

**LEGAL NOTICE NO.....**

**CIVIL AVIATION ACT  
(.....)**

**THE CIVIL AVIATION (COMMERCIAL AIR TRANSPORT OPERATIONS BY FOREIGN AIR OPERATOR IN AND OUT OF (STATE...)) REGULATIONS, .....**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

**PART I - PRELIMINARY**

1. Citation
2. Interpretation
3. Application

**PART II – GENERAL OPERATION REQUIREMENTS**

4. Compliance requirements
5. Authority to inspect
6. Operations specifications
7. Certificate of airworthiness and certificate of registration
8. Air traffic control rules and procedures

**PART III – DOCUMENTS**

9. Foreign air operator aircraft technical logbook
10. Foreign air operator aircraft journey logbook
11. Operations manual to be carried
12. Documents and additional information to be carried on board the aircraft
13. Access to and production of documentation, manuals and records
14. Preservation and production of flight recorded data

**PART IV - PERFORMANCE**

15. Computation of passenger and baggage mass
16. Approach and landing conditions
17. Aircraft security
18. Unauthorized carriage
19. Reporting of incidents and accidents

## PART V – CARRIAGE OF DANGEROUS GOODS, WEAPONS AND MUNITIONS OF WAR

20. Carriage of dangerous goods by air.
21. Carriage of weapons and munitions of war
22. Carriage of sporting weapons and ammunition

## PART VI – GENERAL

23. Possession of certificate, authorization etc.
24. Drug and alcohol testing and reporting
25. Problematic use of psychoactive substances.
26. Inspection of certificate of registration
27. Change of name
28. Change of address
29. Replacement of documents
30. Certificate suspension and revocations
31. Use and retention of certificates and records
32. Reports of violation
33. Enforcement of directions
34. Aeronautical user fees
35. Application of regulations to Government and visiting forces, etc.
36. Extra-territorial application of Regulations.

## PART VIII- EXEMPTIONS

37. Requirements for application for exemption
38. Substance of the request for exemption.
39. Initial review by the Authority.
40. Evaluation of the request.

## PART IX – OFFENCES AND PENALTIES

41. Contravention of Regulations
42. Penalties

## PART X –SAVINGS AND TRANSITIONAL PROVISIONS

43. Savings
44. Transitional provisions

SCHEDULE - Penalties.

IN EXERCISE of the powers conferred by section 8C of the Civil Aviation Act, the Minister for Transport makes the following Regulations-

**THE CIVIL AVIATION (COMMERCIAL AIR TRANSPORT OPERATIONS  
BY FOREIGN AIR OPERATOR IN AND OUT OF (STATE...))  
REGULATIONS, 2007**

**PART I – PRELIMINARY**

Citation.

1. These Regulations may be cited as the Civil Aviation (Commercial Air Transport Operations by Foreign Air Operator in and out of (State...)) Regulations, 2007.

Interpretation.

2. In these Regulations, unless the context otherwise requires-

“aerodrome” means a defined area on land or water, including any buildings, installations and equipment, used or intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“aeroplane” means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface;

“article” means any item, including but not limited to, an aircraft, airframe, aircraft engine, propeller, appliance, accessory, assembly, subassembly, system, subsystem, component, unit, product, or part;

“authorised person” means any person authorised by the Authority either generally or in relation to a particular case or class of cases, and includes references to the holder of any office designated by the Authority;

“Authority” means the (State...) Civil Aviation Authority;

“balloon” means a non-power-driven lighter-than-air aircraft;

“commercial air transport operation” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“certificate of release to service” means a document containing a certification that inspection and maintenance work has been performed satisfactorily in accordance with the methods prescribed by the Authority;

“crew member” means a person assigned by the operator to duty on an aircraft during a flight duty period;

“flight crew member” means a licensed crewmember charged with duties essential to the operation of an aircraft during flight time;

“flight plan” means specified information provided to air traffic services units, relative to an intended flight or portion of a flight of an aircraft;

“flight time” means the total time from the moment an aircraft first moves under its own power for the purpose of taking off until the moment it comes to rest at the end of the flight;

“foreign air operator” means any operator, not being a (State...)n air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations in and out of (State...), whether on a scheduled or charter basis;

“foreign authority” means the civil aviation authority that issues and oversees the air operator certificate of the foreign operator;

“helicopter” means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axis;

“inspection” means the examination of an aircraft or aircraft component to establish conformity with a standard approved by

the Authority;

“maintenance” means tasks required to ensure the continued airworthiness of an aircraft or aircraft component including any one or combination of overhaul, repair, inspection, replacement, modification, and defect rectification;

“modification” means a change to the type design of an aircraft or aeronautical product which is not a repair;

“night” means the time between fifteen minutes after sunset and fifteen minutes before sunrise, sunrise and sunset being determined at surface level, and includes any time between sunset and sunrise when an unlighted aircraft or other unlighted prominent object cannot clearly be seen at a distance of 4,572 metres;

“operational flight plan” means the operator’s plan for the safe conduct of the flight based on considerations of aeroplane performance, other operating limitations and relevant expected conditions on the route to be followed and at the aerodromes concerned;

“operations manual” means a manual containing procedures, instructions and guidance for use by operational personnel in the execution of their duties;

“operations specifications” means a document containing authorisations, conditions, limitations, and other provisions with which an air operator must comply;

“overhaul” means the restoration of an aircraft or aircraft component using methods, techniques, and practices acceptable to the Authority, including disassembly, cleaning, and inspection as permitted, repair as necessary, and reassembly; and tested in accordance with approved standards and technical data, or in accordance with current standards and technical data acceptable to the Authority, which have been developed and documented by the State of Design, holder of the type certificate, supplemental type certificate, or a material, part, process, or appliance approval under Parts Manufacturing Authorisation or Technical Standard Order;

“package” means the complete product of the packing operation consisting of the packaging and its contents prepared for transport;

“packaging” means receptacles and any other components or materials necessary for the receptacle to perform its containment function;

“pilot-in-command” means Pilot in Command;

“pre-flight information bulletin” means a presentation of current notice to airmen information of operational significance, prepared prior to flight;

“propeller” means a device for propelling an aircraft that has blades on a powerplant driven shaft and that, when rotated, produces by its action on the air, a thrust approximately perpendicular to its plane of rotation. It includes control components normally supplied by its manufacturer, but does not include main and auxiliary rotors or rotating airfoils of powerplants;

“repair” means the restoration of an aircraft and aircraft component to a serviceable condition in conformity with an approved standard;

“standard” means an object, artifact, tool, test equipment, system, or experiment that stores, embodies, or otherwise provides a physical quantity, which serves as the basis for measurement of the quantity and it includes a document describing the operations and process that must be performed in order for a particular end to be achieved;

“State of Design” means the Contracting State which approved the original type certificate and any subsequent supplemental type certificates for an aircraft, or which approved the design of an aeronautical product or appliance;

“State of Operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;

“State of Registry” means the Contracting State on whose registry

an aircraft is entered;

“technical instructions” means the latest effective edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc. 9284-AN/905), including the supplement and any addendum, approved and published by decision of the Council of the International Civil Aviation Organization;

“technical logbook” means a document carried on an aircraft that contains information to meet International Civil Aviation Organization requirements; a technical logbook contains two independent sections- a journey record section and an aircraft maintenance record section;

“training programme” means a programme that consists of courses, courseware, facilities, flight training equipment, and personnel necessary to accomplish a specific training objective. It may include a core curriculum and a specialty curriculum;

Application.

3. These Regulations shall apply to the operation of any civil aircraft in and out of (State...) for the purpose of commercial air transportation operations by any foreign air operator whose Air Operator Certificate is issued and controlled by a civil aviation authority other than the Authority.

## **PART II – GENERAL OPERATION REQUIREMENTS**

Compliance requirements.

4. A foreign air operator shall not operate an aircraft in and out of (State...) in commercial air transport operations contrary to the requirements of-
  - (a) these Regulations;
  - (b) the Civil Aviation (Instruments and Equipment) Regulations, the Civil Aviation (Operation of Aircraft) Regulations, and the Civil Aviation (Airworthiness) Regulations, as applicable;
  - (c) standards contained in Parts I or III of International Civil Aviation Organization Annex 6, as applicable; and
  - (d) any other requirements the Authority may specify.

Authority to inspect.

5. A foreign air operator shall not, while in (State...), hinder or

obstruct any person authorised by the Authority from boarding a foreign registered aircraft operated for commercial air transport at any time without prior notice to inspect the documents and manuals required by these Regulations.

Operations specifications.

6. A foreign air operator shall conduct its operations in accordance with operations specifications or equivalent document issued by the State of Operator and acceptable to the Authority.

Certificate of airworthiness and Certificate of registration

7. A foreign air operator may operate an aircraft in and out of (State...)-  
(a) if that aircraft has a valid certificate of airworthiness and certificate of registration issued or validated by the State of Registry and displays the nationality and registration markings of that State; and  
(b) in accordance with the limitations on maximum certificated mass prescribed for that aircraft and that operation by the State of Design.

Air traffic control rules and procedures.

8. (1) A pilot-in-command of a foreign registered aircraft shall comply with the rules of the air and air traffic control specified in the Civil Aviation (Rules of the Air and Air Traffic Control) Regulations.

(2) A foreign air operator shall establish procedures to ensure that each of its pilots complies with the requirements of sub-regulation (1), and shall check the ability of each of the pilots to operate safely according to applicable rules and procedures.

### **PART III – DOCUMENTS**

Foreign air operator aircraft technical logbook.

9. A foreign air operator shall use an aircraft technical logbook containing the following information for each aircraft-  
(a) information about each flight necessary to ensure continued flight safety;  
(b) the current certificate of release to service or an equivalent document;  
(c) the current maintenance statement giving the aircraft maintenance status of what next scheduled and out of phase maintenance is due, unless the Authority agrees to the maintenance statement being kept elsewhere;  
(d) all outstanding deferred defects that affect the operation of

- the aircraft; and
- (e) any necessary guidance instructions on maintenance support arrangement.
- Foreign air operator aircraft journey logbook. **10.** (1) A foreign air operator shall maintain a journey logbook containing information on each flight, which shall include-
- (a) aircraft nationality and registration marks;
  - (b) date of the flight;
  - (c) names of crewmembers;
  - (d) duty assignments of crewmembers;
  - (e) place of departure;
  - (f) place of arrival;
  - (g) time of departure;
  - (h) time of arrival;
  - (i) duration of flight;
  - (j) purpose of flight;
  - (k) incidents, and observations, if any; and
  - (l) signature of the pilot-in-command.
- (2) The Authority may waive the requirement of sub-regulation (1) if the relevant information is available in the aircraft technical log referred to in regulation 9.
- (3) A foreign air operator shall ensure that all entries in the journey log are made concurrently and are permanent in nature.
- Operations manual to be carried. **11.** A foreign air operator shall ensure that the following manuals are on board the aircraft on each flight-
- (a) the current parts of the operations manual relevant to the duties of the crew;
  - (b) the current parts of the operations manual which are required for the conduct of a flight which shall be easily accessible to the crew; and
  - (c) the approved aircraft flight manual , rotorcraft flight manual, or aircraft operating manual.
- Documents and additional information to be carried on board the aircraft. **12.** (1) A foreign air operator shall ensure that, the following documents are carried on each flight-
- (a) the aircraft certificate of registration;
  - (b) the aircraft certificate of airworthiness;
  - (c) the appropriate licences for each member;
  - (d) the aircraft journey or technical logbook;

- (e) the aircraft radio station licence;
- (f) in the case of a passenger carrying aircraft, a list of the names of the passengers and places of embarkation and destination;
- (g) in the case of a cargo aircraft, a manifest and detailed declarations of the cargo;
- (h) the loadsheet;
- (i) the copy of an operator certificate and attachments;
- (j) the insurance certificate;
- (k) the certificate of release to service or equivalent document;
- (l) the operational flight plan;
- (m) the pre-flight information bulletin;
- (n) current maps and charts for the area of operation;
- (o) a copy of applicable operations specifications; and
- (p) a notification of special loads including dangerous goods.

(2) The Authority may specify other documents and information to be carried on board in addition to those referred to in sub-regulation (1).

Access to and production of documentation, manuals and records.

- 13.** (1) A foreign air operator shall-
- (a) give an authorised person access to any documents, manuals and records which are related to flight operations and maintenance; and
  - (b) produce all such documents, manuals and records, when requested to do so by the Authority, within fourteen days.
- (2) A pilot-in-command of an aircraft operated by a foreign air operator shall, when requested to do so by an authorised person, produce to that person the documentation, manuals and records required to be carried on board an aircraft.

Preservation and production of flight recorded data.

- 14.** (1) Following an aircraft accident, or incident, or when the Authority so directs, a foreign air operator shall preserve the original recorded data of the flight for a period of sixty days unless otherwise directed by the investigating authority.
- (2) The recorded data referred to in sub-regulation (1) shall be produced when the Authority or investigating authority so requires.

## PART IV – PERFORMANCE

- Computation of passenger and baggage mass. **15.** (1) A foreign air operator shall compute the mass of passengers and checked baggage to be carried on an aircraft using the-
- (a) actual weighed mass of each person and the actual weighed mass of baggage; or
  - (b) standard mass values specified by the appropriate authority of the State of Registry.
- (2) The Authority may require a foreign registered air operator to produce evidence validating any standard mass values used.
- Approach and landing conditions. **16.** Before initiating an approach to land, the pilot-in-command of an aircraft operated by a foreign air operator shall determine that, according to the information available-
- (a) weather at the aerodrome and the conditions of the runway are safe for the approach and landing; and
  - (b) in the case of a missed approach, the aircraft is able to meet the performance requirements contained in the operations manual.
- Aircraft security. **17.** A foreign air operator shall-
- (a) ensure that all appropriate personnel are familiar and comply with the relevant requirements of the national security programmes of the State of the Operator and those of (State...);
  - (b) establish and use a security programme approved by the appropriate authority of the State of the Operator and accepted by the Authority;
  - (c) ensure that all aircraft carry a checklist of the procedures to be followed for that type in searching for concealed weapons, explosives or other dangerous devices;
  - (d) ensure that the flight crew compartment door, if installed, on all aircraft operated for the purpose of carrying passengers shall be capable of being locked from within the compartment in order to prevent unauthorised access, and is closed and locked from the time all external doors are closed following embarkation until any such door is opened for disembarkation, except when necessary to permit access and egress by authorized persons;
  - (e) establish, maintain and conduct approved training programmes which enable the operator's personnel to take

appropriate action to prevent acts of unlawful interference such as sabotage or unlawful seizure of aircraft and to minimize the consequences of such events should they occur; and

- (f) following an act of unlawful interference on board an aircraft the pilot-in-command or, in their absence the operator, shall submit, without delay, a report of such an act to the designated local authority and the appropriate authority in the State of the Operator.

Unauthorized carriage. **18.** A foreign-air operator shall take measures to ensure that a person does not conceal himself or cargo on board an aircraft.

Reporting of accidents and incidents. **19.** A foreign air operator or the pilot-in-command shall report to the Authority accidents and incidents occurring while operating in the (State...) airspace within seventy two hours of the accident, incident or discovery of the accident or incident unless exceptional circumstances prevent such reporting within the time stipulated.

## **PART V – CARRIAGE OF DANGEROUS GOODS, WEAPONS AND MUNITIONS OF WAR**

Carriage of dangerous goods by air. **20.** A foreign air operator shall-

- (a) not offer or accept for transportation of dangerous goods as defined by the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by air in and out of (State...) unless the operator has-
  - (i) been authorized to do so by the State of the Operator and approved by the Authority; and
  - (ii) conducted the required personnel training;
- (b) properly classified, documented, certified, described, packaged, marked, labelled and put in a fit condition for transport, dangerous goods as required by the operator's dangerous goods programme as approved by the State of the Operator;
- (c) stated in the operations specifications required in regulation 6 whether or not that operator has been authorised to accept dangerous goods by the State of Operator; and

- (d) provided a copy of its dangerous goods programme to the Authority where the foreign air operator has been granted authority to accept dangerous goods, and has an approved dangerous goods programme by the State of the Operator.

Carriage of weapons and munitions of war.

- 21.** A foreign air operator conducting commercial air transport operations in and out of (State...) shall-
  - (a) not transport weapons and munitions of war by air unless an approval to do so has been granted by the State of Operator, State of Origin, States over which the aircraft overflies and at the State of Destination;
  - (b) ensure that weapons and munitions of war are-
    - (i) stowed in the aircraft in a place which is inaccessible to the passengers during flight; and
    - (ii) unloaded in case of firearms, unless , before the commencement of the flight, an approval has been granted by all States which the aircraft originate, overfly and land that such weapons and munitions of war may be carried in circumstances that differ in part or in total from those specified in this sub-paragraph; and
  - (c) ensure that the pilot-in-command is notified before the flight begins of the details and location on board the aircraft of any weapons and munitions of war that are intended to be carried.

Carriage of sporting weapons and ammunition.

- 22.** (1) A foreign air operator conducting commercial air transportation operations to (State...) shall take all necessary measures to ensure that any sporting weapons intended to be carried by the aircraft are reported to the Authority.
- (2) A foreign air operator accepting the carriage of sporting weapons shall ensure that they are-
  - (a) stowed in the aircraft in a place which is inaccessible to passengers during flight unless the Authority has determined that compliance is impractical and has approved other procedures; and
  - (b) unloaded in the case of firearms or other weapons that contain ammunitions.

- (3) A foreign air operator may allow a passenger to carry ammunition for sporting weapons in passenger's checked baggage, if the carriage is approved by the Authority.

## **PART VI – GENERAL**

- Possession of certificate, authorisation e.t.c. **23.** A holder of a certificate or authorisation or other document issued by the Authority shall have in his physical possession or at the work site when exercising the privileges of that certificate, authorisation or such other document.
- Drug and alcohol testing and reporting. **24.** (1) Any person who performs any function requiring an authorisation prescribed by these may be tested for drug or alcohol usage.
- (2) Where the Authority or any person authorised by the Authority wishes to test a person referred to in sub regulation (1) for the percentage by weight of alcohol in the blood, or for the presence of narcotic drugs, marijuana, or depressant or stimulant drugs or substances in the body, and that person-
- (a) refuses to submit to the test; or
  - (b) having submitted to the test, refuses to authorise the release of the test results,
- the Authority may suspend or revoke the certificate or authorisation issued by the Authority.
- (3) In determining whether to suspend or revoke the authorisation of the holder the Authority shall consider all relevant factors, including-
- (a) whether the r authorisation holder had knowledge of the drug or alcohol use;
  - (b) whether the authorisation holder encouraged the person to refuse the drug or alcohol test;
  - (c) whether the authorisation holder dismissed the person who failed or refused the drug tests; or
  - (d) the position that person held with the authorisation holder.
- (4) The Authority shall require the certificate or authorisation holder to show cause why that person should not be dismissed

from the employment of the certificate or authorisation holder.

- (5) A person who is convicted, whether in or outside (State...), for any offence relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances, shall be dismissed from the employment of the certificate or authorisation holder.
- (6) The Authority may suspend or revoke the certificate or authorisation of a holder that refuses to dismiss from its employment a person convicted under sub regulation (3).

Problematic use of psychoactive substances..

- 25.** (1) A person whose function is critical to the safety of aviation (safety-sensitive personnel) shall not undertake that function while under the influence of any psychoactive substance, by reason of which human performance is impaired.

- (2) A person referred to in sub-regulation (1) shall not engage in any kind of problematic use of substances.

Inspection of certificate of registration.

- 26.** A person who holds a certificate of registration required by these Regulations shall present it for inspection upon a request from the Authority or any other person authorised by the Authority.

Change of name.

- 27.** (1) A holder of a certificate or other document issued under these Regulations may apply to change the name on the certificate or that document.

- (2) The holder shall include with any such request-
- (a) the current certificate or such other document; and
  - (b) a court order, or other legal document verifying the name change.

- (3) The Authority may change the certificate or such other document and issue a replacement thereof;

- (4) The Authority shall return to the holder the original documents specified in sub-regulation 2(b) of this regulation and retain copies thereof and return the replaced certificate or document with the appropriate endorsement.
- Change of address. **28.** (1) A holder of a certificate, issued under these Regulations shall notify the Authority of a change in the physical and mailing address and shall do so in the case of-
- (a) the physical address, at least fourteen days in advance; and
  - (b) the mailing address, upon the change.
- (2) A person who does not notify the Authority of the change in the physical address within the time frame specified in sub-regulation (1) shall not exercise the privileges of the certificate or authorisation.
- Replacement of documents. **29.** A person may apply to the Authority in the prescribed form for replacement of documents issued under these Regulations if such documents are lost or destroyed.
- Certificate suspension and revocations. **30.** (1) The Authority may, where it considers it to be in the public interest, suspend provisionally, pending further investigation, any document issued, granted or having effect under these Regulations:
- Provided that, whether or not such further investigation has been completed, a provisional suspension under this sub-regulation shall, if not otherwise terminated, cease to have effect after twenty eight days.
- (2) The Authority may, upon the completion of an investigation which has shown sufficient ground to its satisfaction and where it considers it to be in the public interest, revoke, suspend, or vary any document issued or granted under these Regulations.
- (3) The Authority may, where it considers it to be in the public interest, prevent any person from flying an aircraft.

- (4) A holder or any person having possession or custody of any documents which have been revoked, suspended or varied under these Regulations shall surrender it to the Authority within fourteen days from the date of revocation, suspension or variation.
- (5) The breach of any condition subject to which any document has been granted or issued under these Regulations shall render the document invalid during the continuance of the breach.

Use and retention of  
certificates and records.

**31.**

- (1) A person shall not-
  - (a) use any certificate, approval, permission, exemption or other document issued or required by or under these Regulations which has been forged, altered, revoked, or suspended, or to which he is not entitled;
  - (b) forge or alter any certificate, approval, permission, exemption or other document issued or required by or under these Regulations;
  - (c) lend any certificate, approval, permission, exemption or other document issued or required by or under these Regulations to any other person; or
  - (d) make any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any such certificate, approval, permission or exemption or other document.
- (2) During the period for which it is required under these Regulations to be preserved, a person shall not mutilate, alter, render illegible or destroy any records, or any entry made therein, required by or under these Regulations to be maintained, or knowingly make, or procure or assist in the making of, any false entry in any such record, or wilfully omit to make a material entry in such record.

(3) All records required to be maintained by or under these Regulations shall be recorded in a permanent and indelible material.

(4) A person shall not purport to issue any certificate or exemption for the purpose of these Regulations unless he is authorised to do so under these Regulations.

(5) A person shall not issue any certificate or exemption referred to in sub-regulation (4) unless he is satisfied that all statements in the certificate are correct, and that the applicant is qualified to hold that certificate.

Reports of violation. **32.** (1) Any person who knows of a violation of this Act, or any rule, regulation, or order issued thereunder, shall report it to the Authority.

(2) The Authority shall determine the nature and type of any additional investigation or enforcement action that need to be taken.

Enforcement of directions. **33.** Any person who fails to comply with any direction given to him by the Authority or by any authorised person under any provision of these Regulations shall be deemed, for the purposes of these Regulations, to have contravened that provision.

Aeronautical user fees. **34.** (1) The Authority may notify the fees to be charged in connection with the issue, validation, renewal, extension or variation of any certificate, licence or other document, including the issue of a copy thereof, or the undergoing of any examination, test, inspection or investigation or the grant of any permission or approval, required by, or for the purpose of these Regulations any orders, notices or proclamations made thereunder.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with the provisions of sub-regulation (1), the applicant shall be required, before the application is considered, to pay the fee so chargeable.

(3) If, after that payment has been made the application is withdrawn by the applicant, otherwise ceases to have

effect or is refused, the Authority shall not refund the payment made.

Application of regulations to Government and visiting forces, etc.

**35.** (1) These Regulations shall apply to aircraft, not being military aircraft, belonging to or exclusively employed in the service of the Government, and for the purposes of such application, the Department or other authority for the time being responsible for management of the aircraft shall be deemed to be the operator of the aircraft, and in the case of an aircraft belonging to the Government, to be the owner of the interest of the Government in the aircraft.

(2) Except as otherwise expressly provided, the naval, military and air force authorities and member of any visiting force and property held or used for the purpose of such a force shall be exempt from the provision of these regulations to the same extent as if the visiting force formed part of the military force of (State...).

Extra-territorial application of Regulations.

**36.** Except where the context otherwise requires, the provisions of these Regulations-

- (a) in so far as they apply (whether by express reference or otherwise) to aircraft registered in (State...), shall apply to such aircraft wherever they may be;
- (b) in so far as they apply (whether by express reference or otherwise) to other aircraft, shall apply to such aircraft when they are within (State...);
- (c) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by any person in, or by any of the crew of, any aircraft registered in (State...), shall apply to such persons and crew, wherever they may be; and
- (d) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything in relation to any aircraft registered in (State...) by other persons shall, where such persons are citizens of (State...),

apply to them wherever they may be .

## **PART VII – EXEMPTIONS**

Requirements for application for exemption.

- 37.** (1) A person may apply to the Authority for an exemption from any of these Regulations.
- (2) An application for an exemption shall be submitted at least sixty days in advance of the proposed effective date.
- (3) A request for an exemption shall contain the applicant's-
- (a) name;
  - (b) physical address and mailing address;
  - (c) telephone number;
  - (d) fax number, if available; and
  - (e) email address, if available.
- (4) The application shall be accompanied by a fee specified by the Authority, for technical evaluation.

Substance of the request for exemption.

- 38.** (1) An application for an exemption shall contain the following-
- (a) a citation of the specific requirement from which the applicant seeks exemption;
  - (b) an explanation of why the exemption is needed;
  - (c) a description of the type of operations to be conducted under the proposed exemption;
  - (d) the proposed duration of the exemption;
  - (e) an explanation of how the exemption would be in the public interest, that is, benefit the public as a whole;
  - (f) a detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the regulation in question;
  - (g) a review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware; and
- (2) Where the applicant seeks emergency processing, the application shall contain supporting facts and reasons why the application was not filed within the time specified, and the reasons it is an emergency.

- (3) The Authority may deny an application if the Authority finds that the applicant has not justified the failure to apply for an exemption in the time specified in regulation 37(2).
- (4) If the applicant is not a citizen or legal resident of (State...) , the application must specify a (State...) agent for service

*Review, Publication and Issue or Denial of the Exemption*

Initial review by the Authority.

- 39.** (1) The Authority shall review the application for accuracy and compliance with the requirements of regulations 37 and 38.
- (2) If the application appears on its face to satisfy the provisions of this regulation and the Authority determines that a review of its merits is justified, the Authority will publish a detailed summary of the application either in (State...) Gazette, aeronautical information circular or one local daily newspaper for comment and specify the date by which comments must be received by the Authority for consideration.
- (3) Where the filing requirements of regulations 37 and 38 have not been met, the Authority will notify the applicant and take no further action until and unless the applicant corrects the application and re-files it in accordance with these Regulations.
- (4) If the request is for emergency relief, the Authority shall publish the application or the Authority's decision as soon as possible after processing the application.

Evaluation of the request.

- 40.** (1) After initial review, if the filing requirements have been satisfied, the Authority shall conduct an evaluation of the request to determine-
  - (h) whether an exemption would be in the public interest;
  - (i) whether the applicant's proposal would provide a level of safety equivalent to that established by the regulation, although where the Authority decides that a technical evaluation of the request

would impose a significant burden on the Authority's technical resources, the Authority may deny the exemption on that basis;

- (j) whether a grant of the exemption would contravene the applicable International Civil Aviation Organization Standards and Recommended Practices; and
- (k) whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.

- (2) The Authority shall notify the applicant by letter and publish a detailed summary of its evaluation and decision to grant or deny the request.
- (3) The summary referred to in sub-regulation (2) shall specify the duration of the exemption and any conditions or limitations of the exemption.
- (4) If the exemption affects a significant population of the aviation community of (State...) the Authority shall publish the summary in an aeronautical information circular.

## **PART VIII – OFFENCES AND PENALTIES**

Contravention of Regulations.

- 41.** A person who contravenes any provision of these Regulations may have his licence, certificate, approval, authorisation, exemption or other document revoked or suspended.

Penalties.

- 42.** (1) If any provision of these Regulations, orders, notices or proclamations made thereunder is contravened in relation to an aircraft, the operator of that aircraft and the pilot in command, if the operator or the pilot-in-command is not the person who contravened that provision shall, without prejudice to the liability of any other person under these Regulations for that contravention, be deemed for the purposes of the following provisions of this regulation to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to

prevent the contravention.

- (2) Any person who contravenes any provision specified in Part A of the Schedule to these Regulations shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both, for each offence.
- (3) Any person who contravenes any provision specified in Part B of the Schedule to these Regulations shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or to both, for each offence.
- (4) Any person who contravenes any provision of these Regulations not being a provision referred to in the Schedule to these Regulations, shall be liable to a fine not exceeding two million shillings, for each offence.

## **PART IX - SAVINGS AND TRANSITIONAL PROVISIONS**

- |                          |  |
|--------------------------|--|
| Savings.                 | <b>43.</b> All valid licences, certificates, permits or authorisation issued or granted by the Authority before the commencement of these Regulations shall remain valid until they expire or are revoked, annulled or replaced.   |
| Transitional provisions. | <b>44.</b> (1) Notwithstanding any other provision of these Regulations, a person who at the commencement of these Regulations, is carrying out any acts, duties or operation affected by these Regulations, shall within twelve months from the date of commencement, or within such longer period as the Minister may, by notice in the Gazette prescribe, comply with the requirements of these Regulations or cease to carry out such acts, duties or operations.<br><br>(2) A person who fails to comply with these Regulations |

within the prescribed period commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or to both, for each offence.

**SCHEDULE**

**(r. 42)**

**PENALTIES**

*Part A - Provisions referred to in sub-regulation (2) of regulation 42*

Regulation

- 4 - Compliance requirements
- 5 - Authority to inspect
- 7 - Certificates of airworthiness and certificate of registration
- 8 - Air traffic control rules and procedures
- 9 - Foreign air operator aircraft technical logbook
- 10 - Foreign air operations journey logbook
- 11 - Operations manual to be carried
- 12 - Documents and additional information to be carried on board the aircraft
- 13 - Access to and production of documentation, manuals and records
- 14 - Preservation and production of flight recorded data
- 16 - Approach and landing conditions
- 17 - Aircraft security
- 18 - Unauthorised carriage
- 19 - Reporting of accidents and incidents
- 22 - Carriage of sporting weapons and ammunition
- 23 - Possession of certificate, authorization e.t.c.
- 26 - Inspection of certificate of registration
- 31 - Use and retention of certificates and records
- 33 - Enforcement of directions

*Part B - Provisions referred to in sub-regulation (3) of regulation 42*

Regulation

- 15 - Computation of passenger and baggage mass
- 20 - Carriage of dangerous goods by air
- 21 - Carriage of weapons and munitions of war
- 24 - Drug and alcohol testing and reporting

Made on the.....

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*Minister for Transport*