirements cannot be complied with where a new pilot joins a training and checking organisation after 31 August in any year if the referenece to “calendar year” is taken to have the meaning set out in the Acts Interpretation Act. Such an anomolus result would appear inconsistent with the purpose of the CAR 1988. However, the definitions in the Acts Interpretation Act are subject to any contrary intention appearing in the CARs.

Ruling

- 6 It is CASA’s view that CAR 217(2) indicates a contrary intention for the purposes of the definition of “calendar year” in the Acts Interpretation Act and that “year” in CAR 217(2) is to be interpreted as a rolling year. For example, if a pilot joins on 1 September and has a check on 1 October in the first year he would be allowed to have a second check on 1 February in the 2nd year followed by a 3rd check on 1 June and so on.

- 7 The proposed new legislation under the CASR part 121A and 121B do not use the term “calendar year” and accordingly this problem should not arise in the future.

Definitions

- 8 In this ruling:

”**AOC**” means an air operator’s certificate issued under section 27 of the Act;

”**CAR**” means the Civil Aviation Regulations 1988;

”**operator**” means the person holding an AOC who is required to have a CAR 217 Training and Checking Organisation:

”**the Act**” means the Civil Aviation Act 1988.

[signed]

Bruce Byron
Director of Aviation Safety and
Chief Executive Officer

12 September 2004